



STATE OF WISCONSIN
Department of Safety and Professional Services
1400 E Washington Ave.
Madison WI 53703

Mail to:
PO Box 8935
Madison WI 53708-8935

Email: dps@wisconsin.gov
Web: <http://dps.wi.gov>
Phone: 608-266-2112

Governor Scott Walker Secretary Dave Ross

LANDSCAPE ARCHITECT SECTION MEETING
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Tom Wightman (608) 267-9378
March 13, 2013

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

9:30 a.m.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes-October 18, 2012 (5-8)

C. Secretary Matters

D. Executive Director Matters

- 1) Staff Updates
- 2) Election of Officers and Appointment of Liaisons
- 3) Discussion and Action Related to Delegating Authority to Board/Department Liaison
- 4) Presentation of EO-50
- 5) Presentation of EO-61
- 6) Paperless Initiative **(9-12)**

E. Credentialing Matters

- 1) **10:00 A.M. APPEARANCE** – Renee Vance: Consideration and Review of Credentialing Process and Defining the Role of the Credentialing Liaison(s) **(13)**

F. DLSC Matters

G. Education and Examination Matters

H. Legislative/Administrative Rule Matters:

- 1) **Review Proposed Rule CR 12-039 Relating to Landscape Architect Licensure and Practice (15-24)**
- 2) Administrative Rules Report

I. Practice Matters

J. Informational Items

K. Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Presentations of Petition(s) for Summary Suspension
- 3) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 4) Presentation of Final Decisions
- 5) Disciplinary Matters
- 6) Executive Director Matters
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Class 1 Hearing(s)
- 10) Practice Matters
- 11) Legislation/Administrative Rule Matters
- 12) Liaison Report(s)
- 13) Informational Item(s)
- 14) Speaking Engagement(s), Travel, or Public Relation Request(s)

L. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)

M. Presentation and Deliberation on Proposed Stipulations, Final Decisions and Orders by the Division of Legal Services and Compliance (DLSC)

N. Deliberation of Proposed Stipulations and Final Decisions and Orders

O. DLSC Matters:

- 1) Case Status Report
- 2) Case Closing(s)

P. Deliberation of Items Received After Printing of the Agenda

- 1) Disciplinary Matters
- 2) Education and Examination Matters
- 3) Credentialing Matters
- 4) Class 1 Hearings
- 5) Monitoring Matters
- 6) Professional Assistance Procedure (PAP) Matters
- 7) Petition(s) for Summary Suspensions
- 8) Petition(s) for Extension of Time
- 9) Proposed Stipulations, Final Decisions and Orders
- 10) Administrative Warnings
- 11) Proposed Decisions
- 12) Matters Relating to Costs
- 13) Motions
- 14) Application Matters
- 15) Petitions for Rehearing
- 16) Formal Complaints
- 17) Case Closings
- 18) Appearances from Requests Received or Renewed

Q. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

R. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

ADJOURNMENT

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**LANDSCAPE ARCHITECT SECTION
JOINT BOARD OF ARCHITECTS, DESIGNERS, ENGINEERS,
LAND SURVEYORS AND LANDSCAPE ARCHITECTS
MEETING MINUTES
OCTOBER 18, 2012**

Present: Rosheen Styczinski

**Present by
Live Meeting:** Mike Kinney and Andy Albright

Excused: Bernie Abrahamson

Staff: Berni Mattsson, Executive Director; Pamela Stach, Legal Counsel; Matt Niehaus, Bureau Assistant; and other Department staff

CALL TO ORDER

Rosheen Styczinski, Chair, called the meeting to order at 9:40 a.m. A quorum of three (3) members were present.

ADOPTION OF AGENDA

Amendments to the Agenda

- Item “D” (open session) **ADD** the agenda item titled “D. 2) Screening Liaison Appointment”
- Item “E” (open session) **INSERT** Clearinghouse Report after page 26
- Item “G-7” (open session) **ADD** the agenda item titled “G. 7) a) CLARB Virtual Meeting Attendance for 2013
- Item “L-13” (closed session) **ADD** the agenda item titled “L. 13) a) Application Review”

MOTION: Mike Kinney moved, seconded by Andy Albright, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF MARCH 28, 2012

Corrections

- On page 1, under Executive Director Matters, **CHANGE** “buidebook” to “guidebook”

MOTION: Andy Albright moved, seconded by Rosheen Styczinski, to approve the minutes of March 28, 2012 as amended. Motion carried unanimously.

EXECUTIVE DIRECTOR MATTERS

Secretary Elections

NOMINATION: Mike Kinney nominated Andy Albright for the Office of Secretary.

Berni Mattsson called for other nominations three (3) times.

Andy Albright was elected as Secretary.

Screening Liaison

APPOINTMENT: Rosheen Styczinski appointed Mike Kinney to be the Section Screening Liaison.

LEGISLATION/ADMINISTRATIVE RULE MATTERS

Public Hearing on Rule-Making Proposal A-E 8, 9 (Landscape Architect Licensure and Conduct)

Hearing began at 9:58 A.M.

Hearing adjourned at 10:00 A.M.

Consider Responses to Clearinghouse and Public Comments, Re: Rule-Making Proposal A-E 8,9.

MOTION: Mike Kinney moved, seconded by Andy Albright, to accept Clearinghouse Comments 12-039. Motion carried unanimously.

EDUCATION AND EXAMINATION MATTERS

Status of CE Audits

MOTION: Rosheen Styczinski moved, seconded by Andy Albright, to note that the Landscape Architects Section strongly supports that the state follow through with the audits of the continuing education requirements of licensees. Motion carried unanimously.

LIAISON/COMMITTEE REPORTS

Discussion and Action Related to Delegating Authority to Board Department Liaisons

MOTION: Rosheen Styczinski moved, seconded by Mike Kinney, to table the delegation motion until the next meeting. Motion carried unanimously.

SPEAKING ENGAGEMENT, TRAVEL, PUBLIC RELATION REQUESTS

Council of Landscape Architectural Registration Boards Virtual Meeting Attendance for 2013

MOTION: Mike Kinney moved, seconded by Rosheen Styczinski, to designate Rosheen Styczinski, with Andy Albright as an alternate, to be the Section's designee for the CLARB Virtual Meetings. Motion carried unanimously.

CLOSED SESSION

MOTION: Andy Albright moved, seconded by Mike Kinney, to convene to closed session to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.). Roll Call Vote: Rosheen Styczinski - yes; Andy Albright - yes; Mike Kinney - yes. Motion carried unanimously. Open session recessed at 10:35 a.m.

RECONVENE TO OPEN SESSION

MOTION: Mike Kinney moved, seconded by Andy Albright, to reconvene in open session at 11:32 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

MOTION: Mike Kinney moved, seconded by Andy Albright, to reaffirm all motions made in closed session. Motion carried unanimously.

EDUCATION MATTERS

MOTION: Mike Kinney moved, seconded by Andy Albright, to conditionally approve A.B.'s request for a waiver of continuing education requirements contingent upon A.B.'s submission of an affidavit of non-practice to the Department of Safety and Professional Services by November 1, 2012. If A.B. continues to or resumes practice after receipt of the affidavit, the continuing education waiver is rescinded. Motion carried unanimously.

MOTION: Rosheen Styczinski moved, seconded by Andy Albright, to conditionally approve G.K.'s request for a waiver of continuing education requirements contingent upon G.K.'s submission of an affidavit of non-practice to the Department of Safety and Professional Services by November 1, 2012. If G.K. continues to or resumes practice after receipt of the affidavit, the continuing education waiver is rescinded. Motion carried unanimously.

MOTION: Andy Albright moved, seconded by Rosheen Styczinski, to conditionally approve J.L.'s request for a waiver of continuing education requirements contingent upon J.L.'s submission of an affidavit of non-practice to the Department of Safety and Professional Services by November 1, 2012. If J.L. continues to or resumes practice after receipt of the affidavit, the continuing education waiver is rescinded. Motion carried unanimously.

MOTION: Andy Albright moved, seconded by Rosheen Styczinski, to conditionally approve J.N.'s request for a waiver of continuing education requirements contingent upon J.N.'s submission of an affidavit of non-practice to the Department of Safety and Professional Services by November 1, 2012. If J.N. continues to or resumes practice after receipt of the affidavit, the continuing education waiver is rescinded. Motion carried unanimously.

MOTION: Rosheen Styczinski moved, seconded by Andy Albright, to conditionally approve D.R.'s request for a waiver of continuing education requirements contingent upon D.R.'s submission of an affidavit of non-practice to the Department of Safety and Professional Services by November 1, 2012. If D.R. continues to or resumes practice after receipt of the affidavit, the continuing education waiver is rescinded. Motion carried unanimously.

MOTION: Rosheen Styczinski moved, seconded by Mike Kinney, to deny G.V.'s request for a lifetime waiver of continuing education requirements. The Section conditionally approves G.V.'s request for a waiver of continuing education requirements for this biennium contingent upon G.V.'s submission of an affidavit of non-practice to the Department of Safety and Professional Services by November 1, 2012. If G.V. continues to or resumes practice after receipt of the affidavit, the continuing education waiver is rescinded. Motion carried unanimously.

MOTION: Andy Albright moved, seconded by Rosheen Styczinski, to conditionally approve E.B.'s request for a waiver of continuing education requirements contingent upon E.B.'s submission of an affidavit of non-practice to the Department of Safety and Professional Services by November 1, 2012. If E.B. continues to or resumes

practice after receipt of the affidavit, the continuing education waiver is rescinded. Motion carried unanimously.

MOTION: Andy Albright moved, seconded by Mike Kinney, to conditionally approve N.Z.'s request for a waiver of continuing education requirements contingent upon N.Z.'s submission of an affidavit of non-practice to the Department of Safety and Professional Services by November 1, 2012. If N.Z. continues to or resumes practice after receipt of the affidavit, the continuing education waiver is rescinded. Motion carried unanimously.

APPLICATION

MOTION: Andy Albright moved, seconded by Mike Kinney, to accept Kevin Kleinjan's application for licensure once all requirements are met. Motion carried unanimously.

ADJOURNMENT

MOTION: Mike Kinney moved, seconded by Andy Albright, to adjourn the meeting at 11:37 a.m. Motion carried unanimously.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dave Carlson-Communications Special		2) Date When Request Submitted: 2/4/2013	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Landscape Architects Section			
4) Meeting Date: 3/13/2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Paperless Initiative	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Brief presentation of how Section Members can sign up for SharePoint access as a part of the paperless initiative, as well as instructions for using DSPS laptops.			
11) Authorization			
Dave Carlson			
Signature of person making this request			Date
Supervisor (if required)			Date
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

How to register for a username/password on <http://register.wisconsin.gov> .

In order to access the Board SharePoint site, Board Members must obtain a State of WI/DOA username/password from this site <http://register.wisconsin.gov> . Once registered, Board Members will be provided a DOA credential under the Wisconsin External (wiext) domain. This account is intended to provide users with access to multiple State of Wisconsin web applications, including the DSPS SharePoint site.

To Begin, use the 'Self Registration' link

DOA/Wisconsin Logon Management System - Windows Internet Explorer provided by State of Wisconsin

http://register.wisconsin.gov/AccountManagement/

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DOA/Wisconsin Logon Management System

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DOA/Wisconsin Logon Management System

The DOA/Wisconsin Logon Management System allows authorized individuals to access many DOA Internet applications using a single ID and password. When access to information or services is restricted to protect your privacy or the privacy of others, you will be asked to provide your DOA/Wisconsin Logon and password. Your DOA/Wisconsin Logon and password verifies your identity so that we can provide you with access to your information and services and prevent access by unauthorized individuals.

User Acceptance Agreement

Please note that only certain types of information will be stored in your user profile, as described in the [User Acceptance Agreement](#). Your user profile will never contain records such as driving history, tax information, unemployment compensation, vehicle registrations or prison records.

Sign Up for your DOA/Wisconsin Logon

[Self Registration](#) (Request a DOA/Wisconsin Logon and Password.)

Self Registration allows you to create **your personal** DOA/Wisconsin Logon. This is your key to doing secure business with DOA over the Internet.

Change / Update Your Information

[Profile Management](#) allows you to change your account information, e-mail address and other information.

Change Your Password

[Password Management](#) allows you to change your password.

Forgot Your Logon ID or Password?

[Logon ID/Password Recovery](#) allows you to recover a forgotten DOA/Wisconsin Logon and/or Password.

Updated February 6, 2009
DET - Bureau of Business Applications Services
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Customer ID Menu

- :: [Self Registration](#)
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- :: [Password Management](#)
- :: [Forgot your account information?](#)
- :: [User Acceptance Agreement](#)

Not sure if you already have DOA/State of WI account?

Use the 'Forgot Your Logon ID or Password' link to check

After accepting the user agreement, complete the 'Account Creation' form.

Indicate 'SharePoint' under the section entitled, 'Systems You Will Access'

Account Creation

* Indicates Required Field

Profile Information

First Name *
Middle Initial
Last Name *
Suffix
E-Mail *
Use this format 6085551234
Phone ext.

Mailing Address

Street Address
City
State/Province
Zip Code -

Systems You Will Access

Use your mouse to highlight the system that you want to access.

Systems *
 *

Account Information

Your Logon ID must be between 5-20 characters and **CAN** be a combination of letters and numbers. Your Logon ID must not contain spaces or special characters.

Logon ID *
Your Password must be 7-20 characters long and **MUST** contain a combination of letters and either numbers or special characters (except the @ ? / signs). Passwords are case sensitive. Your Password cannot contain the Logon ID.
[Password Tip](#)

Password *
Re-enter Password *

Logon ID/Password Recovery

Enter a question and answer for use if you forget your DOA/Wisconsin Logon ID or Password. Your Secret Question and Secret Answer cannot contain your password.
[Secret Question and Answer Tip](#)

Secret Question *
Secret Answer *

Verification

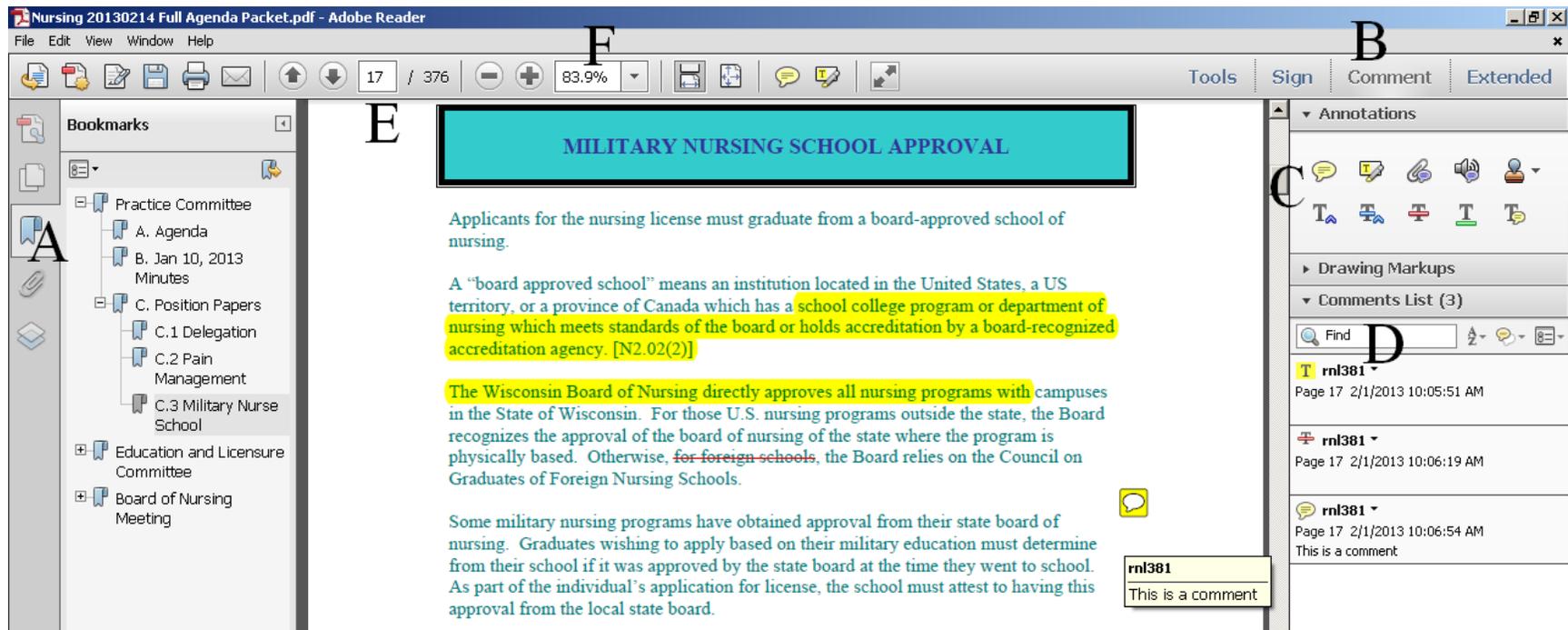
This step helps prevent automated registrations.
If you cannot see the number below [click here](#).

Please enter the number as it is shown in the box to the left. *

Please use a login ID of your first initial followed by your middle initial followed by your last name, as in the example to the left.

Remember your logon ID, as you will need to provide that to DSPS staff in order for you to receive proper access rights.

Once you have been granted permission to access the Board's website, you should receive an automated 'Welcome to SharePoint' email with a link to the site.



Above is an example of an agenda packet page, with some features you can access through Adobe Reader.

A: Bookmarks – When the Bureau Assistant creates the Agenda Packet, it is possible to place in bookmarks for quick reference during meetings. You can expand and minimize categories to better enable you to jump from section to section of your agenda here.

B: Comment – On specially designated .pdf files, it is possible for Adobe Reader to be given comment privileges. This allows a Board member to make comments on documents, as well as edit, highlight, or insert text in suitable files. Please note, if the file is a scanned copy, it is likely that the highlight and text editing features will not be usable. The comment feature will still work in such an issue.

C: Annotations & Drawing Markups – These are the different options you can use to mark up your document for your reference. If you mouse over an option, it will give a brief description of what it can do for you. Feel free to experiment and find out what works best for you!

D: Comments List – Quickly jump between your comments by selecting them in this list. Never again will you miss out on a note during a discussion with this handy tool.

E: Page List – No more rifling through papers in order to track down that page someone mentioned! With this handy bar, you can simply type in the page you are looking for, hit enter, and Adobe Reader will take you directly to the page.

F: Zoom – Having trouble reading something? You can zoom in and out on a document with this bar. The plus and minus signs to the left can be used to make quick adjustments as well.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Tom Wightman		2) Date When Request Submitted: 3/1/2013	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Landscape Architects Section			
4) Meeting Date: 3/13/2013	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Consideration and Review of Credentialing Process and Defining the Role of the Credentialing Liaison(s)	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> Yes Renee Vance <input type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The assigned member(s) of credentialing staff will appear and provide the Section with an overview of the credentialing process for the credentials under its purview. Additionally, the Section should work to define the role(s) of its credentialing liaison(s) in an effort to clarify its expectations in terms of credentialing liaison work.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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State of Wisconsin
Department of Regulation and Licensing

AGENDA REQUEST FORM
(11/26/04)

Name and Title of Person Submitting the Request: Shancethea N. Leatherwood, Paralegal		Date When Request Submitted: 01/14/13	
Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before meeting for all other boards 			
Name of Board, Committee, Council: Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Landscape Surveyors, Landscape Architect Section			
Board Meeting Date: March 13, 2013	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How should the item be titled on the agenda page? Review Proposed Rule CR 12-039 relating to Landscape Architect licensure and practice	
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session Both	Is an appearance before the Board being scheduled? If yes, by whom and what time? <input type="checkbox"/> Yes by _____ (name) No		Name of Case Advisor(s), if required: N/A
Describe the Issue the Board Should Address: Review and make any modifications to the draft rule and approve filing with the legislature			
Describe the Action Required by the Board to Address This Request: 			
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be attached to any documents submitted to the agenda. 2. Documents submitted to the agenda must be single-sided. 3. Only copies of the original document will be accepted. 4. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to start of meeting. 			
Authorization:			
<i>Shawn Leatherwood</i>		<i>01/14/13</i>	
Signature of person making this request		Date	
Supervisor signature (if required)		Date	
Bureau Director signature (indicates approval to add late items to agenda)		Date	

**STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
EXAMINING BOARD OF : **CR 12-039**
ARCHITECTS, LANDSCAPE :
ARCHITECTS, PROFESSIONAL :
ENGINEERS, DESIGNERS AND :
LAND SURVEYORS :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

The proposed rule makes no reference to applicable forms.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA are attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The primary purpose of this rule change is to bring the current Wisconsin Administrative Code in line with recent legislation. The passage of 2009 Wisconsin Act 123 repealed s. 443.02 (5), Stats., and amended s. 443.02 (2) and (3), Stats., by adding landscape architects to each subsection and providing that no person may practice, offer to practice, or advertise oneself as a landscape architect without registration or permit to do so under s. 443.10 (1) (d), Stats. The proposed statutory amendments will update s. A-E 8.07.

2009 Wisconsin Act 350 repealed s. 443.09 (6), Stats., regarding an applicant's ability to review their exams. Formerly, an applicant for a landscape architect credential could review a failed examination for up to one year from the date of the exam. After a written request, an applicant could seek a review by section of all or part of the exam. The Landscape Architect section would then give the applicant a written reply regarding the results of the review including an explanation for failing the exam. Act 350 requires the repeal of the right of review as found in of A-E 9.05 (6) and all other pertinent provisions related to examination review.

2011 Wisconsin Act 146 removed the landscape architect examination from the joint board to the Landscape Architect Section. This transfer amended A-E 9.05 (1) (a),

substituting “landscape architecture section” for “examining board”. The Act also repealed the barrier free design examination found it A-E 9.05 (1) (b).

V. SUMMARY OF PUBLIC COMMENTS AND THE SECTION’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Board held a public hearing on October 18, 2012. Written comments were accepted until October 18, 2012. No written or oral comments were received from the public during the public hearing or during the comment period.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted and incorporated into the rule.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

The proposed rule was posted on the Department of Safety and Professional Services Website for 14 days. Comments were solicited from the public. No comments were received indicating there would be any economic impact on specific business sectors or small businesses in general by promulgating the proposed rule.

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS,	:	ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS,	:	ARCHITECTS, PROFESSIONAL
PROFESSIONAL ENGINEERS,	:	ENGINEERS, DESIGNERS AND
DESIGNERS AND LAND SURVEYORS	:	LAND SURVEYORS ADOPTING RULES
	:	CLEARINGHOUSE RULE 12-039

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors to repeal ss. A-E 9.05 (1) (b) and (6), to renumber s. A-E 9.03 (1) as 9.03 (1) (a), to amend ss. A-E 8.07 (1) and (2), 9.05 (1) (a), and 9.06 (3), and to create s. 9.03 (1) (b), relating to Landscape Architect licensure and practice.

Analysis prepared by the Wisconsin Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 443.01 (3r), 443.02 (2) and (3), 443.035, 443.09 (4m) as amended by 2011 Wisconsin Act 146 and (5), 443.10 (2) (c), Stats.

Statutory authority:

Sections 227.11 (2) (a), 443.015 (2), Stats.

Explanation of agency authority:

Section 227.11 (2) (a), Stats., authorizes state agencies to promulgate rules interpreting the statutes they enforce or administer, when deemed necessary to effectuate the purpose of those statutes. Section 443.015 (2), Stats., authorizes the Landscape Architect Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors (Joint Board) to promulgate rules governing the practice of landscape architecture.

Related statute or rule:

No statutes or administrative rules beyond those referenced above are related to this proposed rule-making.

Plain language analysis:

The rule amendments in this proposal are based primarily on statutory changes made in 2009 Wisconsin Act 123, but include changes effected by 2009 Wisconsin Act 350 and 2011 Wisconsin Act 146 as well. The proposal also makes a clarification in and removes obsolete date references from the rules regarding the registration requirements for landscape architects.

Before the effective date of 2009 Wisconsin Act 123, no Wisconsin statute prohibited a person not licensed as a landscape architect from offering to, or engaging in, the practice of landscape architecture. Former s. 443.02 (5), Stats., only prohibited a person not so licensed or registered from using the title "landscape architect" or any other such reference in representing his or her professional capacity. 2009 Wisconsin Act 123, which took effect February 26, 2010, repealed s. 443.02 (5), Stats., and amended subs. (2) and (3) of the same statute to include, respectively, a prohibition against the practice of, or offer to, practice landscape architecture without a license or registration in that profession. The proposed updates to A-E 8.07, addressing unauthorized professional practice, are based on these statutory amendments.

2009 Wisconsin Act 350 became effective on May 28, 2010. Act 350 repealed s. 443.09 (6), Stats., which had allowed applicants for registration as an architect, landscape architect, or professional engineer who failed the relevant examination to request review thereof within one year of the date it was taken. Act 350 thus requires the repeal of A-E rules provisions related to examination review for all such applicants, including those provisions regarding registration as a landscape architect found in A-E 9.05 (6).

2011 Wisconsin Act 146, effective May 4, 2012, transferred full authority for the content of the landscape architect licensure examination from the Joint Board to the Landscape Architect Section in s. 443.09 (4m), Stats. The transfer of statutory authority prompts the proposed substitution of "landscape architecture section" for "examining board" in A-E 9.05 (1) (a). The same statutory change obviated the need for a separate examination on barrier design, militating the repeal of A-E 9.05 (1) (b).

Aside from updates based on statutory changes, the Section seeks to clarify A-E 9.03 (1), regarding the types of work that will satisfy the landscape architect experience requirements set forth in s. 443.035 (1), Stats. The proposed renumbering of A-E 9.03 (1) to 9.03 (1) (a) and the creation of A-E 9.03 (1) (b) makes clear that for landscape architect licensure applicants who follow the registration path described in s. 443.035 (1) (a), Stats., work experience acquired before completion of the educational programs specified therein will not count toward the licensure experience requirement. Lastly, this proposal removes the unnecessary reference to December 31, 1995 in A-E 9.05 (1) (a) and (b), 9.06 (3), as they are no longer necessary.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

The Illinois Landscape Architecture Act of 1989, incorporated into the Illinois Compiled Statutes (ILCS) at 225 ILCS 315, prohibits any person from representing him or herself as a landscape architect, or from using "landscape architect" or "landscape architecture" in a title associated with his or her name unless licensed by the Department of Financial and Professional Regulation (DFPR). 225 ILCS 315/4. However, any person may engage in the practice of landscape architecture so long as he or she complies with the title prohibition. 225 ILCS 315/5.

DFPR is required to consult the Illinois Landscape Architect Registration Board when promulgating rules regarding the licensure and practice of landscape architects. 225 ILCS 315/8 (c). Although the DFPR may seek the expert knowledge of the Board on any matter related to the administration of the 1989 Act, it retains final authority over all such matters, which includes content of examination for initial licensure. 225 ILCS 315/8 (b) and (d), 315/11 (a). The statutes do not address examination review for applicants who fail the required examination.

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1342&ChapterID=24>

DFPR's administrative rules provide that applicants for licensure as a landscape architect must pass the Landscape Architect Registration Examination of the Council of Landscape Architectural Registration Boards (CLARB). 68 Ill. Reg. 1275.50 (a). The Illinois rules also do not address examination review for applicants who fail the required examination.

<http://www.ilga.gov/commission/jcar/admincode/068/06801275sections.html>

Iowa:

The Iowa statutes, referred to as the Iowa Code, prohibit any person from engaging in the practice of landscape architecture, or using a title containing those words or any variation thereof to represent him or herself, without a license issued by the Iowa Landscape Architectural Examining Board. XIII Iowa Code 544B.2. The Board, which is part of the Iowa Department of Commerce, has rule-making authority for all matters related to landscape architect licensure, including examination content and administration. XIII Iowa Code 544B.5., B.8. An applicant who fails the required examination may submit a written request for information concerning his or her grade or questions answered incorrectly, unless a uniform, standardized examination is used. In that event, the Board is only required to provide the examination grade and such other information as is made available to the Board. XIII Iowa Code 544B.8.

<http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>

The rules of the Iowa Landscape Architectural Examining Board provide that, within 30 days of notification of a failing grade, the landscape architect examinee may submit a written request to the Board to review his or her own graded examination. 193D—2.5(3)a., Iowa Admin. Code.

<http://www.legis.state.ia.us/aspx/ACODocs/DOCS/08-08-2012.193D.pdf>

Michigan:

Under Michigan's statutes, known as the Michigan Compiled Laws (MCL), no person may engage in the practice of landscape architecture unless duly licensed in that profession. *See* MCL ss. 339.2201 (a) and (b), and 339.2202 (3). Additionally, no person may use the title "landscape architect" or use the phrase "landscape architecture" in representing him or herself unless that person is so licensed. MCL s. 339.2211.

The Department of Licensing and Regulatory Affairs (LARA) has authority for the examination content and licensure of landscape architects. MCL s. 339.2204. The Michigan statutes do not address examination review for applicants who fail the required examination.

<http://legislature.mi.gov/doc.aspx?mcl-299-1980-22>

LARA requires an applicant for landscape architect licensure to pass either the uniform national examination of CLARB or a state licensing examination deemed by LARA to be equivalent thereto. R 339.19025 (1), Mich. Admin. Code.¹ The Michigan rules also do not address examination review for applicants who fail the required examination.

http://www7.dleg.state.mi.us/orr/Files/AdminCode/105_23_AdminCode.pdf

Minnesota:

In Minnesota, no person may practice, offer to practice, or use a title representing the professional capacity to practice, landscape architecture unless licensed by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design. Sections 326.02 (1), (4a), 326.06, Minn. Stats. The Board has rule-making authority for all aspects of the regulation of its associated professions, including licensure examination content. Section 326.06, Minn. Stats. The Minnesota statutes do not address examination review or re-examination for applicants who fail the required examination.

<https://www.revisor.mn.gov/statutes/?id=326>

By administrative rule, the Minnesota Board requires applicants for licensure as a landscape architect to pass the Landscape Architect Registration Examination administered by CLARB. Sections 1800.0800 E.; 1800.1500, Subp. 1.; 1800.1700, Subp. 1.; Minn. Admin. Code. While the Minnesota rules allow an applicant who fails the required licensing examination to retake it for another fee, s. 1800.0900, Subp. 4., they do not address review of failed examinations.

<https://www.revisor.mn.gov/rules/?id=1800>

¹ It should be noted here that, information received through e-mail contact on August 7, 2012 with LARA's Bureau of Commercial Services at bslic@michigan.gov indicates that the Michigan Board of Landscape Architects, referred to both in the Michigan statutes and on LARA's website, was "dissolved several years ago." That information was confirmed through a follow-up telephone call on August 8, 2012 to the author of the e-mail, a Licensing Analyst with the telephone number (517) 241-8720.

Summary of factual data and analytical methodologies:

No factual data was required for the rule-making in this proposal, as the changes were necessitated by statute. For that reason, no analysis was involved in the preparation of these proposed rules.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Pursuant to s. IV, 3. a., of EO # 50, the changes proposed herein were posted on both the state's and the department's administrative rules websites for 14 days to solicit comments regarding their potential economic impact on businesses, business sectors, professional associations, local government units, or potentially interested parties. In addition, e-mail solicitations were sent to several potentially interested parties. No responses to any of the solicitations were received.

The Landscape Architect Section of the Joint Board concludes that the proposed rules will have no economic impact on small businesses. This proposal tracks statutory changes made in 2009 Wisconsin Acts 123 and 350, which became effective on February 26, 2010 and May 28, 2010, respectively, both over two years ago. Both Acts have been in place long enough to produce the resulting economic or fiscal impact experienced by private businesses or public entities, if any, and for such impact to have been fully absorbed by those entities as a part of routine operations. The transfer of authority for licensure examination content from the Joint Board to the Landscape Architect Section effected by 2011 Wis. Act 146 will have no economic impact on any individual or entity. The final two amendments of this proposal are matters of clarifying an existing rule and removing obsolete date references, neither of which carry an economic impact.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

Because the statutory changes that prompted this proposal took effect over two years ago, these proposed rules will not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats., beyond that which such businesses have already experienced and absorbed. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Initial Regulatory Flexibility Analysis or Summary:

As noted above, the proposed rules will have no effect on small businesses.

Agency contact person:

Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 117, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 261-2385; email at Kristine1.Anderson@Wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 117, P.O. Box 8935, Madison, WI 53708-8935, or by email to Kristine1.Anderson@Wisconsin.gov. Comments must be received on or before October 18, 2012, at 9:30 a.m., to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. A-E 8.07 is amended to read:

A-E 8.07 Unauthorized practice. An architect, landscape architect, professional engineer, designer, or land surveyor:

(1) Shall assist in enforcing laws which prohibit the unlicensed practice of architecture, landscape architecture, professional engineering, designing, and land surveying by reporting violations to the board.

(2) May not delegate professional responsibility to unlicensed persons and may not otherwise aid or abet the unlicensed practice of architecture, landscape architecture, professional engineering, designing, or land surveying.

SECTION 2. A-E 9.03 (1) is renumbered to A-E 9.03 (1) (a).

SECTION 3. A-E 9.03 (1) (b) is created to read:

A-E 9.03 (1) (b) To qualify as satisfactory experience in landscape architecture for the purposes of s. 443.035 (1) (a), Stats., an applicant's experience must be obtained subsequent to completion of the education requirements.

SECTION 4. A-E 9.05 (1) (a) is amended to read:

A-E 9.05 Examinations. (1) SCOPE OF WRITTEN EXAMINATIONS. (a) ~~After December 31, 1995, a~~An applicant for initial registration as a landscape architect shall pass an examination determined by the ~~examining board~~landscape architecture section to assess knowledges required for the professional practice of landscape architecture.

SECTION 5. A-E 9.05 (1) (b) is repealed.

SECTION 6. A-E 9.05 (6) is repealed.

SECTION 7. A-E 9.06 (3) is amended to read:

A-E 9.06 (3) References from at least 5 individuals, 3 of whom have personal knowledge of the applicant's experience in landscape architecture and are engaged in the practice of landscape architecture. If 3 references from individuals who are engaged in the practice of landscape architecture are not available, the section may accept references from individuals actively engaged in the practice of an allied profession. ~~After December 31, 1995, o~~One of the 3 references having personal knowledge of the applicant's experience in landscape architecture shall be licensed or registered as a landscape architect by the licensing authority of some licensing jurisdiction in the United States or Canada.

SECTION 8. The rules adopted in this order shall take on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

COPIES OF RULE

Copies of this proposed rule are available upon request to Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Rm. 117, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Kristine1.Anderson@Wisconsin.gov.

A-E 8, 9 (LSA Licensure, Practice) Notice of Public Hearing 9-17-12