

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Board of Landscape Architecture
Statutory Authority: 24 Delaware Code, Section 205 (24 **Del.C.**, §205)
24 **DE Admin. Code** 200

FINAL

ORDER

200 Board of Landscape Architecture

Pursuant to 29 **Del.C.** §10118 and 24 **Del.C.** §205, the Delaware Board of Landscape Architecture issues this Order adopting proposed amendments to the Board's Rules. Following notice and a public hearing on May 10, 2012, the Board makes the following findings and conclusions:

SUMMARY OF THE EVIDENCE

1. The Board posted public notice of the proposed amendments in the April 1, 2012 *Register of Regulations* and in the *Delaware News Journal* and *Delaware State News*. The Board proposed to completely rework its regulations in an attempt to better organize and clearly establish the standards governing licensed Landscape Architects in the State of Delaware.

2. The Board received no written comments during April 2012. The Board held a public hearing on May 10, 2012 and received no public comments.

3. The Board proposed to revise its rules in an attempt to better organize and clearly establish the standards governing Landscape Architects in the State of Delaware.

4. The Board made three non-substantive technical corrections to its regulations pursuant to 29 **Del.C.** §10113(b)(4). Rule 1.0 was changed from Filing for Applications for Written Exam to Filing for Applications for Licensure which was a technical error because the Board does not administer the exam. Rule 1.5 was also changed from written examination to licensure because the Board does not administer the exam. Rule 11.0 was changed from Crimes substantially related to the practice of Architecture to Crimes substantially related to the practice of Landscape Architecture. This was a technical error because the Board is the Board of Landscape Architecture and not the Board of Architecture.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

5. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's Rules. No public comment was received and therefore no further revision of the rules need be considered.

6. There being no public comment to consider, the Board hereby adopts the regulation changes as originally published on April 1, 2012 and the non-substantive technical corrections to those rules.

The effective date of this Order will be ten (10) days from the publication of this Order in the *Register of Regulations* on September 1, 2012.

IT IS SO ORDERED this 16th day of August, 2012

Eric Wahl, RLA, President

William Bullock

Jeffrey Clark, RLA

Rachel Dunning, Treasury

Jeffrey Seemans, RLA, Secretary

200 Board of Landscape Architecture

1.0 Filing of Applications for ~~[Written Examination]~~ Licensure

- 1.1 ~~Persons seeking licensure pursuant to 24 **Del.C.** §206 shall submit an application for written examination on a form prescribed by the Board to the Board's office at the Division of Professional Regulation (the "Division") along with the application fee established by the Division. Applicants for written examination shall be filed in such office of the Board no later than twelve (12) weeks prior to the opening date of the examination. Prior to seeking licensure, applicants must have passed all sections of the national examination administered by the Council of Landscape Architectural Registration Board "CLARB".~~

- 1.2 Applicants seeking licensure pursuant to 24 **Del.C.** §206(a)(1) shall have graduated from a school or college of landscape architecture approved or accredited by the ~~national Council of Landscape Architectural Registration Boards, the~~ American Society of Landscape Architects Landscape Architectural Accreditation Board, or other legitimate national association of landscape architects.
- 1.3 For purposes of 24 **Del.C.** §206(a)(32), courses in landscape architecture shall have been taken at a school or college of landscape architecture approved or accredited by the ~~national Council of Landscape Architectural Registration Boards, the~~ American Society of Landscape Architects Landscape Architectural Accreditation Board, or other legitimate national association of landscape architects.
- 1.4 ~~Each applicant must submit documentary evidence, as more fully described on the application form, to show the Board that the applicant is clearly eligible to sit for the examination under 24 **Del.C.** §206. Upon successfully passing all required sections of the national exam as administered by CLARB, applicants will then submit a completed application to the Division of Professional Regulation.~~
- 1.5 The Board shall not consider an application for ~~written examination licensure~~ until all items described in sections 1.1, ~~and 1.2, 1.3, 1.4, and 4.0 of this~~ the rules have been submitted to the Board's office.
- 1.6 The Board reserves the right to retain as a permanent part of the application any or all documents submitted.
- 1.7 The examination shall be the Council of Landscape Architectural Registration Board's ("CLARB") current ~~uniform~~ national examination. CLARB establishes a passing score for each ~~uniform~~ section of the national examination.

Statutory Authority: 24 **Del.C.** §§206, 207

5 DE Reg. 821 (10/01/01)

2.0 Filing of Applications for Reciprocity

- 2.1 Persons seeking licensure pursuant to 24 **Del.C.** §208, shall submit payment of the fee established by the Division and an application on a form prescribed by the Board which shall include proof of licensure and good standing in each state or territory of current licensure, and on what basis the license was obtained therein, including the date licensure was granted. Letters of good standing must also be provided for each state or jurisdiction in which the applicant was ever previously licensed.
- 2.2 The Board shall not consider an application for licensure by reciprocity until all items described in 24 **Del.C.** §208 and paragraph 2.1 of this Rule have been submitted to the Board's office.
- 2.3 A passing exam score for purposes of reciprocity shall be the passing score set by CLARB, or the passing score accepted by the Delaware Board, for the year in which the exam was taken.

Statutory Authority: 24 **Del.C.** §208.

3.0 Filing of Applications for Certificate of Authorization

A business entity desiring a certificate of authorization pursuant to 24 **Del.C.** §212 shall file with the Board an application, on forms provided by the Board, listing relevant information, including the names and addresses of officers, partners, members, managers or principals of the business entity and also of the individual(s) duly licensed to practice landscaped architecture in this State who shall be in responsible of the landscape architecture in compliance with 24 **Del.C.** §212(b)(1), and any other information required by the Board, accompanied by the appropriate fee. A certificate of authorization shall be renewed biennially in such manner as is determined by the Division, and upon payment of the appropriate fee and submission of a renewal form provided by the Division. In the event there should be a change in the information provided in the application for a certificate of authorization, notification of such change shall be provided to the Board in writing within thirty (30) days of the effective date of such change.

8 DE Reg. 1431 (04/01/05)

4.0 Issuance of Licenses; proof of professional experience.

- 4.1 An applicant who has taken and passed the national examination, as administered by CLARB, must still demonstrate that he or she has met the professional experience requirements set forth in 24 **Del.C.** §206 and 24 **Del.C.** §210 before a license will be issued.
 - 4.1.1 An applicant who does not have a degree but has 2 years of acceptable courses in landscape architecture taken from a school or college of landscape architecture approved or accredited by the American Society of Landscape Architectural Accreditation Board, or other legitimate national association of landscape architects in accordance with 24 **Del.C.** §206(2). Must also demonstrate at least 4 years of professional experience in the practice of landscape architecture acceptable to the Board under the direct supervision of a licensed landscape architect.

4.1.2 An applicant with a degree from a school or college of landscape architecture accredited by the American Society of Landscape Architects Landscape Architectural Accreditation Board, or other legitimate national association of landscape architects must demonstrate at least 2 years of professional experience in the practice of landscape architecture acceptable to the Board under the direct supervision of a licensed landscape architect.

4.2 Only one license shall be issued to a licensed landscape architect, except for a duplicate issued to replace a lost or destroyed license.

5.0 Seal

5.1 Technical Requirements

5.1.1 For the purpose of signing and sealing drawings, specifications, contract documents, plans, reports and other documents (hereinafter collectively referred to as "drawings"), each landscape architect shall provide him or herself with an individual seal of design and size as approved by the Board to be used as hereinafter directed on documents prepared by him or her or under his/her direct supervision for use in the State of Delaware.

5.1.2 The application of the seal impression or rubber stamp to the first sheet of the bound sheets of the drawings (with index of drawings included), title page of specifications, and other drawings and contract documents shall constitute the licensed landscape architect's stamp.

5.1.3 The seal to be used by a licensee of the Board shall be of the embossing type or a rubber stamp, and have two (2) concentric circles. The outside circle measures across the center 1 13/16 inches. The inner circle shall contain only the words "NO." and "State of Delaware." At the bottom the words "Registered Landscape Architect" reading counterclockwise, and at the top the name of the licensee.

5.1.4 An impression of the seal is to be submitted to the Board to be included in the licensee's records.

5.2 Use of the Seal

5.2.1 A landscape architect shall not sign or seal drawings unless they were prepared by him/her or under his/her direct supervision.

5.2.2 "Supervision" for purposes of signing and/or sealing drawings shall mean direct supervision, involving responsible control over and detailed professional knowledge of the contents of the drawings throughout their preparation. Reviewing, or reviewing and correcting, drawings after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over, nor detailed professional knowledge of, the content of such drawings throughout their preparation.

5.2.3 The seal appearing on any drawings shall be prima facie evidence that said drawings were prepared by or under the direct supervision of the individual who signed and/or sealed the drawings. Signing or sealing of drawings prepared by another shall be a representation by the registered landscape architect that he/she has detailed professional knowledge of and vouches for the contents of the drawings.

Statutory Authority: **24 Del.C. §205(a)(1); 212(a).**

6.0 Renewal of Licenses

6.1 Each application for license renewal or request for inactive status shall be submitted on or before the expiration date of the current licensing period. However, a practitioner may still renew his or her license within 60 days following the license renewal date upon payment of a late fee set by the Division. Upon the expiration of 60 days following the license renewal date an unrenewed license shall be deemed lapsed and the practitioner must reapply pursuant to the terms of 24 **Del.C. §210(b).**

6.2 It shall be the responsibility of all licensees to keep the Board and the Division informed of any change in name, home or business address.

Statutory Authority: **24 Del.C. §210.**

6.3 Renewal may be effected by:

6.3.1 filing a renewal application prescribed by the Board and provided by the Division of Professional Regulation. Beginning in 2009, license renewal may be accomplished online at www.dpr.delaware.gov;

6.3.2 providing other information as may be required by the Board to ascertain the licensee's good standing;

6.3.3 attesting on the renewal application to the completing of continuing education as required by Rule 6.0.

6.3.4 payment of fees as determined by the Division of Professional Regulation.

11 DE Reg. 347 (09/01/07)

7.0 Continuing Education as a Condition of Biennial Renewal

- 7.1 General Statement: Each licensee shall be required to meet the continuing education requirements of these guidelines for professional development as a condition for license renewal. Continuing education obtained by a licensee should maintain, improve or expand skills and knowledge obtained prior to initial licensure, or develop new and relevant skills and knowledge.
- 7.1.1 In order for a licensee to qualify for license renewal as a landscape architect in Delaware, the licensee must have completed 20 hours of continuing education acceptable to the Board within the previous two years, or be granted an extension by the Board for reasons of hardship. Such continuing education shall be obtained by active participation in courses, seminars, sessions, programs or self-directed activities approved by the Board.
- 7.1.1.1 For purposes of seminar or classroom continuing education, one hour of acceptable continuing education shall mean 60 minutes of instruction.
- 7.1.2 All courses, seminars, sessions and programs are acceptable for continuing education credit if sponsored by organizations listed in Rule 7.1.3. All other continuing education credits will be reviewed at the time of renewal. All self-directed activities for continuing education credit allowed by rule 7.6 must be pre-approved and submitted by the licensee ~~60 days~~ 6 months prior to license renewal. **[prior to the activity on the form provided in 7.3 and 7.4.]**
- 7.1.2.1 Each course, seminar, session, program, or self-directed activity to be recommended for approval by the Board shall have a direct relationship to the practice of landscape architecture as defined in the **Delaware Code** and contain elements which will assist licensees to provide for the health, safety and welfare of the citizens of Delaware served by Delaware licensed landscape architects.
- 7.1.3 Continuing Education courses offered or sponsored by the following organizations will be automatically deemed to qualify for continuing education credit:
- 7.1.3.1 LA CESTM - Landscape Architecture Continuing Education SystemTM
 - 7.1.3.42 American Society of Landscape Architects (National and local/chapter levels)
 - 7.1.3.23 Council of Landscape Architectural Registration Boards
 - 7.1.3.4 American Planning Association
 - 7.1.3.5 American Institute of Certified Planners
 - 7.1.3.6 Delaware Department of Natural Resources (DNREC) Division of Soil and Water Conservation, seminars or educational programs dealing with sediment erosion and control
- ~~7.1.4 Erroneous or false information attested to by the licensee shall constitute grounds for denial of license renewal. Self-directed Activities: The Board will have the authority to allow self-directed activities to fulfill the continuing education requirements of the licensees. However, these activities must result in a book draft, published article, delivered paper, workshop, symposium, or public address within the two (2) year reporting period. Self-directed activities must advance the practitioner's knowledge of the field and be beyond the practitioner's normal work duties. Instructors will not be granted CE credit for studies customarily associated with their usual university or college instruction teaching loads.~~
- 7.1.4.1 The Board may, upon request, review and approve credit for self-directed activities in a given biennial licensing period. A licensee must obtain pre-approval of the Board prior to undertaking the self-directed activity in order to assure continuing education credit for the activity. Any self-directed activity submitted for approval must include a written proposal outlining the scope of the activity, the number of continuing education hours requested, the anticipated completion date(s), the role of the licensee in the case of multiple participants and whether any part of the self-directed activity has ever been previously approved or submitted for credit by the same licensee. Determination of credit will be made by the Board upon review of the completed final project.
- ~~7.3.4~~ 7.2 Each licensed landscape architect shall complete, biennially, 20 units of continuing education as a condition of license renewal.
- ~~7.2~~ Effective Date: The Board shall commence requiring continuing education as a condition of renewal of a license for the license year commencing on February 1, 1995. The licensee shall be required to successfully complete twenty (20) hours of continuing education within the previous two calendar years (example: February 1, 1993 through January 31, 1995).
- ~~7.3.3~~ The continuing education period will be from ~~October 31st~~ February 1 to ~~November 1st~~ January 31 of each biennial licensing period.
- 7.4 Documentation: Each licensee must retain copies of all supporting materials documenting proof of continuing education compliance for submission to the Board upon request. Supporting materials include a syllabus, agenda, itinerary or brochure published by the sponsor of the activity and a document showing proof of attendance (i.e., certificate, a signed letter from the sponsor attesting to attendance, report of passing test

score). The Board reserves its right to request additional information and/or documentation to verify continuing education compliance.

7.35 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the Requirement of Rule 67.0.

7.35.1 Attestation may be completed electronically. ~~if the renewal is accomplished online. In the alternative, paper renewal documents that contain the attestation of completion may be submitted.~~

7.35.2 Licensees selected for random post renewal audit will be required to supplement the attestation with attendance verification pursuant to Rule 6-3 7.9.

7.5.3 Each licensed landscape architect shall complete, biennially, 20 units of continuing education as a condition of license renewal.

7.56 Hardship: The Board will consider any reasonable special request from individual licensees for continuing education credits and procedures. The Board may, in individual cases involving physical disability, illness, or extenuating circumstances, grant an extension, not to exceed two (2) years, of time within which continuing education requirements must be completed. In cases of physical disability or illness, the Board reserves the right to require a letter from a physician attesting to the licensee's physical condition. No extension of time shall be granted unless the licensee submits a written request to the Board prior to the expiration of the license.

7.6 ~~Self-directed Activities: For renewal periods beginning February 1, 2001, the following rules regarding self-directed activity shall apply. The Board will have the authority to allow self-directed activities to fulfill the continuing education requirements of the licensees. However, these activities must result in a book draft, published article, delivered paper, workshop, symposium, or public address within the two (2) year reporting period. Self-directed activities must advance the practitioner's knowledge of the field and be beyond the practitioner's normal work duties. Instructors will not be granted CE credit for studies customarily associated with their usual university or college instruction teaching loads.~~

7.6.1 ~~The Board may, upon request, review and approve credit for self-directed activities in a given biennial licensing period. A licensee must obtain pre-approval of the Board prior to undertaking the self-directed activity in order to assure continuing education credit for the activity. Any self-directed activity submitted for approval must include a written proposal outlining the scope of the activity, the number of continuing education hours requested, the anticipated completion date(s), the role of the licensee in the case of multiple participants and whether any part of the self-directed activity has ever been previously approved or submitted for credit by the same licensee. Determination of credit will be made by the Board upon review of the completed final project.~~

7.7 Exemptions: New licensees by way of uniform national examination or by way of reciprocity shall be exempt from the continuing education requirements set forth herein for their first renewal period.

Statutory Authority: 24 Del.C. §205(12).

7.8 Audit. Each biennium, the Division of Professional Regulation shall randomly select from the list of renewed licensees a percentage, determined by the Board, of the licensees to be audited. The Board may also audit based on complaints or charges against an individual license, relative to compliance with continuing education requirements or based on a finding of past non-compliance during prior audits.

7.9 Documentation and Audit by the Board. When a licensee whose name or number appears on the audit list applies for renewal, the Board shall obtain documentation from the licensee showing detailed accounting of the various CEU's claimed by the licensee. Licensees selected for random audit are required to supplement the attestation with supporting materials which may include a syllabus, agenda, itinerary or brochure published by the sponsor of the activity and a document showing proof of attendance (i.e., certificate, a signed letter from the sponsor attesting to attendance, report of passing test score). The Board reserves the right to request additional information and/or documentation to verify continuing education compliance.

7.9.1 The Board shall attempt to verify the CEUs shown on the documentation provided by the licensee. The Board shall then review the documentation and verification. Upon completion of the review, the Board shall decide whether the licensee's CEU's meet the requirements of these rules and regulations. The licensee shall sign and seal all verification documentation with a Board approved seal.

7.10 Board Review. The Board shall review all documentation requested of any licensee shown on the audit list. If the Board determines the licensee has met the requirements, the licensee's license shall remain in effect. If the Board initially determines the licensee has not met the requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating circumstances justifying the apparent noncompliance with these requirements. Unjustified noncompliance of these regulations shall be considered grounds for disciplinary action pursuant to 24 Del.C. §231(a)(6). The minimum penalty for unjustified noncompliance shall be a letter of reprimand and a \$250.00 fine.

7.11 Non-compliance – Extenuating Circumstances. A licensee applying for renewal may request an extension and be given up to an additional twelve (12) months to make up all outstanding required CEUs providing he/she can show good cause why he/she was unable to comply with such requirements at the same time he/she applies for renewal. The licensee must state the reason for such extension along with whatever documentation he/she feels is relevant. The Board shall consider requests such as extensive travel outside the United States, military service, extended illness of the licensee or his/her immediate family, or a death in the immediate family of the licensee. The written request for extension must accompany the renewal application. The Board shall issue an extension when it determines that one or more of these criteria have been met or if circumstances beyond the control of the licensee have rendered it impossible for the licensee to obtain the required CEU's. A licensee who has successfully applied for an extension under this paragraph shall make up all outstanding hours of continuing education within the extension period approved by the Board.

7.12 Appeal. Any licensee denied renewal pursuant to these rules and regulations may contest such ruling by filing an appeal of the Board's final order pursuant to the Administrative Procedures Act.

5 DE Reg. 446 (08/01/01)

8 DE Reg. 1431 (04/01/05)

11 DE Reg. 347 (09/01/07)

8.0 Inactive Status

- 8.1 A licensee may, upon written request to the Board, place his/her license on inactive status for up to ten (10) years.
- 8.2 A licensee who has been granted inactive status and who wishes to re-enter the practice of landscape architecture, shall submit a written request to the Board along with a pro-rated renewal fee and proof of completion of twenty (20) hours of continuing education during the for each biannual period of inactive status.
- 8.3 Licensees on inactive status shall renew their inactive status by notification to the Division of Professional Regulation at the time of biennial license renewal.

Statutory Authority: 24 **Del.C.** §210(c).

9.0 Disciplinary Proceedings and Hearings

- 9.1 Disciplinary proceedings against any licensee may be initiated by an aggrieved person by submitting a complaint in writing to the Director of the Division of Professional Regulation as specified in 29 **Del.C.** §8807(h)(1)-(3).
 - 9.1.1 A copy of the written complaint shall be forwarded to the administrative assistant for the Board. At the next regularly scheduled Board meeting, a contact person for the Board shall be appointed and a copy of the written complaint given to that person.
 - 9.1.2 The contact person appointed by the Board shall maintain strict confidentiality with respect to the contents of the complaint and shall not discuss the matter with other Board members or with the public. The contact person shall maintain contact with the investigator or deputy attorney general assigned to the case regarding the progress of the investigation.
 - 9.1.3 In the instance when the case is being closed by the Division, the contact person shall report the facts and conclusions to the Board without revealing the identities of the parties involved. No vote of the Board is necessary to close the case.
 - 9.1.4 If a hearing before the Board has been requested by the Deputy Attorney General, a copy of these Rules and Regulations shall be provided to the respondent upon request. The notice of hearing shall fully comply with 29 **Del.C.** §§10122 and 10131 pertaining to the requirements of the notice of proceedings. All notices shall be sent to the respondent's address as reflected in the Board's records.
 - 9.1.5 At any disciplinary hearing, the respondent shall have the right to appear in person or be represented by counsel, or both. The Respondent shall have the right to produce evidence and witnesses on his or her behalf and to cross examine witnesses. The Respondent shall be entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of documents on his or her behalf.
 - 9.1.6 No less than 10 days prior to the date set for a disciplinary hearing, the Department of Justice and the respondent shall submit to the Board and to each other, a list of the witnesses they intend to call at the hearing. Witnesses not listed shall be permitted to testify only upon a showing of reasonable cause for such omission.
 - 9.1.7 If the respondent fails to appear at a disciplinary hearing after receiving the notice required by 29 **Del.C.** §10122 and 10131, the Board may proceed to hear and determine the validity of the charges against the respondent.

Statutory authority: 24 **Del.C.** §§213 and 215; 29 **Del.C.** §§10111, 10122 and 10131

9.2 Hearing procedures

- 9.2.1 The Board may administer oaths, take testimony, hear proofs and receive exhibits into evidence at any hearing. All testimony at any hearing shall be under oath.
- 9.2.2 Strict rules of evidence shall not apply. All evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs shall be admitted.
- 9.2.3 An attorney representing a party in a hearing or matter before the Board shall notify the Board of the representation in writing as soon as practicable.
- 9.2.4 Requests for postponements of any matter scheduled before the Board shall be submitted to the Board's office in writing no less than three (3) days before the date scheduled for the hearing. Absent a showing of exceptional hardship, there shall be a maximum of one postponement allowed to each party to any hearing.
- 9.2.5 A complaint shall be deemed to "have merit" and the Board may impose disciplinary sanctions against the licensee if a majority of the members of the Board find, by a preponderance of the evidence, that the respondent has committed the act(s) of which he or she is accused and that those act(s) constitute grounds for discipline pursuant to 24 Del.C. §213.

Statutory authority: 24 Del.C. §§205(7)(8); 213, 214, 215.

10.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

- 10.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.
- 10.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.
- 10.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).
- 10.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.
- 10.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in section 10.8.
- 10.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
 - 10.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
 - 10.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or

designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

- 10.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
- 10.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
- 10.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
- 10.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 10.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 10.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 10.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 10.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 10.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.
- 10.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

11.0 Crimes substantially related to the practice of [Landscape] architecture

- 11.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of landscape architecture in the State of Delaware without regard to the place of conviction:
 - 11.1.1 Conspiracy in the first degree. 11 **Del.C.** §513.
 - 11.1.2 Aggravated Menacing. 11 **Del.C.** §602(b).
 - 11.1.3 Reckless endangering in the first degree. 11 **Del.C.** §604.
 - 11.1.4 Abuse of a pregnant female in the second degree. 11 **Del. C.** §605.
 - 11.1.5 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.
 - 11.1.6 Assault in the second degree. 11 **Del.C.** §612.
 - 11.1.7 Assault in the first degree. 11 **Del.C.** §613.
 - 11.1.8 Terroristic threatening; felony. 11 **Del.C.** §621.
 - 11.1.9 Vehicular homicide in the first degree. 11 **Del.C.** §630A.
 - 11.1.10 Manslaughter. 11 **Del.C.** §632.
 - 11.1.10¹ Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
 - 11.1.14² Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.

11.1.123 Murder in the second degree. 11 **Del.C.** §635.
11.1.134 Murder in the first degree. 11 **Del.C.** §636.
11.1.145 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
11.1.156 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
11.1.167 Rape in the fourth degree. 11 **Del.C.** §770.
11.1.178 Rape in the third degree. 11 **Del.C.** §771.
11.1.189 Rape in the second degree. 11 **Del.C.** §772.
11.1.1920 Rape in the first degree. 11 **Del.C.** §773.
11.1.201 Sexual extortion. 11 **Del.C.** §776.
11.1.242 Continuous sexual abuse of a child. 11 **Del.C.** §778.
11.1.223 Female genital mutilation. 11 **Del.C.** §780.
11.1.234 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.
11.1.245 Kidnapping in the second degree. 11 **Del.C.** §783.
11.1.256 Kidnapping in the first degree. 11 **Del.C.** §783A.
11.1.267 Arson in the second degree. 11 **Del.C.** §802.
11.1.278 Arson in the first degree. 11 **Del.C.** §803.
11.1.289 Burglary in the second degree. 11 **Del.C.** §825.
11.1.2930 Burglary in the first degree. 11 **Del.C.** §826.
11.1.301 Robbery in the second degree. 11 **Del.C.** §831.
11.1.342 Robbery in the first degree. 11 **Del.C.** §832.
11.1.323 Carjacking in the second degree. 11 **Del.C.** §835.
11.1.334 Carjacking in the first degree. 11 **Del.C.** §836.
11.1.345 Theft. 11 **Del.C.** §841.
11.1.356 Theft; false pretenses. 11 **Del.C.** §843
11.1.367 Extortion. 11 **Del. C.** §846.
11.1.378 Identity theft. 11 **Del.C.** §854.
11.1.389 Forgery. 11 **Del.C.** §861.
11.1.3940 Tampering with public records in the first degree. 11 **Del.C.** §876.
11.1.401 Issuing a false certificate. 11 **Del.C.** §878.
11.1.442 Bribery 11 **Del.C.** §881.
11.1.423 Receiving a bribe 11 **Del.C.** §882.
11.1.434 Criminal impersonation of a police officer. 11 **Del.C.** §907B.
11.1.445 Insurance fraud. 11 **Del.C.** §913.
11.1.456 Dealing in children. 11 **Del.C.** §1100.
11.1.467 Endangering the welfare of a child. 11 **Del.C.** §1102.
11.1.478 Sexual exploitation of a child. 11 **Del.C.** §1108.
11.1.489 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.
11.1.4950 Possession of child pornography. 11 **Del.C.** §1111.
11.1.501 Felony Bribery. 11 **Del.C.** §1201.
11.1.542 Felony Receiving a Bribe. 11 **Del.C.** §1203.
11.1.523 Perjury in the second degree. 11 **Del.C.** §1222.
11.1.534 Perjury in the first degree. 11 **Del.C.** §1223.
11.1.545 Terroristic threatening of public officials or public servants. 11 **Del. C.** §1240.
11.1.556 Unlawfully dealing with a dangerous weapon. 11 **Del.C.** §1445.
11.1.567 Possession of a deadly weapon during commission of a felony. 11 **Del.C.** §1447.
11.1.578 Possession of a firearm during commission of a felony. 11 **Del.C.** §1447A.
11.1.589 Possession and purchase of deadly weapons by persons prohibited. 11 **Del.C.** §1448.
11.1.5960 Removing a firearm from the possession of a law enforcement officer. 11 **Del.C.** §1458.
11.1.601 Criminal Penalties, Organized Crime and Racketeering. 11 **Del.C.** §1504.
11.1.642 Victim or Witness intimidation. 11 **Del.C.** §§3532 and 3533.
11.1.63 Prohibited acts A under the Uniform Controlled Substances Act. 16 **Del.C.** §4751(a), (b) and (c).

11.1.64 Prohibited acts B under the Uniform Controlled Substances Act. 16 Del.C. §4752(a) and (b).

11.1.65 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 Del.C. §4753A (a)(1)-(9).

- 11.2 Crimes substantially related to the practice of landscape architecture shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

5 DE Reg. 446 (08/01/01)

8 DE Reg. 1431 (04/01/05)

11 DE Reg. 347 (09/01/07)

16 DE Reg. 324 (09/01/12) (Final)