


## MEMORANDUM

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TO: Robin Stroebe  
InteriorLOGIC, LLC

FROM: Anthony Varda 

DATE: September 15, 2025

RE: 2021 Wisconsin Act 195  
Statutory and Administrative Code Interpretation  
Registered Interior Designers

### BACKGROUND

You have asked me to review the statutory language of 2021 Wisconsin Act 195, adopted March 18, 2022, creating a registry for interior designers, defining scope of work, and adding Registered Interior Designers to the existing Chapter 443 Examining Board ["A-E Board"]. The law went into effect on October 19, 2022. *See* Exhibit A.

Administrative rules were adopted by the A-E Board pursuant to the new statute and find their effect in the Administrative Code Chapter A-E.<sup>1</sup> However, it appears that no revisions were made by the Department of Safety & Professional Services ["DSPS"] in Administrative Code Chapter SPS 361, which apparently has not been updated since 2019.<sup>2</sup>

Prior to 2021 Wis. Act. 195, professional interior designers were not regulated or certified by the State of Wisconsin. When they produced detailed code-compliant plans for interior design on commercial buildings over 50,000 cu. ft in size, an engineer or architect was required to review those plans, stamp them, and supervise the work to ensure that the work conforms to the plans submitted. With the enactment of 21 Wis. Act. 195, professional interior designers were registered like architects, engineers, and designers of building systems, in the same statutory sections regulating those entities. Professional Interior Designers were simply added to the statutory sections authorizing Architects and Engineers, but limited to non-structural interior design by the A-E Board. The rule similarly provided for continuing education and seals to stamp the work for submission to the state and local authorities for approval on commercial buildings.

At least initially, the statute was interpreted by the Board assigned to handle it as giving Registered Interior Designers the right to supervise the construction of work they had certified and had been

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<sup>1</sup> Administrative Code Chapter A-E is administered by the Examining Board Of Architects, Landscape, Professional Engineers, Designers, Professional Land Surveyors, And Registered Interior Designers ["A-E Board"]. It finds at least a portion of its authority under Wis. Stats. Ch. 443.

<sup>2</sup> Administrative Code Sections SPS 361-367 are administered by the Department Of Safety And Professional Services and relates to the building code.

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approved by the state and local government. The A-E Board adopted rule A-E 2.02(8)(b), which provided that, like the other professions it regulated, "... registered interior designer will be responsible for the supervision of construction in accordance with the requirements of the state, and of the county and municipality where the building or structure is to be erected."

Unfortunately, this came into direct conflict with several unchanged provisions of Wis. Admin. Code SPS 361, which remains limited to the Architects, Engineers and certain listed Designers. For example:

**SPS 361.40 Supervision.**

**(1) GENERAL.**

(a) Except as provided in par. (b), the proposed construction of a project within the scope of chs. SPS 361 to 366 shall be supervised by one or more Wisconsin registered architects or engineers, except that Wisconsin registered designers may supervise the installation of heating, ventilating and air conditioning systems, fire protection systems, and illumination systems.

**(b)**

1. A project does not require supervision by a Wisconsin registered architect or engineer, if the project qualifies under one of the following conditions:

a. The building contains less than 50,000 cubic feet total volume.

b. An addition to an existing building does not cause the entire building to contain or exceed a volume of 50,000 cubic feet.

2. For the purposes of this paragraph, the utilization of fire walls to divide up a building does not create separate buildings.

The statutory definitions are ambiguous on resolving the issue. The definitions of the Practice of Architecture and Engineering both specifically authorize "supervision of construction." *See* Wis. Stat. §§ 443.01(5)&(6). The definition of "Practice of Interior Design" is patterned in a different way, listing in 5(m)(a) the scope, and in (b) what is excluded. "Supervision of construction" is mentioned in neither section. Then again, "supervision of construction" is not mentioned in the statutes authorizing Designers for Plumbing, Fire Suppression, HVAC, Elevators, etc. *See e.g.*: Wis. Stat. Chapter 145.

Several months after the law became effective, a plan reviewer in SPS interpreted SPS 361.40 as limiting supervision on commercial projects to an architect, engineer, or the listed registered Designers in SPS 361.40, thereby excluding Registered Interior Designers from supervising construction of their stamped and sealed code-compliant, nonstructural interior design documents and acting as the "responsible professional" for those documents. In practice, that means an Architect or Engineer has to also stamp those same Interior Design Plans and take responsibility for their work, even though they would never know as much about those documents as the Registered Interior Designer who created them.



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That advice has led other Plan Approvers to reject the stamped designs of Registered Interior Designers on commercial buildings over 50,000 cu. ft. in size, even though no such limit appears in the legislation requiring acceptance of those stamped plans.<sup>3</sup>

We are faced with a conflict of administrative codes and determining what the Legislature expected and intended in enacting 2021 Wis. Act. 195. Whether the failure to amend SPS Code provisions was intentional, or an oversight, is unclear, but the enforcement of the 2018 SPS Code without updating for 2021 Wis. Act. 195 has caused confusion and has eviscerated the purpose of that law.

## **I. PRINCIPALS OF STATUTORY INTERPRETATION.**

Almost 50 years ago, our Supreme Court noted:

...[t]he cardinal rule in interpreting statutes is that the purpose of the whole act is to be sought and is favored over a construction which will defeat the manifest object of the act. Statutory Construction [(4th ed. 1973), secs. 45.05, 45.07 and 45.14], *supra*, at pp. 56–57, sec. 46.05.

*Student Ass'n v. Baum*, 74 Wis. 2d 283, 294–95, 246 N.W.2d 622 (1976).

More recently, and at considerably more length, Our Court elaborated as follows:

Context is important to meaning. So, too, is the structure of the statute in which the operative language appears. Therefore, statutory language is interpreted in the context in which it is used; not in isolation but as part of a whole; in relation to the language of surrounding or closely-related statutes; and reasonably, to avoid absurd or unreasonable results. *State v. Delaney*, 2003 WI 9, ¶ 13, 259 Wis.2d 77, 658 N.W.2d 416; *Landis v. Physicians Ins. Co. of Wis.*, 2001 WI 86, ¶ 16, 245 Wis.2d 1, 628 N.W.2d 893; *Seider*, 236 Wis.2d 211, ¶ 43, 612 N.W.2d 659. Statutory language is read where possible to give reasonable effect to every word, in order to avoid surplusage. *Martin*, 162 Wis.2d at 894, 470 N.W.2d 900; *Bruno*, 260 Wis.2d 633, ¶ 24, 660 N.W.2d 656. “If this process of analysis yields a plain, clear statutory meaning, then there is no ambiguity, and the statute is applied according to this ascertainment of its meaning.” *Bruno*, 260 Wis.2d 633, ¶ 20, 660 N.W.2d 656. Where statutory language is unambiguous, there is no need to consult extrinsic sources of interpretation, such as legislative history. *Id.*, ¶ 7; *Cramer*, 236 Wis.2d 473, ¶ 18, 613 N.W.2d 591; *Seider*, 236 Wis.2d 211, ¶ 50, 612 N.W.2d 659; *Martin*, 162 Wis.2d at 893–94, 470 N.W.2d 900. “In construing or interpreting a statute the court is not at liberty to disregard the plain, clear words of the statute.” *State v. Pratt*, 36 Wis.2d 312, 317, 153 N.W.2d 18 (1967).

The test for ambiguity generally keeps the focus on the statutory language: a statute is ambiguous if it is capable of being understood by reasonably well-informed persons in two

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<sup>3</sup> See Wis. Stat. § 443.175. As indicated in SPS § 361.40 (1)(b)2. Commercial Buildings under 50,000 cu. ft. are exempt. This effectively leaves Registered Interior Designers in the same position they were in before they became registered. It is also at odds with the presumption building over 50,000 cu. ft. need specialized supervision by the designers involved.

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or more senses. *Bruno*, 260 Wis.2d 633, ¶ 19, 660 N.W.2d 656; *Martin*, 162 Wis.2d at 894, 470 N.W.2d 900. It is not enough that there is a disagreement about the statutory meaning; the test for ambiguity examines the language of the statute “to determine whether ‘well-informed persons *should have* become confused,’ that is, whether the statutory ... language *reasonably* gives rise to different meanings.” *Bruno*, 260 Wis.2d 633, ¶ 21, 660 N.W.2d 656 (second emphasis added). “Statutory interpretation involves the ascertainment of meaning, not a search for ambiguity.” *Id.*, ¶ 25.

this point in the interpretive analysis the cases will often recite the following: “If a statute is ambiguous, the reviewing court turns to the scope, history, context, and purpose of the statute.” *Cramer*, 236 Wis.2d 473, ¶ 18, 613 N.W.2d 591; *Setagord*, 211 Wis.2d at 406, 565 N.W.2d 506; *Williams*, 198 Wis.2d at 525, 544 N.W.2d 406. Sometimes the cases substitute the phrase “subject matter and object of the statute” for the phrase “purpose of the statute” in this litany. *Ball v. Dist. No. 4, Area Bd. Of Vocational, Technical & Adult Educ.*, 117 Wis.2d 529, 538, 345 N.W.2d 389 (1984). Either way, this common formulation is somewhat misleading: scope, context, and purpose are perfectly relevant to a plain-meaning interpretation of an unambiguous statute as long as the scope, context, and purpose are ascertainable from the text and structure of the statute itself, rather than extrinsic sources, such as legislative history.

Some statutes contain explicit statements of legislative purpose or scope. A statute's purpose or scope may be readily apparent from its plain language or its relationship to surrounding or closely-related statutes—that is, from its context or the structure of the statute as a coherent whole. Many words have multiple dictionary definitions; the applicable definition depends upon the context in which the word is used. Accordingly, it cannot be correct to suggest, for example, that an examination of a statute's purpose or scope or context is completely off-limits unless there is ambiguity. It is certainly not inconsistent with the plain-meaning rule to consider the intrinsic context in which statutory language is used; a plain-meaning interpretation cannot contravene a textually or contextually manifest statutory purpose

*State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶¶ 46-49, 271 Wis. 2d 633, 681 N.W.2d 110. Our Supreme Court has also recognized another principle of statutory interpretation when there appears to be a conflict:

We note that generally where a specific statutory provision leads in one direction and a general statutory provision in another, **the specific statutory provision controls**. See *State v. Smith*, 106 Wis.2d 151, 159, 316 N.W.2d 124 (Ct.App.1982).

*Marder v. Bd. of Regents of Univ. of Wisconsin Sys.*, 2005 WI 159, ¶ 23, 286 Wis. 2d 252, 706 N.W.2d 110.



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## II. STATUTES AT ISSUE (YELLOW HIGHLIGHTING ADDED).

**443.01 Definitions.** In this chapter, unless the context provides otherwise:

(1) “Architect” means a person who is legally qualified to practice architecture.

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(5) “Practice of architecture” includes any professional service, such as consultation, investigation, evaluation, planning, architectural and structural design, or responsible supervision of construction, in connection with the construction of any private or public buildings, structures, projects, or the equipment thereof, or addition to or alterations thereof, in which the public welfare or the safeguarding of life, health or property is concerned or involved.

(5m)

(a) “Practice of interior design” means the design of interior spaces as a part of an interior alteration or interior construction project in conformity with public health, safety, and welfare requirements, including the preparation of documents relating to building code descriptions, project egress plans that require no increase in the number of exits in the space affected, space planning, finish materials, furnishings, fixtures, and equipment and the preparation of documents and interior technical submissions relating to interior construction.

(b) “Practice of interior design” does not include any of the following:

(6) “Practice of professional engineering” includes any professional service requiring the application of engineering principles and data, in which the public welfare or the safeguarding of life, health or property is concerned and involved, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction, alteration, or operation, in connection with any public or private utilities, structures, projects, bridges, plants and buildings, machines, equipment, processes and works. A person offers to practice professional engineering if the person by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a professional engineer; or who through the use of some other title implies that he or she is a professional engineer; or who holds himself or herself out as able to practice professional engineering.

### **443.175 Submission of documents; interior designers.**

(1) Subject to s. 443.17 (3), a Wisconsin registered interior designer may sign and seal interior technical submissions that are required for an interior alteration or interior construction project for public record.

(2) If a city, village, town, or county requires a seal or stamp on interior technical submissions that are submitted for an interior alteration or interior construction project, the city, village, town, or county shall accept interior technical submissions impressed with the seal or stamp of a Wisconsin registered interior designer consistent with this chapter.

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### III. ADMINISTRATIVE CODE SECTIONS AT ISSUE (YELLOW HIGHLIGHTING ADDED)

#### **A-E 2.02 Registration seals.**

(1) Each architect, landscape architect, professional engineer, designer, professional land surveyor, and registered interior designer shall obtain a seal that complies with board specifications for registration seals. The overall diameter may not be less than 1 5/8 inches nor more than 2 inches. Each seal shall include the credential holder's name, credential number and city.

(2) The following designs for registration seals have been approved:

[PDF for diagram Omitted]

(3) The registration seal may be an embossing seal, an ink stamp seal, a digitally printed seal, or digitally embedded seal in an electronic file.

(4) Each sheet of plans, drawings, documents, specifications, and reports for architectural, landscape architectural, professional engineering, design, professional land surveying, and registered interior design practice shall be signed, sealed, and dated by the credential holder who prepared, or directed and controlled preparation of, the written material, except as specified in sub. (5).

(5) If more than one sheet is bound together in a volume, the credential holder who prepared or directed and controlled the preparation of the volume, may sign, seal and date only the title or index sheet if the signed sheet identifies clearly all other sheets comprising the bound volume and if any other sheets which are prepared by or under the direction and control of another credential holder are signed, sealed and dated by the other credential holder.

(6) Any addition, deletion or other revision to each sheet of plans, drawings, documents, specifications and reports for architectural, landscape architectural, professional engineering, design, professional land surveying, or registered interior design practice which affects public health and safety or any state or local code requirements may not be made unless signed, sealed and dated by the credential holder who made or directed and controlled the making of the revision.

(7)

(b) All seals on plans, drawings, documents, specifications, and reports to be filed as public documents shall be signed and dated by the credential holder in one of the following manners:

1. Physical placement of a seal and a handwritten signature in permanent ink containing the name of the credential holder and date.

2. Digital placement of a seal and a handwritten signature in permanent ink containing the name of the credential holder and date.

3. Digital placement of a seal and an electronic signature containing the name of the credential holder and date.

(c) If other standards for signatures or seals are prescribed by statute, the statutes shall govern.

(8) Plans, specifications and calculations for buildings and structures not exempt under s. 443.15, Stats., which have been prepared by an architect, professional engineer, or registered interior designer other than the Wisconsin registered architect, engineer, or registered interior designer who is submitting the plans, specifications and calculations for filing as public documents, may be submitted if all of the following conditions are satisfied:



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(a) The plans, specifications and calculations shall have been prepared by or under the supervision of an architect, professional engineer, or registered interior designer credentialed in some state of the United States, and shall bear the seal and signature of the architect, professional engineer, or registered interior designer who prepared them or under whose supervision and control they were prepared.

(b) A certificate, dated, signed, and sealed by the Wisconsin registered architect, professional engineer, or registered interior designer who is submitting the plans, specifications, and calculations for filing as public documents, shall be attached to the plans, specifications, and calculations. The certificate shall indicate that the plans, specifications and calculations were prepared by an architect, professional engineer, or registered interior designer other than the submitting registered architect, professional engineer, or registered interior designer; shall describe the work performed by the submitting registered architect, professional engineer, or registered interior designer; and shall include statements to the effect that the plans and specifications have been reviewed and comply with all applicable local and state building codes, and that the reviewing registered architect, professional engineer, or registered interior designer will be responsible for the supervision of construction in accordance with the requirements of the state, and of the county and municipality where the building or structure is to be erected. If the registered architect, professional engineer, or registered interior designer who originally prepared the plans, specifications and calculations was registered in Wisconsin at the time they were prepared, the certificate shall also specify why the original architect, professional engineer, or registered interior designer is not submitting the plans, specifications, and calculations for approval.

**A-E 8.10 Plan sealing.**

(1) No architect, landscape architect, professional engineer, designer, or registered interior designer may seal and sign any plans, drawings, documents, specifications or reports for architectural, landscape architectural, professional engineering, design, or registered interior design practice which are not prepared by the credential holder or under his or her personal direction and control.

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(3) No architect, landscape architect, professional engineer, designer, professional land surveyor, or registered interior designer shall allow work performed by him or her or under his or her personal direction and control to be sealed and signed by another except that an architect, landscape architect, professional engineer, designer, professional land surveyor, or registered interior designer working under the personal direction and control of another credential holder may allow that credential holder to seal and sign the work.

**SPS 361.01 Purpose of code.** Pursuant to various statutory provisions under subch. I of ch. 101, Stats., the purpose of chs. SPS 361 to 366 is to protect the health, safety, and welfare of the public and employees by establishing minimum standards for the design, construction, maintenance, and inspection of public buildings, including multifamily dwellings and places of employment

**SPS 361.20 Responsibilities.**

(1) OWNER. Compliance with chs. SPS 361 to 366 does not relieve the owner of a public building or place of employment from compliance with the administrative rules established by other state jurisdictions.

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**Note:** Pursuant to s. 101.11 (2) (a), Stats., no employer or owner, or other person shall hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which shall fail to provide for making the same safe.

**Note:** Section 101.12 (3) (h), Stats., prohibits local issuance of permits or licenses for construction or use of public buildings or places of employment until required drawings and calculations have been examined and approved by the department.

**Note:** Section 145.195 (1), Stats., prohibits local issuance of a building permit for construction of any structure requiring connection to a private onsite wastewater treatment system unless a system satisfying all applicable regulations already exists to serve the proposed structure or all permits necessary to install such a system have been obtained.

**(2) DESIGN.**

**(a)** Pursuant to ch. 443, Stats., a public building, structure or place of employment shall be designed by an architect or an engineer, except as provided under ss. 443.14 and 443.15, Stats.

**(b)** Pursuant to ch. 443, Stats., a component or a system, including an electrical system, a fire protection system, a heating ventilating and air conditioning system, or a plumbing system, for a public building, structure or place of employment shall be designed by an architect, engineer or a designer of engineering systems, except as provided under ss. 443.14 and 443.15, Stats.

**SPS 361.40 Supervision.**

**(1) GENERAL.**

**(a)** Except as provided in par. **(b)**, the proposed construction of a project within the scope of chs. SPS 361 to 366 shall be supervised by one or more Wisconsin registered architects or engineers, except that Wisconsin registered designers may supervise the installation of heating, ventilating and air conditioning systems, fire protection systems, and illumination systems. The person responsible for supervision shall also be responsible for the construction and installation being in substantial compliance with the approved plans and specifications. If the supervising architect, engineer, or designer is confronted with a nonconformance with the code during or at the end of construction, that party, together with the designing architect, engineer, or designer shall effect compliance or shall notify the department of the noncompliance.

**(b)**

1. A project does not require supervision by a Wisconsin registered architect or engineer, if the project qualifies under one of the following conditions:

**a.** The building contains less than 50,000 cubic feet total volume.

**b.** An addition to an existing building does not cause the entire building to contain or exceed a volume of 50,000 cubic feet.

2. For the purposes of this paragraph, the utilization of fire walls to divide up a building does not create separate buildings.

**(2) DUTIES.** Supervision of construction is a professional service, as distinguished from superintending of construction by a contractor, and means the performance, or the supervision thereof, of reasonable on-the-site observations to determine that the construction is in substantial compliance with the approved plans and specifications.



## DISCUSSION

As indicated above, we started our interpretation with a legislative intent, as set forth in the language chosen by Legislature. In this case, the three definitions above that have architect, interior designer and engineer, show how each fit with the other in the scope of the authority of each.

While the “Practice of Architecture,” Wis. Stat. § 443.01(5) and the definition of the Practice of professional Engineering, Wis. Stat. § 443.01(6), include the responsibility for “supervision of construction, alteration or operation” in conjunction with building, the definition “Practice of interior design” does not contain the word “supervision”, but instead regulates the practice of interior design by the specific scope of what is included and what is excluded from the Practice of Interior Design. This statute does not list supervision of construction as either included or excluded, yet the definition of “interior alteration or interior construction project”, Wis. Stat. § 443.01(3c), involves authority to undertake design options including permanent fixtures and equipment in interior spaces in compliance with building code, fire code and Federal Americans with Disabilities Act and other state and local regulations. With interior “technical submissions,” found in Wis. Stat. § 443.01(3e), further includes the specifications for materials, skilled labor, equipment, and construction systems, which “may be signed and sealed by a Wisconsin registered interior designer in compliance with this chapter.”

In short, an interior designer is authorized to do the very things that require construction supervision of those elements to effectively accomplish the purpose of the statute. In other words, the supervising engineer or architect should not be required to supervise interior design work defined by the Registered Interior Designer—that Designer should undertake the supervision and responsibility for their work.<sup>4</sup>

Anyone suggesting that new law did not authorize interior designers to provide construction supervision of the specifications they had prepared with respects to buildings over 50,000 cubic feet, point to SPS § 361.40(1), which limits supervision of commercial projects of over 50,000 cubic feet in total volume to architects or engineers, but allows the listed registered designers to supervise the installation of the systems they designed. That administrative code section also provides “the person responsible for supervision shall be responsible for construction and installation being in substantial compliance with the approved plans and specifications.” Yet, if you look back at the authorizing statutes for the designers listed as “Wisconsin Registered Designers” in SPS § 361.40(1), those statutes do not specifically authorize those listed “Wisconsin Registered Designers” the authority to “supervise construction” or take responsibility for having done so.

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<sup>4</sup> Before 2021 Wis. Act 195, that was precisely what was required, even though the interior designer was probably more familiar and better placed to actually supervise the construction of the state and municipality approved plans the interior designer had prepared.



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Presumably, the Legislature approved of the delegation of responsibilities in SPS § 361.40(1). That code section and its predecessors have been in the books for decades. Logically, the drafters of 2021 Wis. Act 195 would have relied on that delegation authority when choosing to refer to Registered Interior Designers in the statute by that title, as opposed to a “Certified,” “Licensed,” or simply “Professional” Interior Designers. It follows that the Legislature intended to include the regulation of Registered Interior Designers to be the same as the other listed “Registered Designers” in the Administrative Code when it put Interior Designers in the same context as Architects and Engineers. The A-E Board recognized that in the rules it enacted.

This interpretation of some plan reviewers, and the subsequent rejection of the sealed work of Wisconsin Registered Interior Designers has led to absurd results and surplusage language in 2021 Wis. Act 195 – the very result to be avoided when interpreting a statute. Despite being registered and having authority to seal and submit, Registered Interior Designers are relegated back to where they were before the statute was passed. Before registration, interior designers could always supervise the work for buildings under 50,000 cubic feet, but for larger commercial buildings an engineer or architect was required to review and familiarize him or herself with the interior designer’s plans and take responsibility for conforming the work through supervision during construction.

In other words, the interior designer’s ability to stamp the documents means nothing and there is no authority to supervise the work to make sure it complied with the stamped plans. It follows that having the seal of a Registered Interior Designer means next to nothing since an architect or engineer will still have to certify with his or her stamp in compliance with the out-of-date SPS § 361.40(1) *et. seq.* and for smaller buildings, no supervision would be required. This, of course, renders the statutory ability to seal the documents and submit directly for approval of the interior design work useless since interior designers still have to turn their stamped work over to an architect or an engineer to familiarize themselves with it, stamp it, submit it, and take responsibility. This is precisely the sort of “surplusage” the *Kalal* case, *supra*, warns to avoid. Yet, a Wisconsin Registered Interior Designer is subject to similar courses of continuing education, licensing, and regulation to both architects and engineers to ensure the quality of their work, while being left to compete with individuals who simply do interior design work without any training or title.

Turning to SPS 361.40(1) and the Building Code, it should be noted the requirement to have a registered architect or engineer supervise construction is for proposed construction “of a project within the scope of chapters SPS 361-366.” Some of the work of the interior designer is within the scope SPS 361-366, and a large portion of that work is outside the building code and its requirements. The Building Code does not specify the final wall material if it is code-compliant, it does not choose the variety of wood used as the floor, the color of paint, furniture, circulation paths for efficiency or a number of other interior design items. Similarly, while being limited to non-structural elements, the interior designer may still put a door on the left or the right of a given wall; the code does not necessarily direct where that door should go. This puts interior design



work only partly within the scope of SPS 361-366, even though the overall project may be entirely within the scope of those administrative code sections.

In contrast, the regulation of the professionals who administer the code has been generally embodied outside the Building Code itself. It is obvious that the original intent of the legislature is to regulate interior designers like the regulation of architects and engineers but limited to the nature of the work each is competent to do. This means that interior design work by Registered Interior Designers is limited in scope. Registered Interior Designers do not deal with design loads, structural integrity, implication of engineering principles and data, building weatherizing integrity, electrical efficiency, and similar matters as outlined in 443.01(5m)(b). Proper interpretation of the statutes involved defers to the specific authority of the A-E Administrative Code in interpreting to statutes regulating registered professionals, rather than the general authority over the Building Code exercised in the SPS Administrative Code. *Marder v. Bd. of Regents of Univ. of Wisconsin Sys.*, 2005 WI 159, ¶ 23, 286 Wis. 2d 252, 706 N.W.2d 110.<sup>5</sup>

The legislature intended to parallel the functions of these registered Professionals and Designers, leaving the licensee who designed the work responsible for supervision of its construction compliance of the building code. Requiring the professional most familiar with the work to supervise construction, assure compliance with the plans, and stand by their work is inherent in the statutory procedure that was set by the legislature. As the *Kalal* case, *supra*, admonished:

Context is important to meaning. So, too, is the structure of the statute in which the operative language appears. Therefore, statutory language is interpreted in the context in which it is used; not in isolation but as part of a whole; in relation to the language of surrounding or closely-related statutes; and reasonably, to avoid absurd or unreasonable results.

Prohibiting the ability of interior designers to supervise construction of their own work is contrary to the contextually manifest statutory purpose of 2021 Wis. Act. 195 and the statutory changes made therein. Any ambiguity left by the omission of the statute to indicate interior designers would have supervisory authority over construction, given the failure of the statute to say it was included or excluded, requires us to look to the context and purpose of the whole Act and to favor the construction that will fulfil the obvious purpose of the statutory changes.

### CONCLUSION

The present continued application of the SPS Administrative Code, without integrating the statutory changes from 2021 Wis. Act 195, violates proper statutory interpretation of the statutes authorizing the Administrative Codes involved. The current conflict requires the updating of the SPS Chapter to treat Wisconsin Registered Interior Designers the same as other Wisconsin

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<sup>5</sup> If and when a Registered Designer is “confronted with a nonconformance with the code during or at the end of construction that party, together with the designing architect, engineer, or designer shall effect compliance...” In other words, if the Designer violates the building code, the supervising Architect or Engineer would get involved to correct the nonconformance. The need for the correction would then be reported to SPS. See: SPS § 361.40(1)(a). Presumably, the same standard should be applied to Registered Interior Designers.

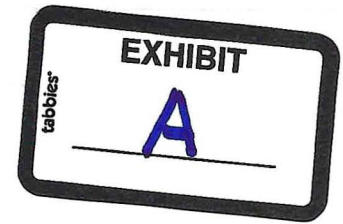
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Registered Designers by including them in each SPS code section delegating authority to *listed* Wisconsin Registered Designers. This requires action of the SPS Board and, since the delayed effective date which normally is used to develop and implement rule changes has expired, an emergency rule would be appropriate given the conflict and confusion.<sup>6</sup>

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<sup>6</sup> I have not been asked about potential litigation, but I would be negligent in failing to note that where rights and privileges assured by law are denied under color of law, civil rights are violated under 42 USC 1983. Damages and attorneys' fees are awardable, along with injunctive relief under certain circumstances. Leaving the conflict between the code sections invites litigation since the costs of the litigation would not necessarily deter such action.





Date of enactment: **March 18, 2022**

**2021 Senate Bill 344** Date of publication\*: **March 19, 2022**

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

# 2021 WISCONSIN ACT 195

**AN ACT** *to repeal* subchapter X of chapter 440 [precedes 440.96]; *to renumber* 443.17; *to amend* 15.105 (5), 15.405 (2) (title), 15.405 (2) (ag), 15.405 (2) (ar), 15.405 (2) (b), chapter 443 (title), 443.01 (3), 443.10 (2) (a), 443.10 (2) (e), 443.11 (title), 443.11 (1) (intro.), 443.16 and 703.11 (2) (b); and *to create* 440.08 (2) (a) 38i., 443.01 (3c), 443.01 (3e), 443.01 (5m), 443.01 (9), 443.015 (1e), 443.02 (5), 443.075, 443.08 (2) (d), 443.08 (3) (a) 4., 443.08 (4) (a) 5., 443.08 (4) (b) 5., 443.08 (5) (d), 443.10 (1) (e), 443.10 (4) (am), 443.11 (1) (dm), 443.17 (2), 443.17 (3), 443.17 (4) and 443.175 of the statutes; **relating to:** regulation, registration, and the scope of practice of interior designers, certificates of authorization for interior design firms, and granting rule-making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 15.105 (5) of the statutes is amended to read:

15.105 (5) STATE CAPITOL AND EXECUTIVE RESIDENCE BOARD. There is created a state capitol and executive residence board, attached to the department of administration under s. 15.03, consisting of the secretary of administration or the secretary's designee, the director of the historical society or the director's designee, an architect or engineer employed by the department of administration appointed by the secretary of administration, 3 senators and 3 representatives to the assembly appointed as are the members of standing committees in their respective houses, and 7 citizen members appointed for staggered 6-year terms of whom at least 2 shall be architects registered under ch. 443, one shall be a landscape architect registered under ch. 443 and 2 shall be interior designers registered under s. ~~440.962~~ ch. 443.

**SECTION 2.** 15.405 (2) (title) of the statutes is amended to read:

15.405 (2) (title) EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS, ~~AND~~ PROFESSIONAL LAND SURVEYORS, AND REGISTERED INTERIOR DESIGNERS.

**SECTION 3.** 15.405 (2) (ag) of the statutes is amended to read:

15.405 (2) (ag) There is created an examining board of architects, landscape architects, professional engineers, designers, ~~and~~ professional land surveyors, and registered interior designers in the department of safety and professional services. Any professional member appointed to the examining board shall be registered or licensed to practice architecture, landscape architecture, professional engineering, the design of engineering systems, ~~or~~ professional land surveying, or interior design under ch. 443. The examining board shall consist of the following members appointed for 4-year terms: 3 architects, 3 landscape architects, 3 professional engineers, 3 designers, 3 professional land surveyors, 3 registered interior designers, and ~~10~~ 12 public members.

**SECTION 4.** 15.405 (2) (ar) of the statutes is amended to read:

15.405 (2) (ar) In operation, the examining board shall be divided into an architect section, a landscape architect section, a professional engineer section, a designer section, ~~and~~ a professional land surveyor section, and a registered interior designer section. Each section shall consist of the 3 members of the named profession appointed to the examining board and 2 public members appointed to the section. The examining board shall elect its own officers and shall meet at least twice annually.

**SECTION 5.** 15.405 (2) (b) of the statutes is amended to read:

15.405 (2) (b) All matters pertaining to passing upon the qualifications of applicants for and the granting or revocation of registration or licensure, and all other matters of interest to either the architect, landscape architect, engineer, designer, ~~or~~ professional land surveyor, or registered interior designer section shall be acted upon solely by the interested section.

**SECTION 6.** 440.08 (2) (a) 38i. of the statutes is created to read:



440.08 (2) (a) 38i. Interior design firm, partnership, or corporation: February 1 of each even-numbered year.

**SECTION 7.** Subchapter X of chapter 440 [precedes 440.96] of the statutes is repealed.

**SECTION 8.** Chapter 443 (title) of the statutes is amended to read:

**CHAPTER 443**  
**EXAMINING BOARD OF ARCHITECTS,**  
**LANDSCAPE ARCHITECTS,**  
**PROFESSIONAL ENGINEERS,**  
**DESIGNERS, ~~AND~~ PROFESSIONAL**  
**LAND SURVEYORS, AND REGISTERED**  
**INTERIOR DESIGNERS**

**SECTION 9.** 443.01 (3) of the statutes is amended to read:

443.01 (3) "Examining board" means the examining board of architects, landscape architects, professional engineers, designers, ~~and~~ professional land surveyors, and registered interior designers.

**SECTION 10.** 443.01 (3c) of the statutes is created to read:

443.01 (3c) "Interior alteration or interior construction project" means a project for an interior space or area within a proposed or existing building or structure, including construction, modification, renovation, rehabilitation, or historic preservation, that involves changing or altering any of the following:

(a) The design function or layout of rooms.

(b) The state of permanent fixtures or equipment.

(c) The interior space or area if the change or alteration requires verification of the compliance of the interior space or area with a building code, fire code, the federal Americans with Disabilities Act, or state or local regulations.

(d) Interior furnishings.

(e) Nonstructural elements of the interior space or area.

**SECTION 11.** 443.01 (3e) of the statutes is created to read:

443.01 (3e) "Interior technical submission" means a design, drawing, specification, study, or other technical report or calculation that establishes the scope of an interior design project, including a description of standards of quality for materials, skilled labor, equipment, and construction systems, and that may be signed and sealed by a Wisconsin registered interior designer in compliance with this chapter.

**SECTION 12.** 443.01 (5m) of the statutes is created to read:

443.01 (5m) (a) "Practice of interior design" means the design of interior spaces as a part of an interior alteration or interior construction project in conformity with public health, safety, and welfare requirements, including the preparation of documents relating to building code descriptions, project egress plans that require no increase in the number of exits in the space affected, space planning, finish materials, furnishings, fixtures, and equipment and the preparation of documents and interior technical submissions relating to interior construction.

(b) "Practice of interior design" does not include any of the following:

1. Services that constitute the practice of architecture or the practice of professional engineering.

2. Altering or affecting the structural system of a building, including changing the building's live or dead load on the structural system.

3. Changes to the building envelope, including exterior walls, exterior wall coverings, exterior wall openings, exterior windows and doors, architectural trim, balconies and similar projections, bay and oriel windows, roof assemblies and rooftop structures, and glass and glazing for exterior use in both vertical and sloped applications in buildings and structures.

4. Altering or affecting the mechanical, plumbing, heating, air conditioning, ventilation, electrical, vertical transportation, fire sprinkler, or fire alarm systems.

5. Changes beyond the exit access component of a means of egress system.

6. Construction that materially affects life safety systems pertaining to fire safety or the fire protection of structural elements, or alterations to smoke evacuation and compartmentalization systems or to fire-rated vertical shafts in multistory structures.

7. Changes of use to an occupancy of greater hazard as determined by the International Building Code.

8. Changes to the construction classification of the building or structure according to the International Building Code.

**SECTION 13.** 443.01 (9) of the statutes is created to read:

443.01 (9) "Wisconsin registered interior designer" means a person registered as a Wisconsin registered interior designer under this chapter.

**SECTION 14.** 443.015 (1e) of the statutes is created to read:

443.015 (1e) The rules promulgated under sub. (1) by the registered interior designer section of the examining board shall require a Wisconsin registered interior designer to complete at least 15 hours of continuing education during the 2-year



period immediately preceding the renewal date specified under s. 440.08 (2) (a). At least 10 of the 15 hours shall be in subjects related to the practice of interior design which safeguard the public's health, safety, and welfare.

**SECTION 15.** 443.02 (5) of the statutes is created to read:

443.02 (5) No person may use the title "Wisconsin registered interior designer," use any title or description that implies that he or she is a Wisconsin registered interior designer, or represent himself or herself to be a Wisconsin registered interior designer unless the person is registered as a Wisconsin registered interior designer under this chapter.

**SECTION 16.** 443.075 of the statutes is created to read:

**443.075 Registration requirements for interior designers.** The registered interior designer section of the examining board shall register as a Wisconsin registered interior designer an individual who submits an application to the registered interior designer section on a form provided by the registered interior designer section and who satisfies one of the following requirements:

(1) The individual does all of the following:

(a) Passes an interior design examination approved by the registered interior designer section that is administered by an organization approved by the registered interior designer section.

(b) Meets any other requirements established by the registered interior designer section by rule.

(2) The individual is registered as an architect under s. 443.03 and submits evidence satisfactory to the registered interior designer section of all of the following:

(a) That he or she is a graduate of a 4-year architecture program.

(b) That he or she has at least 6 years of demonstrated practical experience in interior design of a character satisfactory to the registered interior designer section.

**SECTION 17.** 443.08 (2) (d) of the statutes is created to read:

443.08 (2) (d) No individual Wisconsin registered interior designer registered under this chapter may practice or offer to practice interior design as a principal, officer, employee, or agent of a firm, partnership, or corporation unless all of the following are satisfied:

1. All personnel who practice or offer to practice in its behalf as Wisconsin registered interior designers are registered under this chapter.

## Proposed amendments to Wis Admin. Code Chapter SPS 361

Section 1. SPS 361.20 (2)(b) is amended to read:

### SPS 361.20 Responsibilities.

\* \* \*

#### (2) DESIGN.

\* \* \*

- (b) Pursuant to ch. 443, Stats., a component or a system, including an electrical system, a fire protection system, a heating ventilating and air conditioning system, or plumbing system, **or interior alteration or interior construction project** for a public building, structure or place of employment shall be designed by an architect, engineer, ~~or a~~ designer of engineering systems, **or a designer of interior alterations or interior construction projects**, except as provided under ss. 443.14 and 443.15, Stats.

Section 2. SPS 361.40 (1)(a) is amended to read:

### SPS 361.40 Supervision.

#### (1) GENERAL.

- (a) Except as provided in par. (b), the proposed construction of a project within the scope of chs. SPS 361 to 366 shall be supervised by one or more Wisconsin registered architects or engineers, except that Wisconsin registered designers may supervise the installation of heating, ventilating and air conditioning systems, fire protection systems, **interior alteration or interior construction project**, and illumination systems. The person responsible for supervision shall also be responsible for the construction and installation being in substantial compliance with the approved plans and specifications. If the supervising architect, engineer, or designer is confronted with a nonconformance with the code during or at the end of construction, that party, together with the designing architect, engineer, or designer shall effect compliance or shall notify the department of the noncompliance.

