

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

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**IN THE MATTER OF RULEMAKING :  
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE  
EXAMINING BOARD OF : CR 21-019  
ARCHITECTS, LANDSCAPE :  
ARCHITECTS, PROFESSIONAL :  
ENGINEERS, DESIGNERS, AND :  
PROFESSIONAL LAND SURVEYORS :**

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**I. THE PROPOSED RULE:**

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

**II. REFERENCE TO APPLICABLE FORMS:**

N/A

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA is 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 Board completed a comprehensive review of ch. A-E 8 to ensure that the rules are current with standards of practice and consistent with ch. 443, Stats. As a result, s. A-E 8.04 (5) has been revised to clarify that the common practice of representing a partnership or association in principal between parties within a proposal for the performance of services is not prohibited.

**V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

The Rules Committee of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors held a public hearing on April 13, 2021. No public comments were received.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

The Legislative Council had no recommendations concerning the proposed rules.

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

N/A

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

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IN THE MATTER OF RULEMAKING	:	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 PROFESSIONAL	:	PROFESSIONAL LAND SURVEYORS
LAND SURVEYORS	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 21-019)

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PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors to amend A-E 8.04 (5), relating to professional conduct.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Section 443.015 (2), Stats.

**Statutory authority:**

Sections 15.08 (5) (b) and 443.015 (2), Stats.

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats., provides an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains...”

Section 443.015 (2), Stats., provides that “[e]ach section of the examining board may promulgate rules governing the professional conduct of individuals, firms, partnerships, and corporations registered, permitted, certified, or granted a certificate of authorization by that section.”

**Related statute or rule:**

Section 443.11, Stats., gives the appropriate section of the Board the authority to, under specified circumstances, reprimand a credential holder or limit, suspend, or revoke a credential. One of the circumstances under which this authority may be exercised is any violation of the rules of professional conduct adopted and promulgated under s. 443.015 (2), Stats.

**Plain language analysis:**

The Board completed a comprehensive review of ch. A-E 8 to ensure that the rules are current with standards of practice and consistent with ch. 443, Stats. As a result, s. A-E 8.04 (5) has been revised to clarify that the common practice of representing a partnership or association in principal between parties within a proposal for the performance of services is not prohibited.

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

None.

**Comparison with rules in adjacent states:****Illinois:**

Rules of the Illinois Department of Financial and Professional Regulation provide standards of professional conduct for architects [68 Ill. Adm. Code 1150.90], engineers [68 Ill. Adm. Code 1380.300], and professional land surveyors [68 Ill. Adm. Code 1270.57]. The rules require an architect to accurately represent to a prospective or existing client or employer the architect's qualifications and the scope of the architect's responsibility in connection with work for which the architect is claiming credit. The rules also provide that engineers and professional land surveyors soliciting employment may not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent or purpose of enhancing their qualifications or work.

Illinois does not issue permits or similar credentials for designers of engineering systems or landscape architects.

**Iowa:**

Rules of professional conduct for architects, engineers, professional land surveyors, and landscape architects are specified by the Iowa Architectural Examining Board [193B IAC 4.1], Iowa Engineering and Land Surveying Examining Board [193C IAC 8.1 to 8.5], and Iowa Landscape Architectural Examining Board [193D IAC 4.1 to 4.5]. The rules require an architect or landscape architect to accurately represent to a prospective or existing client or employer the scope of their responsibility in connection with work for which the architect is claiming credit. The rules also provide that presentations incident to the solicitation of employment as an engineer or professional land surveyor may not misrepresent pertinent facts concerning employers, employees, associates, firms, joint ventures, or past accomplishments.

Iowa does not issue permits or similar credentials for designers of engineering systems.

**Michigan:**

Rules of the Michigan Department of Licensing and Regulatory Affairs provide standards of professional conduct for architects [Mich Admin Code, R 339.15401], professional engineers [Mich Admin Code, R 339.16031 to R 339.16034], professional land surveyors [Mich Admin Code, R 339.17401 to R 339.17403], and landscape architects [Mich Admin Code, R 339.19041]. The rules for professional engineers, professional land

surveyors, and landscape architects do not specifically address misrepresenting the extent to which the performance of services will involve a partnership or association with another registrant or licensee or misrepresenting the identity of a registrant or licensee with whom a partnership or association will be engaged in for the performance of services. The rules for architects adopt by reference the National Council of Architectural Registration Boards (NCARB) model rules of conduct revised July 2018. The model rules prohibit an architect from misrepresenting or overstating the scope of the architect's responsibility in connection with work for which the architect or the architect's firm is claiming credit.

Michigan does not issue permits or similar credentials for designers of engineering systems.

**Minnesota:**

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design provides rules of professional conduct for architects, engineers, land surveyors, and landscape architects [Minnesota Rules, parts 1805.0100 to 1805.1600]. The rules provide that, in connection with work for which the licensee or certificate holder is claiming credit, the licensee or certificate holder must accurately represent the licensee's or certificate holder's qualifications, education, and scope of responsibility for the work. The licensee or certificate holder must also accurately represent the qualifications, education, and scope of responsibility of any employer, employees, or associates.

Minnesota does not issue permits or similar credentials for designers of engineering systems.

**Summary of factual data and analytical methodologies:**

The proposed rules were developed by conducting a comprehensive review of the provisions of ch. A-E 8 and obtaining input and feedback from the Rules Committee of the A-E Board.

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

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

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

A public hearing was held on April 13, 2021.

**Agency contact person:**

Jon Derenne, Attorney, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov).

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TEXT OF RULE

SECTION 1. A-E 8.04 (5) is amended to read:

**A-E 8.04 (5)** ~~May not represent that he or she is engaged in~~ misrepresent the extent to which the performance of services will involve a partnership or association with another unless there exists in fact registrant or licensee or misrepresent the identity of a registrant or licensee with whom a partnership or association will be engaged in for the performance of services.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)

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This Proposed Order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors is approved for submission to the Governor and Legislature.

Dated 9/16/21

Agency *Roshen Sijayinski*  
Chair

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date October 29, 2020</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) A-E 8</p>	
<p>4. Subject Professional conduct</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy   <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units   <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b></p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The Board completed a comprehensive review of ch. A-E 8 to ensure that the rules are current with standards of practice and consistent with ch. 443, Stats. As a result, s. A-E 8.04 (5) has been revised to clarify that the common practice of representing a partnership or association in principal between parties within a proposal for the performance of services is not prohibited.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is providing consistency with standards of practice and applicable Wisconsin statutes. If the rule is not implemented, the provisions of s. A-E 8.04 (5) will remain unclear.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is consistency with standards of practice and applicable Wisconsin statutes.</p>	
<p>17. Compare With Approaches Being Used by Federal Government None.</p>	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

**Illinois:**

Rules of the Illinois Department of Financial and Professional Regulation provide standards of professional conduct for architects [68 Ill. Adm. Code 1150.90], engineers [68 Ill. Adm. Code 1380.300], and professional land surveyors [68 Ill. Adm. Code 1270.57]. The rules require an architect to accurately represent to a prospective or existing client or employer the architect's qualifications and the scope of the architect's responsibility in connection with work for which the architect is claiming credit. The rules also provide that engineers and professional land surveyors soliciting employment may not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent or purpose of enhancing their qualifications or work. Illinois does not issue permits or similar credentials for designers of engineering systems or landscape architects.

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**Michigan:**

Rules of the Michigan Department of Licensing and Regulatory Affairs provide standards of professional conduct for architects [Mich Admin Code, R 339.15401], professional engineers [Mich Admin Code, R 339.16031 to R 339.16034], professional land surveyors [Mich Admin Code, R 339.17401 to R 339.17403], and landscape architects [Mich Admin Code, R 339.19041]. The rules for professional engineers, professional land surveyors, and landscape architects do not specifically address misrepresenting the extent to which the performance of services will involve a partnership or association with another registrant or licensee or misrepresenting the identity of a registrant or licensee with whom a partnership or association will be engaged in for the performance of services. The rules for architects adopt by reference the National Council of Architectural Registration Boards (NCARB) model rules of conduct revised July 2018. The model rules prohibit an architect from misrepresenting or overstating the scope of the architect's responsibility in connection with work for which the architect or the architect's firm is claiming credit. Michigan does not issue permits or similar credentials for designers of engineering systems.

**Minnesota:**

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design provides rules of professional conduct for architects, engineers, land surveyors, and landscape architects [Minnesota Rules, parts 1805.0100 to 1805.1600]. The rules provide that, in connection with work for which the licensee or certificate holder is claiming credit, the licensee or certificate holder must accurately represent the licensee's or certificate holder's qualifications, education, and scope of responsibility for the work. The licensee or certificate holder must also accurately represent the qualifications, education, and scope of responsibility of any employer, employees, or associates. Minnesota does not issue permits or similar credentials for designers of engineering systems.

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19. Contact Name	20. Contact Phone Number
Dale Kleven, Administrative Rules Coordinator	(608) 261-4472

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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
-