

MEMORANDUM

TO: Member Board Members, Member Board Executives, and Regional Officers

FROM: Kenneth R. Van Tine, AIA, NCARB, LEED AP, NCARB Secretary

DATE: February 1, 2021

SUBJECT: 2021 Draft Resolutions for Consideration

At the NCARB Board of Directors January Meeting, the Board decided to move forward eight draft resolutions for your consideration and discussion. These resolutions are separate from Resolution 2021-01 released under a separate cover. These resolutions will remain a draft until the Board decides in April if they will need any revisions and/or be added to the agenda of the Annual Business Meeting in June 2021.

All eight resolutions are enclosed in this packet.

- **Resolution 2021-B** is a carryover resolution from 2020, and updates the Certification Requirements in the *NCARB Certification Guidelines* to clarify that architects must be licensed for the last three (3) consecutive years in order to qualify for the Education Alternative option outlined in the guidelines, as well as that NCARB determines which degrees qualify for this option.
- **Resolution 2021-C** updates the Certification Requirements in the *NCARB Certification Guidelines* to address unintended impediments for foreign architects pursuing the foreign alternative path to certification that occur during the application and review process in some countries.
- **Resolution 2021-D** is a carryover resolution from 2020, and sunsets a resolution from 2000 so that the Council can take a neutral position on interior designer licensing.
- **Resolution 2021-E** is a carryover resolution from 2020, and is the result of the multi-year Model Law Task Force's work to revise the *NCARB Model Law and Regulations*. The resolution reorganizes the document,

makes it easier to use, and ensures it is consistent with the uniform programs and national models for architectural licensure.

- **Resolution 2021-F** is the first part of a multi-year effort to review and sunset resolutions passed by the membership that no longer align to how NCARB operates today.
- **Resolution 2021-G** reduces the term limits for directors on the NCARB Board of Directors from three years to two in the *NCARB Bylaws*.
- **Resolution 2021-H** realigns positions on the NCARB Board of Directors in the *NCARB Bylaws* to remove the second vice president position, merge the secretary and treasurer positions, and add two at-large director positions. In addition, it creates a nominating committee to vet and nominate candidates for the at-large director positions.
- **Resolution 2021-I** reduces the Member Board dues and updates the *NCARB Bylaws* to only require the membership to vote on future increases to the dues.

Please note: There is no Resolution 2021-A because the Board has already considered that resolution and decided to move it forward as Resolution 2021-01 at the special meeting in May 2021. Resolutions with letter names are drafts, and then become numbered resolutions after the Board has officially voted to move them forward to the membership.

We hope that you will take the time to review and discuss these resolutions with your fellow board members. We look forward to receiving your feedback and answering questions during the upcoming Regional Summit.

In the interim, please feel free to contact Vice President of Council Relations Josh Batkin at jbatkin@ncarb.org if you have any questions or would like to discuss further.



NCARB

Draft Resolutions
to be Acted Upon at the
2021 Annual Business Meeting

FEBRUARY 2021

National Council of Architectural Registration Boards
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Draft Resolutions to be Acted Upon at the 2021 NCARB Annual Business Meeting

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FY21 Draft Resolutions Overview

At the January Board of Directors Meeting, the Board reviewed proposed resolutions and determined which resolutions they would like to move forward to the membership for feedback. These resolutions remain drafts until the April Board Meeting, when the Board votes on which resolutions to put forward at the Annual Business Meeting.

This packet includes eight draft resolutions (plus related supporting documentation as appropriate). **Note: The Board voted on Resolution 2021-A at its January meeting so that it could be considered at the special meeting in May 2021. As a result, it is now Resolution 2021-01, and it is available to the membership under separate cover.**

Resolution 2021-B: NCARB Certification Guidelines Amendment – Qualifications for Education Alternative

This is a carryover resolution from FY20. This resolution updates the certification requirements in the *NCARB Certification Guidelines* to clarify that architects must be licensed for the last three (3) consecutive years in order to qualify for the Education Alternative option outlined in the guidelines, as well as that NCARB determines which degrees qualify for this option. This was always the intention of the program, but the current language has caused confusion with customers.

Strategic Plan Objective:  Program and Service Excellence

Resolution 2021-C: NCARB Certification Guidelines Amendment – Qualifications for Foreign Alternative

This resolution updates the certification requirements in the *NCARB Certification Guidelines* to address unintended impediments for foreign architects pursuing the foreign alternative path to certification that occur during the application and review process in some countries.

Strategic Plan Objective:  Program and Service Excellence

Resolution 2021-D: Sunset of Resolution 2000-1 (Opposition to Interior Design Licensing)

This is a carryover resolution from FY20. This resolution sunsets a resolution from 2000 so that the Council can take a neutral position on interior designer licensing.

Strategic Plan Objective:  Advocacy Support, Outreach, and Influence

Resolution 2021-E: Amendment and Restatement of the NCARB Legislative Guidelines and Model Law/Model Regulations

This is a carryover resolution from FY20. This resolution is the result of the multi-year Model Law Task Force's work to revise the *NCARB Model Law and Regulations*. The resolution reorganizes the document, makes it easier to use, and ensures it is consistent with the uniform programs and national models for architectural licensure. Appendices A-C include supporting documents for this resolution.

Strategic Plan Objective:  Advocacy Support, Outreach, and Influence

Resolution 2021-F: Omnibus Sunset of Resolutions in Conflict with Current Council Policies

This resolution is the first part of multi-year effort to review and sunset resolutions passed by the membership that no longer align to how NCARB operates today. This batch of resolutions are from 1980-2018. Appendix D includes the resolutions recommended for sunset and the rationale.

Strategic Plan Objective:  Stakeholder Systems, Tools, and Resources

Resolution 2021-G: NCARB Bylaws Amendment – Director Term Limits

This resolution reduces the term limits for directors on the NCARB Board of Directors from three years to two in the *NCARB Bylaws*.

Strategic Plan Objective:  Future-Focused Research and Development

Resolution 2021-H: NCARB Bylaws Amendment – NCARB Board of Directors Realignment

This resolution realigns positions on the NCARB Board of Directors in the *NCARB Bylaws* to remove the second vice president position, merge the secretary and treasurer positions, and add two at-large director positions. In addition, it creates a nominating committee to vet and nominate the at-large director positions.

Strategic Plan Objective:  Future-Focused Research and Development

Resolution 2021-I: Member Board Dues Reduction

This resolution reduces the Member Board dues and updates the *NCARB Bylaws* to only require the membership to vote on future increases to the dues.

Strategic Plan Objective:  Stakeholder Systems, Tools, and Resources

Strategic Plan Objective:  Program and Service Excellence

RESOLUTION 2021-B

TITLE: *NCARB Certification Guidelines* Amendment – Qualifications for Education Alternative

SUBMITTED BY: Council Board of Directors

WHEREAS, the Board of Directors has proposed clarifying the qualifications for eligibility for the Education Alternative to NCARB Certification; and

WHEREAS, the Education Committee has determined that the *NCARB Certification Guidelines* be updated to ensure that architects participating in the alternative are actively licensed in the United States and to clarify that an architect’s educational background will be evaluated by NCARB; and

WHEREAS, the *NCARB Certification Guidelines* may only be changed by an absolute majority vote of the Council Member Boards (28 votes), with such change becoming effective at the time specified in this Resolution.

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that Section 2.2 (Alternatives to the Education Requirement) of the *NCARB Certification Guidelines* be amended as follows:

“If you do not hold a professional degree in architecture as identified in Section 1.2, NCARB will accept either of the following:

A. ~~Three (3) years of e~~Continuous licensure as an architect for the last three (3) consecutive years in any U.S. jurisdiction with no disciplinary action from any jurisdiction; and Documentation of experience gained pre-licensure and/or post-licensure. The experience must be verified either by a supervisor as allowed by the NCARB Architectural Experience Program or by an architect familiar with the work of the applicant:

1. Architects who hold a four-year bachelor's degree that includes significant coursework in architecture (as determined by NCARB) ~~bachelor degree in an architecture related program~~ awarded by a U.S. regionally accredited institution or the Canadian equivalent must document two times (2x) the experience requirement of the NCARB Architectural Experience Program.

* Bachelor’s Degree that includes significant coursework in architecture ~~in an Architecture-related Program~~: The term refers to any baccalaureate degree in an architecture-related program from an institution with U.S. regional accreditation that is awarded after earning less than 150 semester credits or the quarter-hour equivalent: resulting from significant architecture coursework, in an amount determined to be acceptable by NCARB. For instance these degrees have titles such as Bachelor of Science in Architecture, Bachelor of Science in

Architectural Studies, Bachelor of Arts in Architecture, Bachelor of Environmental Design, Bachelor of Architectural Studies, etc. This list is neither all-inclusive nor exhaustive. The amount of architecturally defined content in these programs architecture coursework that is required may vary from institution to institution.”

FURTHER RESOLVED, that upon the approval of the changes by an absolute majority of the Council Member Boards, such changes will become effective July 1, 2021.

FINANCIAL IMPACT:

- No financial impact.

SPONSORS’ STATEMENT OF SUPPORT:

The proposed edits to the *NCARB Certification Guidelines* represent an effort to clarify the alternative education requirements for NCARB certification. The alternative paths provide architects, licensed by a jurisdiction without a degree from a NAAB-accredited program, with the opportunity for NCARB certification.

The proposed revision in paragraph A clarifies that the architect seeking certification must have held an architect license for the last three (3) consecutive years.

The proposed changes in subparagraph A.1. clarify education requirements for individuals pursuing the alternative through the Two Times the Architectural Experience Program® (AXP®) path. The existing language may lead applicants to believe that they may identify whether or not their degree qualifies as “architecture-related.” The proposed language specifies that NCARB will make the determination as to whether the coursework meets the requirements for certification.

Amending the language in the *NCARB Certification Guidelines* as proposed above ensures that applicants for certification who do not hold a degree from a NAAB-accredited program meet the same rigorous qualifications as applicants for NCARB certification through the traditional pathway and adds helpful clarification for the sake of architects pursuing this path.

ADVOCATES:

- FY20 Education Committee
 - Chair: Ann Marie Borys, Ph. D., AIA
 - Hypatia Alexandria, Virginia Member Board Member
 - Connor Griess
 - Bobbi Jo Hepper-Olson, AIA, NCARB, North Dakota Member Board Member
 - Mitra Kanaani, FAIA
 - Michael G. Kolejka, AIA, NCARB, LEED AP
 - Anne Muller, Kentucky Member Board Member
 - Daniel K. Mullin, Idaho Member Board Member
 - Abdulrazaq Ogun, AIA, LEED Green Assoc.

- JC Rearden, AIA, CSI, NCARB, Missouri Member Board Member
Susan Schaefer Kliman, Ph. D., AIA, NCARB, LEED AP
- Stephen L. Sharp, FAIA, NCARB
- Kevin Jaipaul Singh, AIA, LEED AP BD+C, NCARB, Louisiana Member Board Member
- R K Stewart, FAIA, NCARB, Hon FRIAC, Hon JIA, Hon AIA
- Rick Engebretson, AIA, NCARB, Board Liaison, North Dakota Member Board Member

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Strategic Plan Objective:  Program and Service Excellence

RESOLUTION 2021-C

TITLE: *NCARB Certification Guidelines* Amendment – Qualifications for Foreign Alternative

SUBMITTED BY: Council Board of Directors

WHEREAS, the Board of Directors has proposed clarifying the qualifications for eligibility for the Foreign Architect Alternative to NCARB certification; and

WHEREAS, the Policy Advisory Committee, upon review, has determined that the *NCARB Certification Guidelines* should be updated to ensure that architects participating in the alternative pathway are not prevented from obtaining certification due to administrative policies in the foreign country; and

WHEREAS, resolutions of substantive matters like the *NCARB Certification Guidelines* may only be changed by an absolute majority vote of the Council Member Boards (28 votes), with such change becoming effective at the time specified in this Resolution.

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that the first sentence of Section 4 (Requirements for Certification of an Architect Credentialed by a Foreign Registration Authority) of the *NCARB Certification Guidelines* be amended as follows:

“A “Foreign Architect” is an individual who holds a current registration in good standing in a country other than the United States or Canada at the time of application, which allows such individual to use the title “architect” and to engage in the unlimited practice of architecture (defined as the ability to provide any architectural services on any type of building in any state, province, territory, or other political subdivision of his/her their national jurisdiction) in that country. A "current registration" may include a license that is eligible for reinstatement upon re-establishment of residency, and/or payment of fees.”

FURTHER RESOLVED, that upon the approval of this resolution by an absolute majority of the Council Member Boards, such amendments will become effective July 1, 2021.

FINANCIAL IMPACT:

- No financial impact.

SPONSORS’ STATEMENT OF SUPPORT:

NCARB certification is available to individuals who are licensed (or credentialed) to practice architecture in a foreign country. To qualify for application for certification through the Foreign Architect Path to certification, foreign architects must meet the following requirements:

1. Their license must be currently active and remain active until they receive the NCARB Certificate
2. Their license must allow unlimited practice—the design of all types and sizes of buildings
3. Their country must have a system for tracking disciplinary action for architects
4. They must have no record of disciplinary action

The license information above is verified using a Credential Verification Form (CVF) completed by the authority having jurisdiction (AHJ), which is submitted directly to NCARB. Once the applicant documents these requirements, they must provide proof of education (transcripts), document completion of the Architectural Experience Program® (AXP®), and pass all divisions of the Architect Registration Examination® (ARE®).

Applicants for the Foreign Architect Path typically meet the requirement of having a current, active license in the foreign country. However, upon completion of the CVF by the authority having jurisdiction, the license status becomes “inactive” or “suspended” based on residency requirements, as well as fee maintenance requirements. Notice on a CVF at the point of eligibility that the license will be inactive requires NCARB to request completion of a second CVF at the point of NCARB certification. Without residency or re-payment of fees, the applicant’s foreign license remains inactive, disqualifying them for certification. By default, the authority cannot attest to a “current” license when they are asked to complete the second CVF.

In most cases, the foreign architect’s license may be “inactive” because they are no longer in the country, or because they have not paid renewal fees. If the candidate is not actively practicing in the foreign country, a current license is not required, and new disciplinary action would not occur. If they are practicing illegally without a license, that discipline would presumably still be attached to their inactive record.

The Policy Advisory committee believes this is an unintended barrier to certification that has been created by the CVF process. Further, applicants for certification through the Foreign Architect Path must still complete the AXP and ARE in addition to documenting their foreign license. None of the conditions described above affect an applicant’s eligibility to have acquired the license, and neither is an indication of revocation or disciplinary action.

ADVOCATES:

- Policy Advisory Committee
 - Chair: Richard H. McNeel, AIA, NCARB, IIDA, LEED AP, Mississippi Member Board Member
 - Jennifer R. Arbuckle, NCARB, AIA, LEED AP
 - Melarie Gonzales, New Mexico Member Board Executive
 - Lenora A. Isom, NCARB, Nebraska Member Board Member
 - Sylvia P. Kwan, FAIA, LEED AP, California Member Board Member
 - George Miller, FAIA, NCARB, New York Member Board Member
 - Margaret Sturgis-Graff Parsons, AIA, NCARB, ALEP, LEED AP BD+C, Minnesota Member Board Member
 - Kenneth R. Van Tine, AIA, NCARB, LEED AP, Board Liaison

Strategic Plan Objective:  Advocacy Support, Outreach, and Influence

RESOLUTION 2021-D

TITLE: Sunset of Resolution 2000-1 (Opposition to Interior Design Licensing)

SUBMITTED BY: Council Board of Directors

WHEREAS, the Board of Directors has charged the Interiors Task Force with reviewing “Resolution 2000-1: Opposition to Interior Designer Licensing,” which was passed by the membership at NCARB’s 2000 Annual Business Meeting; and

WHEREAS, the Interiors Task Force of the Council has determined upon careful consideration that it is advisable and in the best interest of the Council to sunset Resolution 2000-1 that states the Council’s opposition to the interior designer licensing laws; and

WHEREAS, resolutions of substantive matters that NCARB’s membership have passed by resolution may only be changed by an absolute majority vote of the Council Member Boards (28 votes), with such change becoming effective at the time specified in this Resolution.

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that the National Council of Architectural Registration Boards sunset Resolution 2000-1: Opposition of Interior Design Licensing:

“RESOLVED, inasmuch as the licensing of interior designers may not protect the health, safety, and welfare of the public in the built environment, the National Council of Architectural Registration Boards opposes the enactment of additional interior designer licensing laws and directs the Board of Directors (i) to monitor the licensing efforts of the interior designers, (ii) to take appropriate actions to oppose such efforts, and (iii) to continue to support Member Boards of the Council with accurate information with which the Member Boards may effectively oppose such efforts.”

FURTHERED RESOLVED, that upon the approval of the sunset by a majority of the Council Member Boards, such change will become effective July 1, 2021.

Financial Impact

- There is a financial impact if this resolution does not pass. Specifically, the Council would incur costs to oppose efforts in member jurisdictions to enact laws related to the licensing and regulation of interior designers.

SPONSORS' STATEMENT OF SUPPORT:

The Interiors Task Force unanimously supports and recommends the sunset of NCARB "Resolution 2000-1, Opposition of Interior Design Licensing." The 20-year-old resolution does not reflect the current state of interior design licensing and is not in alignment with NCARB's efforts to support multi-disciplinary Member Boards that regulate architecture and interior design.

To-date, 14 of NCARB's 55 Member Boards serve as multi-disciplinary boards, supporting architect and interior design regulation. Given the current status, and future efforts to regulate interior design, NCARB endeavors to defer to its Member Boards and Member Board Executives regarding regulation of interior designers within their jurisdiction. NCARB will continue to support Member Boards with accurate data and information to facilitate each board's mission to protect the public's health, safety, and welfare through reasonable regulation of architecture in their jurisdiction. As such, NCARB continues to monitor interior design activities, collaborate with allied organizations, present facts based on research and data, and offer subject-matter expertise.

The Interiors Task Force recognizes that architects and interior designers have similarities in their respective roles in protecting the public's health, safety, and welfare. If a jurisdiction's legislature determine it is in their citizens best interest to regulate interior design through title or licensure, NCARB should remain neutral. Therefore, Resolution 2000-1 "*Opposition of Interior Design Licensure*" should be sunset.

ADVOCATES:

- FY20 Interiors Task Forces
 - Anne Smith, FAIA, NCARB, Chair, Georgia Member Board Member
 - Justin Brinson, AIA, NCARB, Louisiana Member Board Member
 - John Cays, AIA, NCARB, Associate Dean, New Jersey Institute Technology
 - Philip Cerrone, AIA, NCARB, Connecticut Member Board Member
 - Michael Daly, AIA, NCARB, NCIDQ
 - Gregory Erny, FAIA, NCARB, Nevada Member Board Member
 - Marzette Fisher, AIA, NCARB, NCIDQ
 - M. Brad Gaskins, AIA, NCARB, Chair, Oklahoma Member Board Member
 - Melarie Gonzales, New Mexico Member Board Executive
 - Richard McNeel, AIA, NCARB, IIDA, Mississippi Member Board Member
 - Margaret (Meg) Sturgis-Graff Parsons, FAIA, NCARB, Chair, Minnesota Member Board Member
 - Darryl Hamm, NCARB Public Director, Pennsylvania Member Board Member
- FY21 Interiors Task Force
 - James S. Mickey, Chair, NCARB, AIA, Nevada Member Board Member
 - Timothy Belton, AIA, NCARB, Wyoming Member Board Member
 - John Michael Cays
 - Philip H. Cerrone III, AIA, NCARB, Connecticut Member Board Member
 - Michael A. Daly, AIA, NCARB, NCIDQ, LEED AP BD+C
 - Mary Rakocy Dietsch, AIA, NCARB

- Gregory L. Erny, FAIA, NCARB, Hon. FCARM, Nevada Member Board Member
- M. Bradley Gaskins, AIA, CASp, NCARB, Oklahoma Member Board Member
- Amanda Green, Esq., South Carolina Member Board Member
- Leslie Hanska, Oklahoma Member Board Executive
- Stephanie McCrery, Kentucky Member Board Member
- Richard H. McNeel, AIA, NCARB, IIDA, LEED AP, Mississippi Member Board Member
- Ryan L. Misner, AIA, NCARB
- Joyce J. Smith, Texas Member Board Member
- Gary Ey, CDT, Board Liaison, Maryland Member Board Member

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Strategic Plan Objective:  Advocacy Support, Outreach, and Influence

RESOLUTION 2021-E

TITLE: Amendment and Restatement of the *NCARB Legislative Guidelines and Model Law/Model Regulations*

SUBMITTED BY: Council Board of Directors

WHEREAS, the Council Board of Directors has charged the Model Law Task Force with reviewing and updating the *NCARB Legislative Guidelines and Model Law/Model Regulations*; and

WHEREAS, the Model Law Task Force of the Council has recommended after careful consideration over four years of work that it is advisable to amend and restate the *NCARB Legislative Guidelines and Model Law/Model Regulations* to modernize and update the document to make it more relevant for today's practice, make it easier to use, and to ensure it is consistent with the uniform programs and national models for architectural licensure; and

WHEREAS, this updated language does not make substantive changes to NCARB model programs or standards, but clarifies NCARB policy and fills in gaps from the current document to further promote reasonable regulation of the architectural profession and mobility; and

WHEREAS, the *Legislative Guidelines and Model Law/Model Regulations* may only be changed by an absolute majority vote of the Council Member Boards (28 votes), with such change becoming effective at the time specified in this Resolution.

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that the *NCARB Legislative Guidelines and Model Law/Model Regulations* are hereby amended and restated in the form attached hereto in Appendix A; and

FURTHER RESOLVED, that the document be renamed "NCARB Model Law and Regulations"; and

FURTHER RESOLVED, that upon the approval of the changes by an absolute majority of the Council Member Boards, such changes will become effective July 1, 2021.

FINANCIAL IMPACT:

- No financial impact.

SPONSORS' STATEMENT OF SUPPORT:

The Model Law Task Force was formed by NCARB President Kristine Harding and the Board of Directors in fall 2016 to undertake a holistic review of the Council's existing *NCARB Legislative Guidelines and Model*

Law and Regulations. The goal has been to modernize and update this document to make it easier to use, more relevant for today's practice of architecture and regulation, and to ensure it is consistent with the updated uniform programs and national models for architectural licensure that have been developed by our Member Boards since the document was initially drafted decades ago.

The *NCARB Model Law and Regulations* is a resource for the Member Boards, which will each decide whether to adopt some or all of the updated provisions within their jurisdictions. The document will serve as an updated national model and enhanced resource for jurisdictions to adapt and adopt, at their choosing, as they update their practice acts and regulatory framework in the years ahead.

- A vote in favor of this resolution represents support for the proposed national NCARB policy and an aspirational goal for the regulation of the practice of architecture.
- Approval of this resolution does not require Member Boards laws and regulations to be identical to these provisions.
- Approval of this resolution by the membership would not change the path to licensure in any jurisdiction.

WHAT ARE MODEL LAW AND REGULATIONS?

The *NCARB Model Law and Regulations* is designed to follow best practices and includes three elements:

- Model Law—Provides a broad framework of the various authorities an architectural licensing board should be granted by its jurisdictional legislature through statutory language.
- Model Regulations—Offers detailed language outlining rules for implementation of the authority and responsibilities granted to the board.
- Commentary—Explains the intent of the of the model laws and/or regulations and notes areas of personalization for jurisdictions. (This information was previously included in the Legislative Guidelines section.)

Because the *NCARB Model Law and Regulations* recognizes each jurisdiction's constitutional authority to determine the appropriate level of protection for its citizens, not all areas will be—or are expected to be—adopted by all U.S. architectural licensing boards. Instead, the document is designed to be a resource that provides a national model that assists boards in navigating challenging areas of architectural regulation that is easily adapted to fit the diverse needs of NCARB's individual members.

TASK FORCE APPROACH

Over the last four years, the Task Force has been chaired by Dennis Ward and has included a diverse team of Member Board Members, Member Board Executives, public members, NCARB Board of Directors, attorneys, and representatives from all six NCARB regions. This effort included an exhaustive review of the current statutory and regulatory framework in place across the country and best practices among other national regulatory associations. Their work has also been greatly informed by regular interactions with NCARB's legal counsel.

The 20 participants on this Task Force over the years have approached this ambitious task with dedication and a purposeful philosophy of being aspirational—focusing not on simply adopting language that is

similar to current statutes and regulations or that every jurisdiction would immediately be able to agree on, but rather always with a focus on what makes the most sense for effectively protecting public health, safety, and welfare. A related overarching goal has been to develop a clear, concise, and approachable model that is well-organized and written in plain language that legislators, licensing boards, architects, and members of the public can easily understand.

MODERNIZATION

While the overall intent of the model language has not changed, the Task Force decided early on to significantly refresh and restructure the document, starting with a broad framework of the authorities a state/territorial legislature should provide an architectural licensing board in statutory language, and then placing the more detailed implementation of that authority in model regulations that empower each board to execute its responsibilities to protect its citizens.

This approach led to some significant enhancements, such as consolidating all relevant licensing information into one article in the *Model Law*, organized in the logical progression a candidate follows on the path to licensure. The document has also been re-numbered to align the law and regulations so that users can easily see how the two correspond. This structure is similar to best practices in many jurisdictions' architecture acts.

Another improvement has been in the definition of the practice of architecture, which builds upon the definition in the existing *Model Law*, but with additional emphasis on the activities relevant to architecture. Philosophically, the Task Force is recommending an approach that defines and includes elements that are central to architecture, rather than attempting to prescribe what is not architecture in an architectural practice act.

The Task Force discovered a gap in the existing model language around best practices for board composition and has included provisions related to that issue in the *Model Law*. The Task Force also addressed gaps in the existing model language around best practices for both single and multi-profession board composition and developed an approach to the concept of firm registration.

The Legislative Guidelines section of the document was refreshed and has become commentary throughout the document. This will allow users to understand the rationale and/or provide examples next to the areas of the law or regulations and eliminate the need to flip back and forth.

BENEFITS OF A REFRESHED MODEL

The updated *NCARB Model Law and Regulations* will serve multiple purposes. The revitalized model will better empower Member Boards to protect the public going forward. This document will serve as a guide to help boards navigate the challenging areas of regulating the profession and give them the confidence that they are using language developed by a diverse set of volunteer subject matter experts with the current state of architectural practice in mind.

This updated document will also better support consistent licensing and regulating standards that reflect the realities of contemporary practice and regulation and are broad enough to be adapted to meet the needs of 55 architect licensing boards.

Finally, the new *NCARB Model Law and Regulations* will serve as an additional tool to educate policymakers about the importance of reasonable regulation that protects the public. The revised model acknowledges each jurisdiction's constitutional authority to determine the appropriate level of protection for its citizens, while reinforcing the value of having access to a national model, and it addresses state-based differences in licensing while emphasizing licensing portability provisions. By recommending model language that goes further in our efforts to facilitate licensure and mobility, implementation of the revised *NCARB Model Law and Regulations* benefits consumers, professionals, and the public by increasing competition, choice, and access to services.

ADVOCATES:

- FY20 Model Law Task Force
 - Chair: Dennis Ward, FAIA, NCARB; Former South Carolina Member Board Member
 - Pasqual Gutierrez, AIA; California Member Board Member
 - Julie Hildebrand, Texas Member Board Executive
 - Kathy Hillegas, CAE; Louisiana Member Board Executive, NCARB Board Member Board Executive Director
 - Jeanne Jackson, FAIA, NCARB, LEED AP; Former Utah Member Board Member
 - Vincent Mancini Jr., NCARB; Former Kansas Member Board Member
 - Susan McClymonds, AIA, CSI, CCS, SCIP, NCARB; Former New York State Member Board Member
 - Mary Morissette, FAIA, NCARB, LEED AP; Colorado Member Board Member
 - Kathleen Nosbisch, BA, MS, Hon. AIA VA; Virginia Member Board Executive
 - Douglas Sams, AIA, CSI, CDT, LEED AP BD+C; Oregon Member Board Member
 - Bayliss Ward, NCARB, AIA; Montana Member Board Member, Board Liaison

CONTRIBUTERS:

- Robert Calvani, New Mexico Board Member, Board Liaison
- John Cardone Jr.; Louisiana Public Member Board Member, Board Liaison
- Carole Briggs; Former Connecticut Public Member Board Member
- Mark Champion, AIA, NCARB, Former Nebraska Member Board Member
- Blake Dunn, FAIA, NCARB; 2014 NCARB President, Former Arkansas Member Board Member
- Amy Kobe, Hon. AIA; Former Ohio Member Board Executive
- Doug McCauley; Former California Member Board Executive
- David Prengaman, AIA, NCARB, Former Rhode Island Member Board Member
- James Seay Jr., AIA, NCARB, LEED AP; Alabama Member Board Member
- Doug Steidl, FAIA; Ohio Member Board Member

RESOURCES:

- [Appendix A: Proposed Changes to the NCARB Legislative Guidelines and Model Law/Model Regulations](#)
- [Appendix B: Mapping of the Legislative Guidelines and Model Law/Model Regulations](#)
- [Appendix C: Supplement Model Law and Model Regulations Resolution Reference Guide](#)
- [Model Law Task Force: MBE Community Webinar](#)
- [Video: Model Law Task Force](#)
- [2018 Legislative Guidelines and Model Law/Model Regulations](#)

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Strategic Plan Objective:  Stakeholder Systems, Tools, and Resources

RESOLUTION 2021-F

TITLE: Omnibus Sunset of Resolutions in Conflict with Current Council Policies

SUBMITTED BY: NCARB Board of Directors

WHEREAS, the Board of Directors requested a review of resolutions passed by the membership to determine if there are any that no longer align to current NCARB policies and are appropriate to sunsets; and

WHEREAS, the Policy Advisory Committee has reviewed an initial batch of resolutions from 1980 to 2020 related to financial, records/process, education, experience, continuing education, and NCARB Certificate policies and recommended several to sunset; and

WHEREAS, resolutions of substantive matters that NCARB's membership have passed by resolution may only be changed by an absolute majority vote of the Council Member Boards (28 votes), with such change becoming effective at the time specified in this Resolution.

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that the National Council of Architectural Registration Boards sunsets the following resolutions, the full texts of which are attached hereto as Appendix D:

- Resolution 1996-03: Encouraging Recognition of Practice of Academic Promotion/Tenure
- Resolution 1995-11: Addition of the IDP Requirement to Architectural School Catalogs
- Resolution 1994-01: Amending 1992 Resolution to Authorize Two ADVP Monographs Each Year
- Resolution 1992-06 and 07: Professional Development (Continuing Education)/Activating ADVP
- Resolution 1987-15: Removal of Impediments to Interstate Practice
- Resolution 1983-04 Establishing a Procedure for Evaluating Alternate Education

FURTHERED RESOLVED, that upon the approval of the foregoing resolution by a majority of the Council Member Boards, such terminations will become effective July 1, 2021.

Financial Impact

- No financial impact.

SPONSORS' STATEMENT OF SUPPORT:

The Policy Advisory Committee has begun a multi-year research project to identify historical policy or position-related resolutions that may no longer align with current Council practice or philosophy.

This year, the Committee has reviewed resolutions, dating back to 1980, that have been categorized as financial, records/process, education, experience, the NCARB Certification, or continuing education policies. Additional resolutions to clean up NCARB policies are expected over the next several years as the Council works to develop a more user-friendly resolution archive.

ADVOCATES:

- Policy Advisory Committee
 - Chair: Richard H. McNeel, AIA, NCARB, IIDA, LEED AP, Mississippi Member Board Member
 - Jennifer R. Arbuckle, NCARB, AIA, LEED AP
 - Melarie Gonzales, New Mexico Member Board Executive
 - Lenora A. Isom, NCARB, Nebraska Member Board Member
 - Sylvia P. Kwan, FAIA, LEED AP, California Member Board Member
 - George Miller, FAIA, NCARB, New York Member Board Member
 - Margaret Sturgis-Graff Parsons, AIA, NCARB, ALEP, LEED AP BD+C, Minnesota Member Board Member
 - Kenneth R. Van Tine, AIA, NCARB, LEED AP, Board Liaison

RESOURCES:

- Appendix D: NCARB Policy Resolutions to Sunset: 1980-2018, Part 1

Strategic Plan Objective:  Future-Focused Research and Development

RESOLUTION 2021-G

TITLE: NCARB Bylaws Amendment – Director Term Limits

SUBMITTED BY: NCARB Board of Directors

WHEREAS, the NCARB Board of Directors charged the Diversity Collaborative to assess and address impediments within the NCARB governance framework and provide recommendations; and

WHEREAS, the Diversity Collaborative has recommended that *NCARB Bylaws* be amended to reduce the term limits from three years to two years for Regional Directors, Public Director, and Member Board Executive Director; and

WHEREAS, pursuant to Article XIV of the *NCARB Bylaws*, the *Bylaws* may only be amended at a special meeting or at the Annual Business Meeting of the Council by resolution approved by the affirmative vote of not less than two-thirds of the Member Boards (37 votes).

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that Article VII (NCARB Board of Directors), Section 3 (Terms of Office and Election) of the *NCARB Bylaws* be amended as follows:

“SECTION 3. Terms of Office and Election. The term of office of a Director shall be one year from the adjournment of the Annual Business Meeting at which he or she is elected to serve or, in the case of President/Chair of the Board and Immediate Past President, succeeds to office, until the adjournment of the next Annual Business Meeting or until his or her successor is duly elected and succeeds to office. No person shall serve more than ~~three~~two terms in succession as a Director; provided, however, that service as an Elected Officer and Immediate Past President shall not count against such limit. No incumbent shall serve for more than one term in any Elected Officer position or as Immediate Past President; provided, however, that an Elected Officer shall be eligible for re-election for the full term of office if, during the period immediately prior thereto, such Elected Officer had succeeded to or been elected to the office to fill a vacancy.”

FURTHER RESOLVED, that upon the approval of the changes by a two-thirds majority of the Council Member Boards, such changes will become effective July 1, 2022.

FINANCIAL IMPACT:

- No financial impact.

SPONSORS' STATEMENT OF SUPPORT:

The Diversity Collaborative Task Force was charged with identifying and addressing any impediments within NCARB's governance framework that may prevent diversity from occurring. During nearly two years of discussions within the Task Force and with current and former Member Board Members and Board of Directors Member, the task force identified that three-year terms for region, public member, and Member Board Executive directors inadvertently delays opportunities for individuals to serve on the Board of Directors and acts as a deterrent to fulfilling the Council's goal of achieving more diversity on the national Board of Directors, particularly at a time where licensure candidates, architects, and the public demands more diverse representation that reflects the populations that we serve.

Background

During the Spring 2019, a group of regional officers self-organized to form a working group called the Diversity Collaborative. This diverse group included members from traditionally underrepresented gender and racial groups. The group's stated mission was to assess the current makeup of NCARB's licensing boards, regional and national leadership, and develop strategies to encourage more diversity at all levels of the NCARB community.

The group met in-person at the 2019 Regional Summit, Annual Business Meeting, and via teleconference. Several topics were discussed during these engagements, including:

- NCARB is lacking gender diversity at all levels. Currently, males account for 70 percent of Member Board Members, 65 percent of committee volunteers, 56 percent of regional officers, and 93 percent of the national board of directors.
- The path to national leadership can be long and may discourage individuals from traditionally underrepresented backgrounds from moving up the leadership pathway.
- The entire NCARB community, including members of licensing boards, committees, regional and national leadership would benefit from participating in discussions about the value of diversity and inclusion, and its impact on the organization's role in protecting the public which it serves.

In January 2020, President Terry Allers formally elevated the grassroots group to a presidentially appointed committee and encouraged the group to continue to develop strategies to promote more diversity within the NCARB community. President Bob Calvani reappointed the members and further charged the task force to "assess and address impediments within the NCARB governance framework and provide recommendations to the Board of Directors.

The task force continued their work throughout 2020 and held discussions with an expert Diversity, Equity and Inclusion (EDI) consultant, met with organizations within the architectural community, and the Council of Landscape Architectural Registration Boards (CLARB) to discuss how other organizations have approached making significant governance changes to increase the diversity within their leadership.

ADVOCATES:

- Diversity Collaborative
 - Chair: Jennifer R. Arbuckle, NCARB, AIA, LEED AP

- Celestia Carson, Utah Member Board Member
- Kristine Annexstad Harding, FAIA, NCARB, FY17 NCARB President
- Lenora A. Isom, NCARB, Nebraska Member Board Member
- Sylvia P. Kwan, FAIA, LEED AP, California Member Board Member
- Ronnie W. McGhee, FAIA, NCARB, LEED AP, District of Columbia Member Board Member
- George Miller, FAIA, NCARB, New York Member Board Member
- Margaret Sturgis-Graff Parsons, AIA, NCARB, ALEP, LEED AP BD+C, Minnesota Member Board Member
- Miguel A. Rodriguez, FAIA, NCARB, Florida Member Board Member
- Nilza Sarrano, California Member Board Member
- Corey R. Solum, AIA, NCARB, Utah Member Board Member
- Richard D. Thompson, AIA, NCARB, Tennessee Member Board Member
- Bayliss Ward, NCARB, AIA, Board Liaison, Montana Member Board Member

DRAFT

Strategic Plan Objective:  Future-Focused Research and Development

RESOLUTION 2021-H

TITLE: *NCARB Bylaws* Amendment – NCARB Board of Directors Realignment

SUBMITTED BY: NCARB Board of Directors

WHEREAS, the NCARB Board of Directors charged the Diversity Collaborative to assess and address impediments within the NCARB governance framework and provide recommendations; and

WHEREAS, the Diversity Collaborative has recommended that the *NCARB Bylaws* be amended to remove the Second Vice President officer position, merge the Treasurer and Secretary officer positions, and add two At-Large Director positions; and

WHEREAS, the Diversity Collaborative has recommended that the *NCARB Bylaws* be further amended to create a Nominating Committee to facilitate the selection and nomination of At-Large Directors; and

WHEREAS, pursuant to Article XIV of the *NCARB Bylaws*, the *Bylaws* may only be amended at a special meeting or at the Annual Business Meeting of the Council by resolution approved by the affirmative vote of not less than two-thirds of the Member Boards (37 votes).

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that the position of Second Vice President be abolished, the position of First Vice President be renamed “Vice President/President-Elect,” and the positions of Secretary and Treasurer be merged into a single position:

“SECTION 1. Elected Officers. The Elected Officers of the Council shall be the President/Chair of the Board, the First Vice President/President-Elect, and the Secretary/Treasurer~~the Second Vice President, the Treasurer, and the Secretary.~~

FURTHER RESOLVED, that references to the Second Vice President be deleted, references to First Vice President be changed to “Vice President,” and references to the Secretary or Treasurer be changed to “Secretary/Treasurer” in each instance in which they appear throughout the *NCARB Bylaws*;

FURTHER RESOLVED, that Article VIII (Officers), Sections 4 and 5 (Treasurer and Secretary, respectively) be combined into a single “Secretary/Treasury” Section as follows:

“SECTION 4. Secretary/Treasurer. The Secretary/Treasurer shall:
A. record or cause to be recorded all votes, consents, and the proceedings of all meetings of the Council and of the Board of Directors;

AB. oversee the financial affairs of the Council and be the primary liaison of the Board of Directors with the person designated by the Chief Executive Officer as the chief financial officer of the Council;

BC. report to the Board of Directors and at the Annual Business Meeting on financial matters of the Council; and

D. perform such duties and have such powers additional to the foregoing as the Board of Directors may designate.

SECTION 5. Secretary. The Secretary shall:

A. record or cause to be recorded all votes, consents, and the proceedings of all meetings of the Council and of the Board of Directors; and

B. perform such duties as the Board of Directors may designate.

Records of the Council meetings shall be open at all reasonable times to the inspection of any Member Board.

In the absence of the Secretary/Treasurer from any meeting of the Council or from any meeting of the Board of Directors, a temporary secretary designated by the person presiding at the meeting shall perform the duties of the Secretary/Treasurer.”

FUTHER RESOLVED, that Article VII (The Board of Directors), Section 1 (Membership) of the *NCARB Bylaws* be amended as follows to create the positions of At-Large Directors:

“SECTION 1. Membership. The Board of Directors shall be comprised of the Elected Officers of the Council, one Regional Director from each Region, the Immediate Past President, one Member Board Executive Director, and one Public Director, **and two At-Large Directors.**”

FURTHER RESOLVED, that Article VII (The Board of Directors), Section 2 (Qualifications and Limitations) of the *NCARB Bylaws* be amended as follows:

“SECTION 2. Qualifications and Limitations. The qualifications for serving as a Director shall be as set forth in this Article VII, Section 2, and no entity responsible for nominating any Director shall impose any qualification not set forth herein.

A. A candidate for election to any Director position shall, at the time such person is nominated:

(i) be a citizen of the United States;

(ii) ~~have served at least two (2) years as a member of a Member Board; or, in the case of a candidate for the position of Member Board Executive Director, have served at least two (2) years as an Executive Director;~~

~~(iii) be a current member of a Member Board; be a past member of a Member Board whose service as a member ended no more than one year before nomination; be an officer of a Region; be an incumbent Director; or, in the case of a candidate for the Member Board Executive Director, be a current Executive Director; and,~~

~~(iv) in the case of candidates who are architects, hold an active NCARB Certificate.~~

- B. A candidate for election to any Director position other than an At-Large Director position shall, at the time such person is nominated: be a current member of a Member Board; be a past member of a Member Board whose service as a member ended no more than one year before nomination; be an officer of a Region; be an incumbent Director; or, in the case of a candidate for the Member Board Executive Director, be a current Executive Director

~~B.C.~~ With respect to candidates for a Regional Director position, all qualifications relating to current or past membership in a Member Board or Region must be within the Region from which the candidate is nominated.

~~C.D.~~ If a Member Board regulates professions in addition to the profession of architecture, the candidate will qualify as a member or former member of a Member Board only if he or she is or was an architect-member or a public member of the architect section of the Member Board.

~~D.E.~~ A candidate for election as the Public Director shall be at the time of nomination a public or consumer member on a Member Board, or have served in such position no more than one (1) year prior to the time of nomination to the Board of Directors.

~~E.F.~~ An individual shall qualify to serve as the President/Chair of the Board during the one-year period immediately following his or her term as ~~First~~ Vice President/President-Elect.

~~F.G.~~ An individual shall qualify to serve as the Immediate Past President during the one-year period immediately following his or her term as President/Chair of the Board.”

FURTHER RESOLVED, that Article VII (Board of Directors), Section 5 (Nomination and Election of Directors) be amended as follows:

F. The Nominating Committee shall select the nominees for the At-Large Director positions. The nominations will be announced at the Annual Business Meeting of the Council.

FURTHER RESOLVED, that Subsection A and Subsection C of Article VII (Board of Directors), Section 6 (Vacancies) of the *NCARB Bylaws* be amended to address At-Large Directors:

“A. Vacancies in the office of any Regional Director or Member Board Executive Director shall be filled by an appointee nominated by the Region or the Member Board Executive community, respectively, and appointed by the Board of Directors to hold office from the time of such appointment until the adjournment of the next Annual Business Meeting. Vacancies in the office of the Public Director, **At-Large Director**, and Elected Officers other than First Vice President/President-Elect and President/Chair of the Board shall be filled by an appointee designated by the Board of Directors to hold office from the time of such appointment until the adjournment of the next Annual Business Meeting. Any such appointee shall meet all qualifications applicable to the vacant Director position, as determined by the Credentials Committee.”

“C. A vacancy in the office of ~~First Vice President/President-Elect~~ shall be filled by an appointee elected by the Board of Directors to hold such office ~~the Second Vice President, who shall hold such office of First Vice President/President-elect~~ until the adjournment of the next Annual Business Meeting, at which Annual Business Meeting the Member Boards shall elect both a ~~First Vice President/President-Elect~~ and a President/Chair of the Board, each of whom shall be subject to the qualifications applicable to candidates for ~~First Vice President/President-Elect~~.”

FURTHER RESOLVED, that Article II (Definitions) of the *NCARB Bylaws* be amended to include a definition of an At-Large Director and update the lettering of Article II to accommodate the new definition:

B. “At-Large Director” shall mean an individual serving as an At-Large Director (as that term is described in Article VII of these Bylaws) on the Board of Directors;

FURTHER RESOLVED, that Article XII (Committees), Section 8 (Advisory Committees) be amended to clarify the role of the Credentials Committee, add a Nominating Committee, and update the lettering of the Section as follows:

“H. Credentials Committee: The Credentials Committee shall oversee the ~~nomination and election~~ process for positions on the Board of Directors, verify candidate qualifications for office, examine and verify Voting Delegate credentials, report to the membership regarding quorum at the Annual Business Meeting, and tabulate and report election results to the President/ Chair of the Board. Members of the Credentials Committee shall be sitting Member Board Members and/or Member Board Executives.

I. Nominating Committee: The Nominating Committee shall recruit and nominate candidates for the At-Large Director positions on the Board of Directors. In recruiting and nominating such

candidates, the Nominating Committee shall take into consideration (i) criteria identified by the Board or the President/Chair of the Board; and (ii) other criteria identified by the Nominating Committee, including desired skillsets, knowledge, and diversity within the Board of Directors. Members of the Nominating Committee shall be one person selected from each Region, one person nominated by the Board of Directors, and the Immediate Past President who shall serve as Chair of the Committee.

¶. Other: Committees, task forces, and work groups may be established from time to time by the President/Chair of the Board with the approval of the Board of Directors.”

FURTHER RESOLVED, that upon the approval of the changes by a two-thirds majority of the Council Member Boards, such changes will become effective July 1, 2022.

FINANCIAL IMPACT:

- There may be expenses associated conducting an in-person committee each year.

SPONSORS’ STATEMENT OF SUPPORT:

While NCARB’s Bylaws leave open the option for anyone currently serving on a member board to seek office on the Board of Directors, the culture of NCARB is to move up the leadership pathway by serving first within regional leadership. The process of working one’s way up the leadership pathway can take anywhere from 8-10 years. This long and arduous process acts as a deterrent to fulfilling the Council’s goal of achieving more diversity on the national Board of Directors, particularly at a time where licensure candidates, architects, and the public demands more diverse representation that reflects the populations which we serve.

The Task Force was charged with identifying and addressing any impediments within NCARB’s governance framework. During nearly two years of discussions within the Task Force and with current and former member board members and members of the board of directors, the task force identified two positions on the Board of Directors that could be consolidated or eliminated. These two positions would then be changed to at-large positions. The at-large positions are created as vehicles for the Council to add additional skillsets, knowledge and diversity of opinions to the Board of Directors.

Background

During the Spring 2019, a group of regional officers self-organized to form a working group called the Diversity Collaborative. This diverse group included members from traditionally underrepresented gender and racial groups. The group’s stated mission was to assess the current makeup of NCARB’s licensing boards, regional and national leadership, and develop strategies to encourage more diversity at all levels of the NCARB community.

The group met in-person at the 2019 Regional Summit, Annual Business Meeting, and via teleconference. Several topics were discussed during these engagements, including:

- NCARB is lacking gender diversity at all levels. Currently, males account for 70 percent of Member Board Members, 65 percent of committee volunteers, 56 percent of regional officers, and 93 percent of the national board of directors.
- The path to national leadership can be long and may discourage individuals from traditionally underrepresented backgrounds from moving up the leadership pathway.
- The entire NCARB community, including members of licensing boards, committees, regional and national leadership would benefit from participating in discussions about the value of diversity and inclusion, and its impact on the organization's role in protecting the public which it serves.

In January 2020, President Terry Allers formally elevated the grassroots group to a presidentially appointed committee and encouraged the group to continue to develop strategies to promote more diversity within the NCARB community. President Bob Calvani reappointed the members and further charged the task force to “assess and address impediments within the NCARB governance framework and provide recommendations to the Board of Directors.

The task force continued their work throughout 2020 and held discussions with an expert Diversity, Equity and Inclusion (EDI) consultant, met with organizations within the architectural community, and the Council of Landscape Architectural Registration Boards (CLARB) to discuss how other organizations have approached making significant governance changes to increase the diversity within their leadership.

ADVOCATES:

- Diversity Collaborative
 - Chair: Jennifer R. Arbuckle, NCARB, AIA, LEED AP
 - Celestia Carson, Utah Member Board Member
 - Kristine Annexstad Harding, FAIA, NCARB, FY17 NCARB President
 - Lenora A. Isom, NCARB, Nebraska Member Board Member
 - Sylvia P. Kwan, FAIA, LEED AP, California Member Board Member
 - Ronnie W. McGhee, FAIA, NCARB, LEED AP, District of Columbia Member Board Member
 - George Miller, FAIA, NCARB, New York Member Board Member
 - Margaret Sturgis-Graff Parsons, AIA, NCARB, ALEP, LEED AP BD+C, Minnesota Member Board Member
 - Miguel A. Rodriguez, FAIA, NCARB, Florida Member Board Member
 - Nilza Sarrano, California Member Board Member
 - Corey R. Solum, AIA, NCARB, Utah Member Board Member
 - Richard D. Thompson, AIA, NCARB, Tennessee Member Board Member
 - Bayliss Ward, NCARB, AIA, Board Liaison, Montana Member Board Member

Strategic Plan Objective:  Stakeholder Systems, Tools, and Resources

RESOLUTION 2021-I

TITLE: Member Board Dues Reduction

SUBMITTED BY: Council Board of Directors

WHEREAS, the Board of Directors has recommended reducing Member Board dues so that the organization can be aligned with other like regulatory organizations; and

WHEREAS, pursuant to Article XI, Section 1 of the *NCARB Bylaws*, annual membership dues may be changed for any period, by resolution adopted at an Annual Business Meeting with implementation of any change to take place not less than three years after such resolution is adopted; and

WHEREAS, pursuant to Article XIV of the *NCARB Bylaws*, the *Bylaws* may only be amended at a special meeting or at the Annual Business Meeting of the Council by resolution approved by the affirmative vote of not less than two-thirds of the Member Boards (37 votes).

NOW, THEREFORE, IT IS HEREBY:

RESOLVED, that Council membership dues be reduced from \$6,500 to \$1,000; and

FURTHER RESOLVED, that Article XI, Section 1 of the *NCARB Bylaws* be amended to only require membership approval for due increases as follows:

“A. Annual membership dues may be changed for any period, by resolution adopted at an Annual Business Meeting with implementation of any change increase to take place not less than three years after such resolution is adopted.”

FURTHER RESOLVED, that upon the approval by a two-third majority of the Council Member Boards, such change to the membership dues will become effective July 1, 2024, while the Board of Director’s authority to waive the membership fee differential prior to such time shall become effective July 1, 2021.

FINANCIAL IMPACT:

- This fee decrease amounts to \$302,500 less income a year for the Council.

SPONSORS’ STATEMENT OF SUPPORT:

As jurisdictions’ budgets have tightened over the last few years, legislatures and governors are taking a closer look at the dues Member Boards pay to organizations like NCARB. When compared to related organizations for engineers, landscape architects, and other professions on multi-disciplinary boards,

NCARB's dues are noticeably higher than its counterparts, and Member Boards are being asked to justify the disparity given that the different organizations seem to provide similar services.

The *NCARB Bylaws* require Member Boards to pay dues each year to NCARB and to be a member of their region, which has its own dues. These combined dues are the reason that NCARB's dues are out of alignment with other organizations.

To take pressure off of Member Board budgets, the NCARB Board of Directors would like to reduce the annual dues paid to NCARB. These dues represent around 1 percent of NCARB's budget; therefore, this reduction has little to no impact on NCARB's overall budget and revenue.

In addition, the resolution revises the *NCARB Bylaws* to stipulate that the Board of Directors only needs to request Member Board approval to increase dues in the future. This will allow the reduction to go into effect immediately rather than the current requirement of a three year waiting period, thus providing Member Boards the immediate benefit of reduced NCARB dues.

ADVOCATES:

- 2020-2021 NCARB Board of Directors
 - Robert M Calvani, FAIA, NCARB, President/Chair of the Board
 - Alfred Vidaurri Jr., FAIA, NCARB AICP, First Vice President/President-elect
 - Bayliss Ward, NCARB AIA, Second Vice President
 - Jon Alan Baker, FAIA, NCARB, LEED AP, Treasurer
 - Kenneth R. Van Tine, AIA, NCARB, LEED AP, Secretary
 - Terry L. Allers, FAIA, NCARB, Hon. FCARM, Past President
 - Janet L. Hansen, AIA, NCARB, LEED AP, Director, Region 1
 - Philip M. Leinbach, NCARB, AIA, REFP, CSI, Director, Region 2
 - Robert W. McKinney, Ed.D, AIA, NCARB, Director, Region 3
 - John P. Rademacher, AIA, NCARB, Director, Region 4
 - David W. Hornbeek, AIA, NCARB, Director, Region 5
 - Edward Marley, NCARB, AIA, LEED AP, Director, Region 6
 - Gary Ey, CDT, Public Director
 - Katherine E. Hilligas, Member Board Executive Director

FY21 Resolution Appendices

Appendix A: Proposed Changes to the *NCARB Legislative Guidelines and Model Law/Model Regulations*

Appendix B: Mapping of the *Legislative Guidelines and Model Law/Model Regulations*

Appendix C: Supplement Model Law and Model Regulations Resolution Reference Guide

Appendix D: NCARB Policy Resolutions to Sunset: 1980-2018, Part 1



Appendix A: NCARB Model Law and Regulations DRAFT

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Appendix A: Proposed Changes to the NCARB Legislative Guidelines and Model Law/Model Regulations

Note: The *NCARB Legislative Guidelines and Model Law/Model Regulations* document was significantly re-organized, so this appendix is presented without mark ups. The Model Law Task Force considered Member Board feedback and prepared additional resources and commentary prior to a final resolution being presented to the NCARB Board of Directors.

NCARB Model Law and Regulations

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This document was last updated in July 2021. The *Model Law and Model Regulations* portions of this document may only be changed by an absolute majority vote of the NCARB Member Boards.

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INTRODUCTION

First developed in 1970, the *NCARB Model Law and Regulations* serves as a guide containing draft statutory and regulatory language for use by NCARB's Member Boards as they carry out their mission to protect the public by regulating the practice of architecture.

When originally adopted, the document was designed to provide guidelines for legislation in areas agreed upon by NCARB's membership as ideal uniform standards for each U.S. jurisdiction. Over time, the guidelines were modified in a piecemeal fashion to address additional areas and provide updated draft language at the request of its members.

In 2016, NCARB began a holistic review and refresh of the existing *NCARB Model Law and Regulations*, for the purposes of modernizing the document and providing a more relevant, useful tool for its members. The current version serves as a national model for architectural regulation and offers a resource for jurisdictions to adapt and adopt as they update their practice acts and regulatory framework.

The *NCARB Model Law and Regulations* is designed to follow best practices and includes three elements:

- **Model Law**—Provides a broad framework of the various authorities an architectural licensing board should be granted by its jurisdictional legislature through statutory language.
- **Model Regulations**—Offers detailed language outlining rules for implementation of the authority and responsibilities granted to the board.
- **Commentary**—Explains the intent of the of the model laws and/or regulations and notes areas of personalization for jurisdictions.

The document reflects language and model programs that will most effectively protect the public health, safety, and welfare related to the contemporary practice of architecture, while also providing uniform standards that encourage professional mobility.

Because the *NCARB Model Law and Regulations* recognizes each jurisdiction's constitutional authority to determine the appropriate level of protection for its citizens, not all areas will be—or are expected to be—adopted by all U.S. architectural licensing boards. Instead, the document is designed to be a resource that provides a national model that assists boards in navigating challenging areas of architectural regulation, offers consistent licensing and regulatory standards, is easily adapted to fit the diverse needs of NCARB's individual members, and will serve as the foundation for future enhancements to the reasonable regulation of the profession.

Model Law

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Article I – Title, Purpose, and Definitions

Section 101. Title of Act

This (Jurisdiction) Architecture Practice Act shall also be known as the “Act.”

Section 102. Legislative Declaration of Purpose

The Practice of Architecture in the Jurisdiction of (Jurisdiction) is declared a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. It is a matter of public interest and concern that the Practice of Architecture, as defined under this Act, merits and receives the confidence of the public and that the Practice of Architecture be limited to those Persons determined by the Board to be qualified under this Act. This Act shall be liberally construed to carry out these objectives and purposes.

It is the purpose of this Act to promote, preserve, and protect the public health, safety, and welfare by and through the licensure and regulation of Persons, whether within or outside of (Jurisdiction), who engage in the Practice of Architecture within (Jurisdiction). In furtherance of this purpose, this Act creates the (Jurisdiction) Board of Architecture whose members, functions, and procedures shall be established in accordance with the provisions of this Act. The regulatory structure calls for Architects and public members to serve on the Board, and this Act recognizes the need for professional expertise provided by Architects serving the public interest.

Section 103. Definitions

The following words as used in this Act, unless the context otherwise requires, shall have the following meanings¹:

- 1) **Applicant** – An individual who seeks a License in accordance with the process set forth by the Board.
- 2) **Approved Educational Program** – An educational program for architecture that is accepted by the Board.
- 3) **Approved Experience Program** – An experience program for architecture that is accepted by the Board.
- 4) **Approved Examination** – An examination for architecture that is accepted by the Board.
- 5) **Architect** – An individual currently licensed by the Board who has successfully completed the education, experience, and examination requirements as defined by (Jurisdiction), who demonstrates Competence to engage in the Practice of Architecture under this Act.

¹ Section 103 To avoid confusion, NCARB Model Law and Model Regulations does not further define terms that are commonly understood or would otherwise be covered by overarching laws. This includes “adjudicatory proceeding,” “Applicant,” “client,” “conviction,” “felony,” “reciprocity,” “revoke,” and “standard of care.” These terms are likely already defined in another part of a Jurisdiction’s laws, such as the state administrative procedures acts.

- 6) **Board** – The (Board Name) established by this Act.
- 7) **Building**² – An open or enclosed structure that has as its principal purpose human occupancy or habitation.
- 8) **Competence** – The knowledge, experience, and skill required by an Architect for the Practice of Architecture in accordance with the accepted standard of care.
- 9) **Firm** – Any legally formed business entity registered with the Board through which architectural services are provided.
- 10) **Good Standing** – An unrestricted License granted by the Board to engage in the Practice of Architecture.
- 11) **Jurisdiction** – Any state, commonwealth, the District of Columbia, or other insular territory of the United States.
- 12) **License** – Approval granted by the Board to an individual to engage in the Practice of Architecture.
- 13) **NCARB** – The National Council of Architectural Registration Boards.
- 14) **Person** – Any individual, Firm, partnership, association, joint venture, cooperative, corporation, or other group or combination acting in concert.
- 15) **Practice of Architecture**³ – The art and science of designing, in whole or in part, the exterior and interior of Buildings and the site around them, in a manner that protects the public health, safety, and welfare. The Practice of Architecture includes providing or offering to provide planning services; developing concepts; preparing documents that define form and function; coordinating consultants; and construction administration.
 - a. *Planning services* include, but are not limited to, programming and planning.
 - b. *Developing concepts* includes, but is not limited to, preliminary studies, pre-design, investigations, and evaluations.
 - c. *Preparing documents that define form and function* includes, but is not limited to, drawings and Technical Submissions, including incorporation of the requirements of the authorities having jurisdiction.
 - d. *Coordinating consultants* includes, but is not limited to, the coordination of any elements of Technical Submissions prepared by others.

² Section 103(7) Providing a broad definition of the term “Building” allows each Jurisdiction the flexibility to provide more specificity as it relates to different Building types within their regulations

³ 103(15) NCARB acknowledges jurisdictional statutes will continue to exempt various activities of other design professionals from the purview of this statute, to the extent their work incidentally involves elements of the Practice of Architecture. In a similar way, Architects may perform elements of the practice of engineering incidental to their work. NCARB is committed to partnering with the national regulatory associations of other design professions to further define the concept of incidental practice.

- e. *Construction administration* includes, but is not limited to, evaluation of construction to determine that the work is proceeding in accordance with the contract documents.⁴
- 16) **Responsible Charge** – The control over and detailed professional knowledge of the development and execution of the project, including Technical Submissions, as is ordinarily exercised by an Architect applying the required professional standard of care.
- 17) **Technical Submissions** – The documents necessary to demonstrate compliance with applicable regulatory requirements and/or to fabricate or construct a project including, but not limited to, drawings, digital models, specifications, performance criteria, and installation requirements.

Section 104. Activities and Individuals Excluded from the Practice of Architecture

The following activities shall not be deemed to be the Practice of Architecture nor shall the following require a License under this Act:

- 1) Activities performed in connection with any of the following:
 - a. Detached single- or two-family residential dwelling Buildings.
 - b. Agricultural structures intended solely for the storage of equipment, horticulture products or livestock, and not used by the public.
 - c. Fabrication drawings, installation drawings, component specifications, or operation and maintenance manuals of individual components of a Building incidental to the Architect's design of the entire project that describe or illustrate the use of such components.
 - d. Alterations or renovations that do not affect structural or life safety aspects of a Building.
- 2) Any individual who possesses a valid NCARB Certificate seeking an architectural commission in the Jurisdiction performing either of the following:⁵
 - a. Offering to provide services involved in the Practice of Architecture; or
 - b. Participating in an architectural design competition for a project, which does not include acting as the Architect for a project.

⁴ 103(15) NCARB recognizes there are Construction Administration activities that are not the Practice of Architecture. These include activities that do not interpret or revise the Architect's sealed and signed Technical Submissions. Examples include, but are not limited to:

- Administration, review, and oversight of construction-related activities, such as those responsibilities defined in the contracts between contractor and owner
- Contractor pay applications
- Change order costs
- Schedule adherence
- Site access requirements
- Site safety

⁵ Section 104(2) This provision allows out-of-state Architects with an NCARB Certificate who are not yet licensed in the Jurisdiction to seek a commission—a practice sometimes referred to as “fishing without a license.” The requirements under this Act still apply to the Architect, who must obtain a License before beginning any project. Boards permitting this activity by individuals with an NCARB Certificate can be confident the Architect is competent and in Good Standing, while also facilitating greater professional mobility and consumer choice.

- 3) Any individual licensed to engage in the Practice of Architecture in another Jurisdiction rendering voluntary services in the event of a declared emergency.
- 4) Any individual licensed to engage in the Practice of Architecture in another Jurisdiction while performing duties as a federal government employee or as a part of their military service.
- 5) Any individual who is unlicensed in (Jurisdiction) and is performing services on a project under the supervision of an Architect, as long as the Architect serves as the Architect in Responsible Charge of the project.

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Article II – Board of Architecture

Section 201. Delegation of Authority

The responsibility to enforce the provisions of this Act is hereby delegated to the Board by (Jurisdiction). The Board shall have all of the duties, powers, and authority specifically granted by, or otherwise necessary to enforce this Act, as well as such other duties, powers, and authority as it may be granted from time to time by law.

Section 202. Board Composition

[The Board may be composed pursuant to either of the following options:]

[Architect Profession Board Option]

The Board shall consist of (Number) members appointed under Section 204 of this Act, at least (Number) of whom shall be a representative(s) of the public, and the remainder of whom shall be Architects who possess the qualifications specified in Section 203 of this Act. It is the intent of this Act for Board composition to consist of the expertise necessary for the effective and efficient regulation of the Practice of Architecture.

[Or]

[Multiple Profession Board Option] The Board shall consist of (Number) members appointed under Section 204 of this Act who possess the qualifications specified in Section 203 of this Act and comprise the following:

- a. (Number) public members as described in Section 203(2);
- b. (Number) Architects as described in Section 203(1); and
- c. (Number) (Profession) members as defined in (citation to relevant practice act referencing residence, licensed in Good Standing, licensed for a specified period of time).

Section 203. Qualifications for Board Membership

- 1) Each Architect Board member shall at all times:
 - a. Be a resident of (Jurisdiction);
 - b. Be an Architect in Good Standing;
 - c. Maintain in Good Standing any other active professional license issued by a licensing authority in this or any other Jurisdiction; and
 - d. Have had at least five (5) years of practice as an Architect.

- 2) Each public member of the Board shall at all times:
 - a. Be a resident of (Jurisdiction);
 - b. Maintain in Good Standing any active professional license issued by a licensing authority in this or any other Jurisdiction; and
 - c. Not be, nor shall ever have been, (i) an Architect or the spouse of a current or former Architect; or (ii) an individual who has had any material financial interest in the provision of architecture services or who is currently engaged in any activity directly related to the Practice of Architecture.
- 3) Each Board member shall at all times maintain eligibility to serve on the Board by avoiding relationships that would interfere with the Board's mission of public protection.
- 4) Each Board member shall not be an officer or hold any leadership position in a Jurisdiction's professional association or national professional association serving Architects for the term of such Board member's appointment to the Board.
- 5) Each Board member shall complete training of a duration and covering content approved by the (Jurisdiction). Such coursework or training shall address relevant regulatory procedures.

Section 204. Board Member Appointment and Oversight

In accordance with the principle of separation of powers and to provide for sufficient oversight by the respective branches of government, the governor or governor's designee shall appoint the Board members in accordance with the provisions of this Act and the (Jurisdiction) constitution.

Section 205. Terms

- 1) Except as provided in subsection (2) of this Section 205, Board members shall be appointed for a term of (Number) years, except Board members who are appointed to fill vacancies that occur prior to the expiration of a former member's full term shall serve the remaining portion of such unexpired term.
- 2) The Board members' terms shall be staggered so that the terms of no more than half of the members shall expire in any year. Each member shall serve until a qualified successor is appointed, unless such member cannot serve by reason of such member's resignation or removal from the Board.
- 3) A Board member may serve for up to (Number) consecutive full terms. The completion of the remaining portion of an unexpired term shall not constitute a full term for purposes of this Section 205.⁶

⁶ Section 205(3) This document includes a limit on consecutive full terms for professional and public Board members. The benefits of this provision include allowing a greater number of individuals to serve on the Board and allowing for diverse perspectives and viewpoints when making decisions that influence public health, safety, and welfare. Adding new Board members also allows the governor or governor's designee to evaluate the type of skillsets the Board requires at the time of appointment, resulting in an efficient and well-rounded Board. Term limits also encourage Board members to purposefully focus on their roles and responsibilities without the potential for burnout over time and reduces the likelihood of complacency or abuse of office. Consequences of this approach that would need to be mitigated include the potential loss of Board members with prior knowledge of disciplinary action who can ensure fair and consistent application of the laws and regulations, the loss of institutional memory, the loss of decision-making history, and consistency in NCARB policy and operations, as Board members are the primary source of volunteers and leadership for NCARB.

Section 206. Board Member Vacancies

Any vacancy that occurs in the Board membership for any reason, including expiration of a term, removal, resignation, death, disability, or disqualification, shall be filled as prescribed in Section 204 of this Act in a timely manner so that the Board may fulfill its duties as charged.

Section 207. Removal of Board Member

The governor or governor's designee shall have the authority to remove a Board member with or without cause. The Board may recommend a Board member's removal to the governor or governor's designee upon an affirmative vote of a majority of members otherwise eligible to vote upon one or more of the following grounds:

- 1) The refusal or inability for any reason of a Board member to perform the duties required of a Board member in an efficient, responsible, and professional manner;
- 2) The misuse of a Board member's position to obtain, or attempt to obtain, any financial or material gain, or any advantage personally or for another, through such office;
- 3) A final adjudication by a recognized body, including any court, that there has been a violation of the laws governing the Practice of Architecture by a Board member; or
- 4) Conviction of a felony or misdemeanor other than a minor traffic offense.

Section 208. Organization of the Board

- 1) The Board shall elect from its members a chairperson, vice-chairperson, and such other officers, as it deems appropriate and necessary to conduct its business. The Chairperson shall preside at all meetings of the Board and shall perform those duties customarily associated with the position and such other duties assigned from time to time by the Board. The Chairperson may establish Board committees as appropriate and necessary for the furtherance of Board business and may designate or remove Board members as committee members.
- 2) And ending upon the election of the officer's successor or removal, with or without cause, by the affirmative vote of a majority of Board members otherwise eligible to vote.

Section 209. Executive Director

- 1) Under the oversight of the Board, the Executive Director shall be responsible for the proper performance of the Board's duties.
- 2) The Board may delegate authority to the Executive Director as necessary to properly fulfill the Board's duties.

Section 210. Meetings of the Board

The Board shall hold regular meetings to transact business in compliance with all applicable (Jurisdiction) laws.

Section 211. Powers and Duties of the Board

- 1) The following powers and duties are delegated to the Board by (Jurisdiction):
 - a. The Board is authorized to make, adopt, amend, and repeal such regulations as may be deemed necessary by the Board from time to time for the proper administration and enforcement of this Act. Such regulations shall be promulgated in accordance with the requirements of the (Jurisdiction) Administrative Procedures Act.
 - b. The Board is authorized to issue Licenses to engage in the Practice of Architecture as further described in Article III – Licensing.
 - c. The Board is authorized to regulate Firms as further described in Article III – Licensing.
 - d. The Board is authorized to enforce all the provisions of this Act and any regulations duly promulgated hereunder, including, but not limited to, discipline as further described in Article V – Discipline. The Board has jurisdiction over Architects, and all other Persons, whether or not licensed by the Board, who are engaged in the Practice of Architecture or other conduct regulated by this Act.
 - e. In addition to the fees specifically authorized under this Act, the Board is authorized to assess reasonable fees for licensure and other services rendered to carry out its duties and responsibilities as required or authorized under this Act or regulations duly promulgated hereunder.
 - f. The Board is authorized to receive and expend funds from parties other than (Jurisdiction) in addition to its (Annual/Biennial) appropriation.
 - g. The Board from time to time shall issue a report outlining the activities of the Board, including reference to the effectiveness and efficiencies of the Board.
 - h. The Board shall have such other powers and duties as may be necessary to carry out the purposes of or enforce any provision of this Act or any regulations duly promulgated hereunder.
- 2) The powers and duties set forth in this Section 211 shall be in addition to any other powers and duties delegated to the Board under the provisions of this Act.

Article III – Licensing

Section 301. Initial License Qualifications

- 1) To obtain an initial License in (Jurisdiction), an Applicant shall satisfy the following requirements:
 - a. Provide documentation satisfactory to the Board that the Applicant:
 - i. Successfully completed an Approved Education Program;
 - ii. Successfully completed an Approved Experience Program;
 - iii. Successfully completed an Approved Examination; and
 - b. Submit to the Board a completed application and pay the required fee.
 - c. Provide to the Board a Social Security number, federal employer identification number, individual taxpayer identification number, or an affidavit attesting that the Applicant has no such number, for the Board to establish the Applicant's identity. Any such information provided to the Board shall be released by the Board to identify Applicants, including verifying an Applicant's identity with the examination entity, and as may be required by law.
- 2) A License shall be effective upon approval of the Board.

Section 302. Reciprocal License Qualifications⁷

- 1) To obtain a reciprocal License in (Jurisdiction), an Applicant shall satisfy the following requirements:
 - a. Provide documentation satisfactory to the Board that such Applicant:
 - i. Holds a current and valid License issued by another Jurisdiction or a licensing authority recognized by the Board; and
 - ii. Holds a current NCARB Certificate.
 - b. Submit to the Board a completed application and pay the required fee.
 - c. Provide to the Board a Social Security number, federal employer identification number, individual taxpayer identification number, or an affidavit attesting that the Applicant has no such number, for the Board to establish the Applicant's identity. Any such information provided to the Board shall be released by the Board to identify Applicants, including verifying an Applicant's identity with the examination entity, and as may be required by law.
- 2) A License shall be effective upon approval of the Board.

⁷ Section 302 The granting of a reciprocal License facilitates portability (or mobility) of an Architect's License from Jurisdiction to Jurisdiction. This concept is currently referred to in some existing statutes as comity, endorsement, mutual recognition, or out-of-state transfer, among other terms. This document recommends the term "reciprocity" be used uniformly to describe a more consistent process for facilitating licensure portability.

Section 303. Firm Registration

To perform architectural services in a Jurisdiction as a Firm, a legally formed business entity must first meet any regulatory requirements set forth by the Board.

Section 304. Continuing Education

The Board shall by regulation establish procedures and requirements for continuing education after an Architect obtains a License to demonstrate continuing Competence in the Practice of Architecture for the protection of the public. Such requirements shall include a description of acceptable activities and appropriate documentation required for License renewal.

Section 305. Requirements for License Renewal

- 1) An Architect shall demonstrate completion of continuing education set forth by the Board in regulations. The Board may decline to renew an Architect's License if the Architect's continuing education activities do not meet the standards set forth in the Board's regulations.
- 2) Each Architect shall submit to the Board a completed application and pay the required fee.
- 3) A License shall be effective upon approval of the Board.

Section 306. Expired License

An Architect's failure to renew a License by the designated renewal date shall result in the expiration of the Architect's License.

Section 307. Inactive License

The Board shall by regulation set forth the requirements and procedures for an Architect in Good Standing to place a License on inactive status and the requirements and procedures to activate an Inactive License. While their License is on inactive status, the Architect shall not engage in the Practice of Architecture in (Jurisdiction) or use the title "Architect" and shall be exempt from License renewal requirements.

Section 308. Architect Emeritus

The Board shall by regulation establish the requirements for the title of "Architect emeritus," which is an honorary title granted by the Board to a previously licensed Architect who has retired in Good Standing from the active Practice of Architecture.

Section 309. Reinstatement of License Following Disciplinary Action

The Board shall by regulation set forth procedures and requirements for the reinstatement of an Architect's License.

Section 310. *Prima Facie* Evidence of License

A certified copy of an Architect's License record shall be maintained by the Board and shall be accepted as *prima facie* evidence that the individual is legally licensed as an Architect for the period for which it is issued and of all other facts included in the record.

Section 311. Source of Data

The Board may use documentation and verified data stored by NCARB in the same way that it may use data stored by the Board to establish an Applicant's qualifications for a License. Notwithstanding any other provision of law to the contrary, the Board shall share such information with NCARB as may be reasonably requested from time to time, provided that NCARB agrees to maintain the confidentiality of such information.

Article IV – Practice Requirements

Section 401. Seal⁸

- 1) Every Architect shall have a seal of an image authorized by the Board. The seal may be electronic. It is the responsibility of the Architect to provide adequate security over the use of the Architect's seal.
- 2) All Technical Submissions prepared under the Responsible Charge of the Architect required by public authorities having jurisdiction for Building permits or regulatory approvals shall be sealed and signed by the Architect. By sealing a Technical Submission, the Architect represents that the Architect was in Responsible Charge over the content of such Technical Submissions during its preparation and has applied the required professional standard of care.
- 3) The public authorities having jurisdiction and charged with the administration and enforcement of adopted codes shall accept or approve Technical Submissions involving the Practice of Architecture only if the Technical Submissions have been sealed as required by this Act. A Building permit issued for a Technical Submission that does not conform with the requirements of this Act shall be invalid.

Section 402. Unlawful Practice

- 1) Except as otherwise provided under this Act, it shall be unlawful for any individual to engage in the Practice of Architecture unless duly licensed as an Architect under the applicable provisions of this Act.
- 2) Except as set forth in Article III, no individual shall engage in the Practice of Architecture⁹ in (Jurisdiction) or use the title "Architect" or any modification or derivative in its name or description of its business activity in a manner that indicates or implies that it engages in the Practice of Architecture or offers to engage in the Practice of Architecture in the Jurisdiction.

⁸ Section 401 Design of the built environment is regulated by applicable Building codes and statutes. Architects seal Technical Submissions to certify applicable codes have been appropriately addressed. The seal also represents that the Architect is in Responsible Charge of the design, is familiar with all aspects of the document preparation, and the submission is complete for construction. The public authorities in charge of issuing Building permits or granting regulatory approvals are responsible for determining that the construction documents adequately describe a Building project that, when completed, will meet the applicable codes. It is not unusual for such authorities to make comments that will result in corrections or discussions with the Architect. It is NCARB's expectation that these authorities do not issue a Building permit to construct until all comments have been appropriately addressed and the amended documents have been sealed and signed.

⁹ Section 402(2) The Practice of Architecture includes services in connection with the design and construction, enlargement, or alteration of a Building or group of Buildings and the space within Buildings known as "interior architecture." Such interior space includes, without limitation, all areas, assemblies and components of buildings, whether new or existing, intended for human occupancy and with respect to which codes, laws and regulations intended to ensure the safety of building occupants are applicable in whole or in part. Examples of the foregoing codes, laws, and regulations are occupancy classification, use and zoning requirements, construction classification requirements, ingress and egress requirements, accessibility requirements, fire-rated construction assembly and finish requirements, alarm and suppression system requirements, smoke control system requirements, environmental health requirements, electrical, structural and seismic requirements. Such examples would not include services rendered in selling, selecting or assisting in the selection of furnishings, furniture, decorative accessories, art work or other decorative materials, paint and color schemes, textiles, wall coverings, window treatments or floor coverings.

Section 403. Record Keeping

An Architect shall maintain documentation of Technical Submissions for at least five (5) years and make records available to the Board upon request. Records must be adequate to demonstrate the Architect's Responsible Charge over the Technical Submissions, whether prepared entirely by the Architect or by integrating the work of others.

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Article V – Discipline

Section 501. Enforcement Authority and Grounds for Discipline

- 1) The Board shall be charged with the enforcement of this Act and the regulations adopted hereunder. Persons, whether or not licensed or registered by the Board, who engage in conduct in violation of this Act or the regulations adopted hereunder, are subject to the Board's authority. Persons licensed or registered by the Board cannot divest the Board of its authority by changing their licensure or registration status or relinquishing their License or registration.
- 2) Conduct in violation of this Act or the regulations adopted hereunder includes, but is not limited to:
 - a. A conviction for or other official determination of a violation of any law, rule, or regulation of (Jurisdiction), any other Jurisdiction, or the federal government, pertaining to any aspect of the Practice of Architecture;
 - b. Unprofessional conduct relating to the Practice of Architecture;
 - c. Failure to conform to the accepted minimum standard of care;
 - d. Financial misconduct such as improper or fraudulent billing practices;
 - e. Incapacity or impairment, for whatever reason, that prevents an Architect from engaging in the Practice of Architecture consistent with the accepted minimum standard of care;
 - f. Conviction of a felony;
 - g. Engaging, or aiding and abetting any Person with engaging, in the Practice of Architecture without being licensed or registered pursuant to this Act;
 - h. Falsely using the title of "Architect" or any derivative thereof;
 - i. A conviction or other official determination of engaging in the Practice of Architecture in another Jurisdiction without being duly licensed in that Jurisdiction;
 - j. Attempting to use or using the License or seal of another Architect as their own;
 - k. Having had any license to engage in the Practice of Architecture subjected to disciplinary action by a licensing authority recognized by the Board, if the basis of such disciplinary action would have resulted in a violation in (Jurisdiction);¹⁰
 - l. Failure to comply with policies and procedures related to the examination and Approved Experience Program required by the Board for an initial License;
 - m. Having been sanctioned by the NCARB Board of Directors;
 - n. Failure to report to the Board any information as required under Article VI – Complaints of this Act;

¹⁰ Section 501(2)(k) This provision is not intended to be used to impose additional discipline or civil penalties for minor or administrative infractions that have been resolved in the relevant Jurisdiction. Jurisdictions should rely upon this provision only if the Board determines additional disciplinary action intended to limit the public's exposure to the Architect's practice is required for actions such as a refusal to renew, revocation or suspension of licensure, or a restriction or limitation on practice.

- o. Failure to disclose a fact or misrepresentation of a fact to the Board;
- p. Failure to cooperate with the Board in an investigation pending against any Person;
- q. Failure to comply with any stipulation or agreement of any Board disciplinary action; or
- r. Any other grounds as provided by the Board in regulation.

Section 502. Disciplinary Procedures

- 1) The Board shall by regulation set forth procedures for discipline pursuant to the (Jurisdiction) Administrative Procedures Act, including, but not limited to, the right to a hearing and judicial review.
- 2) The Board acting by itself or through a designee may administer oaths, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, records, memoranda, or other information necessary to enforce this Act.

Section 503. Disciplinary and Other Enforcement Actions

- 1) For conduct violating any provision of this Act or the regulations adopted hereunder, the Board may refuse to issue, renew, or reinstate, or may suspend, revoke, reprimand, restrict or otherwise limit the License or registration of any Person, whether or not currently licensed, pursuant to the (Jurisdiction) Administrative Procedure Act. The Board in addition to other enforcement actions may impose civil penalties, including recovery of costs, for violations of this Act and the regulations adopted hereunder.
- 2) The Board or, upon the request of the Board, the Attorney General, or the appropriate District Attorney, shall file an action to enjoin or restrain a Person, whether or not licensed or registered, from violating any provision of this Act or the regulations adopted hereunder, including injunctive relief, in the court with appropriate jurisdiction.
- 3) If any Person refuses to comply with any decision or order of the Board, then the Board or, upon the request of the Board, the Attorney General, or the appropriate District Attorney, shall file an action for the enforcement of such decision or order, including injunctive relief, in the court with appropriate jurisdiction. After due hearing, the court shall order the enforcement of such decision or order, or any part thereof, if legally and properly made by the Board and, where appropriate, injunctive relief.

Article VI – Complaints

Section 601. Complaint Procedures

The Board shall establish comprehensive procedures for reporting and receiving complaints of a possible violation of this Act.

Section 602. Duty to Report Misconduct

Any Architect, Applicant, or Firm who has knowledge of any conduct by any Person that may constitute grounds for disciplinary action under any provision of this Act or any regulation duly promulgated hereunder shall report such conduct to the Board. An Architect, Applicant, or Firm who violates this Act or any regulation promulgated hereunder is required to self-report such violation to the Board.

Article VII – Other

Section 701. Severability

If any provision of this Act is declared unconstitutional or illegal, or the applicability of this Act to any Person or circumstance is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of this Act and the application of this Act to other Persons and circumstances, shall not be affected, and shall remain in full force and effect, without the invalid provision or application.

Section 702. Effective Date

This Act shall be in full force and effect on (Date).

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[Reserved]

R102 Legislative Declaration of Purpose

These regulations are adopted by [Board Name] under the authority of [Act], establishing the Board and conferring upon it responsibility for licensing of Architects and the regulation of the Practice of Architecture, and in conformity with other applicable jurisdictional acts.

R103 Definitions

Terms defined in [Act] have the same meanings when used in these regulations. As used in these regulations, the following terms have the following meanings:

- 1) **Continuing Education Hour (CEH)** – One continuous instructional hour (50 to 60 minutes of contact) spent in Structured Educational Activities intended to increase or update the Architect's knowledge and Competence in Health, Safety, and Welfare Subjects. If the provider of the Structured Educational Activities prescribes a customary time for completion of such an activity, then such prescribed time shall, unless the Board finds the prescribed time to be unreasonable, be accepted as the Architect's time for Continuing Education Hour purposes irrespective of actual time spent on the activity.
- 2) **Health, Safety, and Welfare Subjects** – Technical and professional subjects related to the Practice of Architecture that the Board deems appropriate to safeguard the public and that are within the following continuing education subject areas necessary for the proper evaluation, design, construction, and utilization of Buildings and the built environment.
 - a. Practice Management: This category focuses on areas related to the management of architectural practice and the details of running a business.
 - b. Project Management: This category focuses on areas related to the management of architectural projects through execution.
 - c. Programming & Analysis: This category focuses on areas related to the evaluation of project requirements, constraints, and opportunities.
 - d. Project Planning & Design: This category focuses on areas related to the preliminary design of sites and Buildings.
 - e. Project Development & Documentation: This category focuses on areas related to the integration and documentation of Building systems, material selection, and material assemblies into a project.
 - f. Construction & Evaluation: This category focuses on areas related to construction contract administration and post-occupancy evaluation of projects.
- 3) **Prototypical Building** – Any Building or any space within a Building intended to be constructed in multiple locations for a client and that conveys a standard design.

- 4) **Structured Educational Activities** – Educational activities in which at least 75 percent of an activity’s content and instructional time must be devoted to Health, Safety, and Welfare Subjects related to the Practice of Architecture, including courses of study or other activities under the areas identified as Health, Safety, and Welfare Subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.

R104 (Model Law Section 104. Activities and Individuals Excluded from the Practice of Architecture)

[Reserved]

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R201 (Model Law Section 201. Delegation of Authority)

[Reserved]

R202 (Model Law Section 202. Board Composition)

[Reserved]

R203 (Model Law Section 203. Qualifications for Board Membership)

[Reserved]

R204 (Model Law Section 204. Board Member Appointment and Oversight)

[Reserved]¹

R205 (Model Law Section 205. Terms)

[Reserved]

R206 (Model Law Section 206. Board Member Vacancies)

[Reserved]

R207 (Model Law Section 207. Removal of Board Member)

[Reserved]

R208 Organization of the Board

A Board member shall serve a term of (Number) year(s) as an officer, commencing with the day of the officer's election and ending upon the election of the officer's successor. An officer shall serve no more than (Number) consecutive (Number)-year terms in each office to which they are elected.

R209 Executive Director

The Executive Director² is responsible for the day-to-day operations of the Board office and is the Person who shall be served in judicial proceedings against the Board. The Board delegates to the Executive Director certain responsibilities to properly fulfill the Board's duties, which may include, but are not limited to, the following:

¹ R204 Most Jurisdictions have a process by which Board member appointments are conducted. In many cases that is through a governor's appointment office. Boards should take care to ensure that any rule addressing appointment complies with the process identified at the Jurisdictional level. Some Boards have Board members who represent specific geographical regions within their Jurisdiction. Specific details related to identification, selection, or election of candidates for those positions should be described here.

² R209 There are different types of Board structure that impact the responsibilities of an Executive Director. Member Boards should review this section and modify to ensure the responsibilities are appropriately documented for the Board's model.

- 1) Review and prepare applications for Board approval;
- 2) Oversee investigations of complaints and present proposed adjudication for Board action;
- 3) Draft new rules and amendments to rules for Board proposal and adoption;
- 4) Develop the budget for Board approval;
- 5) Collect fees and monitor expenditures of funds;
- 6) Contract for required business services;
- 7) Report key operations performance measures to the Board;
- 8) Engage the Board in planning and implement the strategic plan;
- 9) Oversee and evaluate all staff;
- 10) Facilitate communications to and among Board members and make arrangements for Board meetings;
- 11) Serve as an agent of the Board when communicating with other jurisdictional agencies and the public;
- 12) Issue meeting minutes, reports, and notices required of the Board; and
- 13) Any other duties the Board may assign from time to time.

R210 Meetings of the Board

All aspects of any meeting of the Board shall comply with all requirements prescribed by (Jurisdiction) law, including the (Jurisdiction) Administrative Procedure Act and Open Meetings Act, and any regulations promulgated thereunder.

- 1) The Board shall meet at least every calendar quarter (i.e., every three months). The Board shall meet at such additional times as may be called by the Chairperson of the Board or by two-thirds (2/3) vote of the members of the Board. Meetings should be scheduled to timely address the issues to be voted on at the NCARB Regional and Annual Business Meetings, including to discuss regional and Board of Directors elections, review proposed resolutions, and determine Board delegates to the meeting.
- 2) The Board shall meet at such locations as it may from time to time determine. The location for each meeting shall be determined prior to giving notice of any such meeting and shall not be changed after such notice is given without adequate prior notice.
- 3) The Board, consistent with (Jurisdiction) law and any regulations promulgated thereunder, may allow Board members not present at the meeting location to participate by means of conference telephone or by means of communication by which all Persons in the meeting are able to hear one another and otherwise fully participate in the meeting. Such participation shall constitute presence in person at the meeting.
- 4) Notice of all Board meetings shall be given in the manner and pursuant to all requirements prescribed by the (Jurisdiction) Administrative Procedure Act.

- 5) A majority of Board members as constituted by statute shall constitute a quorum for the convening and conduct of a Board meeting and, except where a greater number is required under statute or the Act or by any regulation of the Board, all actions of the Board shall be by a majority of the members present at a meeting at which quorum is present.
- 6) A record of all Board meetings shall be maintained in accordance with the (Jurisdiction) Open Meetings Acts.
- 7) Each Board member shall be given a daily allowance and itemized reimbursement in compliance with (Jurisdiction) law for expenses related to Board meetings and other Board related business, including attending NCARB regional and national meetings.
- 8) Official minutes of Board meetings shall be prepared and approved at the next regular meeting.
- 9) Unless required otherwise, by law or by these regulations, Robert's Rules of Order shall be used to conduct Board meetings.
- 10) Among other official records required by law, or by rules of other agencies in support of law, there shall be kept in the Board offices accurate and current records. Such records may be kept in paper or electronic format and may include, but are not limited to³:
 - a. Minutes of all Board meetings;
 - b. The name and registration number of all Persons to whom Licenses or registrations are issued, the last known address of all such Architects and Firms;
 - c. Documentation supporting/attesting to the Architect's or Firm's qualifications; and
 - d. Alleged violations and investigatory documentation related to disciplinary actions.

R211 Powers and Duties Delegated to the Board

In addition to the powers and duties in Section 211, the Board shall perform its duties and transact its business, including, but not limited to:

- 1) Review and approve applications;
- 2) Review complaints and adjudicate enforcement cases brought under the Act and these regulations;
- 3) Make, adopt, amend, and repeal regulations;
- 4) Monitor the budget and operations via key performance measures;
- 5) Strategically plan the focus and initiatives of the Board;
- 6) Review and comment on NCARB resolutions for the jurisdictional submittal process consistent with *NCARB Bylaws*;

³ R210(10) If an existing retention schedule for such records does not exist through other jurisdictional law, the Board shall establish an appropriate retention schedule for each record. Recommendations for retention are as follows:

- a. Minutes: Into perpetuity.
- b. Name, License or registration number, and address of licensees (individual and Firm): Into perpetuity.
- c. Documentation supporting licensee qualifications: Until death of licensee.
- d. Investigatory/disciplinary documentation: Until death of licensee.

- 7) Discuss business matters and authorize the Board's voting delegate to represent the Board's interest at the NCARB Regional and Annual Business Meetings;
- 8) Review and respond to requests to assist the (Jurisdiction's) legislative and executive branch processes;
- 9) Review and respond to other matters as they arise; and
- 10) Make available for public access the names of all licensed and registered Persons.

R212 National Council of Architectural Registration Boards

- 1) The Board shall maintain membership in NCARB and its Regional Conferences and pay the necessary costs thereof.
- 2) The Board must keep up-to-date information on the experience and examination programs and recommended policies adopted by NCARB.
- 3) The Board shall participate in NCARB discussions related to establishing uniform standards of architectural registration throughout the United States and its territories.
- 4) The Board shall develop policies for Board member participation in NCARB committees, leadership, or other volunteer opportunities.

R301.0 Initial License Qualifications

- 1) To obtain an initial License other than pursuant to R301.4, an Applicant must meet the requirements set forth in R301.0 – R301.3.
- 2) In evaluating qualifications, the Board may, prior to reaching its decision, require the Applicant to substantiate the Applicant's qualifications.

R301.1 Education

- 1) An Applicant shall complete an Approved Educational Program, or its equivalent as described herein, to obtain an initial License.
- 2) An Approved Educational Program is a degree accredited by the National Architectural Accrediting Board (NAAB) or education deemed equivalent by the Board to the *NCARB Education Standard* pursuant to R301.1(2)(B). At a minimum, the criteria for determining such compliance with the education requirements shall include:
 - a. An original, certified transcript from an Approved Educational Program transmitted through NCARB; or
 - b. As an alternative to satisfying the Approved Educational Program requirement, the Board may consider (i) any other architectural curriculum that has not been accredited by NAAB, but that has been evaluated and found to be an equivalent standard based on the NCARB Alternatives to Education Requirement as identified in the *NCARB Certification Guidelines*, the most recent version being incorporated herein by reference; or (ii) demonstration of successful completion of an Education Evaluation Services for Architects (EESA) review. The Board may also consider an Applicant's combination of education and experience that has been evaluated and found to be equivalent to the *NCARB Education Standard*, the most recent version being incorporated herein by reference.
- 3) Other experience may be substituted for the licensure requirements set forth in [Education] only insofar as the Board considers it to be equivalent to or better than such requirements. The Applicant must provide to the Board clear and convincing evidence of the equivalency or better of such other experience.

R301.2 Experience

An Applicant shall successfully complete the Approved Experience Program to obtain an initial License. An Approved Experience Program means the Architectural Experience Program (AXP) administered by NCARB.

R301.3 Examination

- 1) An Applicant shall pass the Approved Examination in accordance with the NCARB standards current at the time the Applicant took the Approved Examination to obtain an initial License. An Approved Examination means the Architect Registration Examination (ARE) administered by NCARB.⁴
- 2) To qualify for the Approved Examination, an Applicant shall present satisfactory evidence to the Board of one of the following:
 - a. An architecture degree from an Approved Educational Program; or
 - b. Active enrollment in a NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within an Approved Educational Program.
- 3) The Board shall accept the ARE results as determined by NCARB.
- 4) Any violation or alleged violation of NCARB's guidelines or policies by an Applicant, including an Applicant's confidentiality agreements with respect to the examination, will be investigated and acted upon by NCARB. NCARB will report disciplinary actions taken based on such violation to the Board for possible disciplinary action under R501.
- 5) The Board may allow an Applicant to review a failed examination result in accordance with NCARB standards and procedures.
 - a. The Board shall work with NCARB staff to determine the time and place for each review of a failed examination.
 - b. A Board staff member shall be present during an Applicant's review of the Applicant's failed examination.
 - c. The Board shall accept NCARB's final determination on all examination score result review and challenges.

R301.4 Initial License Standards – Military Personnel

- 1) To obtain a License other than pursuant to R301.0 – R301.3, an Applicant who is military personnel shall meet the requirements set forth in this section R301.5.
 - a. In evaluating qualifications, the Board may, prior to reaching its decision, require the Applicant to substantiate the Applicant's qualifications.
 - b. Other experience may be substituted for the initial License requirements set forth in [Education military] insofar as the Board considers it to be at least equivalent to or more comprehensive than such requirements. The Applicant must show by clear and convincing evidence the equivalency or better of such other experience.
- 2) An Applicant shall be of good character as verified to the Board by an Applicant's employers or by honorable discharge evidenced by a copy of military discharge document (DD 214).
- 3) An Applicant shall complete an Approved Educational Program.

⁴ R301(3) Some Jurisdictions require a jurisprudence or supplemental examination and may insert such requirement into their rules. If jurisprudence or supplemental examination(s) are required by the (Jurisdiction), Applicant shall pass the NCARB Approved Examination prior to administration of the supplemental examinations.

- 4) An Applicant shall complete an Approved Experience Program. In lieu of an Approved Experience Program, the Board may accept “professional training while in active duty” as it deems acceptable and in keeping with the experience requirements set forth by the NCARB.
- 5) An Applicant shall pass an Approved Examination.

R301.5 Qualifications for Practice Under Disaster Declaration

Any individual licensed to engage in the Practice of Architecture in another Jurisdiction may provide disaster assessment services⁵ within the scope of their License and in response to a disaster declared by the U.S. Federal Government, governor, or other appropriate authority of (Jurisdiction). On written notice to the Board, such services may be provided in (Jurisdiction) without a License for the duration of the incident period, defined as the time interval during which disaster-causing incident occurs, as established by the U.S. Department of Homeland Security’s Federal Emergency Management Agency in the FEMA-State Agreement and Published in the Federal Register. The individual providing services pursuant to this regulation is bound by (Jurisdiction) law. The Board reserves the authority to remove, revoke, rescind, or restrict this disaster-declaration practice privilege of any individual without a hearing by a majority vote of its members.

R301.6 Initial License for Foreign Applicants

To obtain an initial License, a foreign Applicant shall complete the same requirements as identified in R301.0 – R301.3.

R302.0 Reciprocal License Qualifications

Pursuant of Section 302 of the Act, to obtain a reciprocal License in (Jurisdiction), an Applicant must have their NCARB Record transmitted to the Board, file an application with the Board, and pay the applicable fee.

R302.1 Reciprocal License for Foreign Architects

Individuals actively licensed as an Architect by a regulatory authority outside of the United States or Canada, who currently hold an NCARB Certificate obtained through a Mutual Recognition Agreement, Mutual Recognition Arrangement, or Tri-National Agreement, shall be eligible for a License.

R303 Firm Registration

Legally formed business entities shall apply to the Board for a certificate of Firm registration and shall provide the information required in Board regulations prior to doing business in (Jurisdiction).

- 1) Any legally formed business entity, whether organized under the laws of (Jurisdiction) or any

⁵ R301(5) "Disaster assessment services" are limited to evaluation of structural integrity or nonstructural elements affecting life, safety, and habitability. Other architectural services beyond disaster assessment services, including but not limited to design of repairs, demolition plans, construction documents, or construction administration, should only be undertaken by an Architect licensed in the Jurisdiction.

other Jurisdiction, may neither offer nor provide architectural services in (Jurisdiction) until such entity has obtained a certificate of Firm registration issued by the Board. A certificate of Firm registration may be issued as of the date it is approved by the Board and shall be valid for two (2) years.

- 2) The Board may issue a certificate of Firm registration to a legally formed business entity upon receipt of all of the following:
 - a. An application prescribed by the Board, which shall designate one or more supervising Architects who shall perform or directly supervise the performance of all architectural services by said Firm in (Jurisdiction). Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the Architect or under the Architect's direct supervision only when the requirements of this regulation (R303) are fully satisfied. To be designated as a supervising Architect, an Architect must be:
 - i. Licensed by the Board;
 - ii. A full-time active employee of the Firm; and
 - iii. Primary occupation is with the Firm.
 - b. The applicable fee.
- 3) If any change occurs in any of the information provided to the Board pursuant to R303(2) during the period for which a certificate of Firm registration is granted, such change must be reported to the Board within 30 days after the effective date of such change.
- 4) Pursuant to Section 501 of the Act, the Board may revoke or suspend a certificate of Firm registration granted pursuant to R303 if any officer, director, or employee of a registered Firm violates any provision of the Act or these regulations; provided, however, that it shall be an affirmative defense if the Firm demonstrates to the Board that such individual was not acting as an agent of the Firm at the time such violation occurred.

R304 Continuing Education

In addition to all other requirements for License renewal, an Architect must complete Continuing Education Hours each calendar year or be exempt from these Continuing Education requirements as provided below. Failure to comply with these requirements may result in non-renewal of the Architect's License.

- 1) Continuing Education Hours. 12 Continuing Education Hours must be completed in Health, Safety, and Welfare Subjects acquired in Structured Educational Activities. Continuing Education Hours may be acquired at any location. Excess Continuing Education Hours shall not be credited to a future calendar year.
- 2) Reporting and Record Keeping. An Architect shall complete and submit forms as required by the Board certifying that the Architect has completed the required Continuing Education Hours. Forms may be audited by the Board for verification of compliance with these

requirements. Documentation of reported Continuing Education Hours shall be maintained by the Architect for six (6) years from the date of award. If the Board disallows any Continuing Education Hours, the Architect shall have 60 days from notice of such disallowance either to provide further evidence of having completed the Continuing Education Hours disallowed or to remedy the disallowance by completing the required number of Continuing Education Hours (but such Continuing Education Hours shall not again be used for the next calendar year). If the Board finds, after proper notice and hearing, that the Architect willfully disregarded these requirements or falsified documentation of required Continuing Education Hours, the Architect may be subject to disciplinary action in accordance with the [Act] and Board regulations.

- 3) Exemptions. An Architect shall not be subject to these requirements if:
 - a. The Architect has been granted emeritus or inactive status by the Board; or
 - b. The Architect otherwise meets all renewal requirements and is called to active military service, has a serious medical condition, or can demonstrate to the Board other like hardship, then upon the Board's so finding, the Architect may be excused from some or all of these requirements; or
 - c. The Architect lists the Architect's occupation as "retired" or "inactive" on the Board approved renewal form and further certifies that the Architect is no longer engaging in the Practice of Architecture.
- 4) Reinstatement of Retired or Inactive Architects. In the event such a retired or inactive Person elects to return to active practice, they shall request reinstatement of their License by providing the Board with documentation of the completion of twelve (12) Health, Safety, and Welfare Continuing Education Hours within the preceding twelve (12) months before they may resume actively engaging in the Practice of Architecture. Inactive or retired Persons returning to active practice must report CEHs earned prior to the request to reactivate.

R305 Requirements for License Renewal

[Describe terms, including fee with cross-reference to R313, citing applicable statute.]

- 1) A License shall be renewed every two (2) years.⁶
- 2) An Architect shall renew the License prior to its renewal date to continue engaging in the Practice of Architecture. It is the responsibility of the Architect to timely renew the License.
- 3) To renew a License, an Architect shall complete a renewal application prescribed by the Board and pay the renewal fee established in R313 on or before the renewal date.
- 4) After reviewing the renewal application, the Board may renew the License.

R306 Requirements for Reinstatement of Delinquent and Expired License

- 1) A License not renewed by its renewal date shall be a "Delinquent License" for a period of

⁶ R305(1) Jurisdictions have various renewal schedules and methods. In an effort to ensure continuous revenue stream throughout the renewal period, consider renewals on a two-year even-odd cycle to expire at the end of the month two years from issue date. In addition to continuity of cash flow, this allows for a smoother process for staff processing renewals.

up to 120 days after its renewal date until the License is reinstated. A License not renewed after 120 days of its renewal date shall be an “Expired License” until the License is reinstated. An Architect with a Delinquent License or Expired License is prohibited from engaging in the Practice of Architecture in this (Jurisdiction) until such License is reinstated pursuant to this section R306.

- 2) To resume engaging in the Practice of Architecture, an Architect with a Delinquent License or Expired License shall apply for reinstatement by the Board to resume engaging in the Practice of Architecture. Each Applicant for reinstatement of a Delinquent or Expired License must submit documentation satisfactory to the Board meeting in accordance with the following criteria:
 - a. Delinquent License: An Applicant for reinstatement of a Delinquent License shall submit to the Board:
 - i. A completed application for License reinstatement prescribed by the Board and payment of applicable fees including a late fee as determined by the Board but not to exceed three times the Board’s initial licensure application fee; and
 - ii. Documentation of successful completion of all applicable licensure renewal requirements.
 - b. Expired License: An Applicant for reinstatement of an Expired License shall satisfy the requirements set forth in this R306 and R301.0 – R301.3 and is subject to the following:
 - i. In connection with any application for an Expired License reinstatement, the Board may impose any additional reasonable requirements it deems necessary.
 - ii. The Board may also consider any relevant extenuating circumstances duly submitted in conjunction with any reinstatement application for an Expired License where the Applicant can demonstrate hardship, so long as the Board maintains its public protection mission in considering any such reinstatement application.
 - iii. Applicants for reinstatement of an Expired License must also submit evidence to the Board of completing twenty-four (24) Continuing Education Hours in Health, Safety, and Welfare Subjects acquired in Structured Educational Activities within a two (2) year period immediately prior to the reinstatement application.

R307 Reinstatement of Inactive License

[Describe terms, including fee with cross-reference to R313, citing applicable statute.]

- 1) An Architect may apply for Inactive License status if the Architect satisfies the following criteria:
 - a. Holds a License in Good Standing; and
 - b. Certifies that they shall not engage in the Practice of Architecture while on inactive status except to identify themselves as an inactive licensee.

- 2) Upon application to the Board, if all requirements are met, the Architect shall be granted Inactive License status.
- 3) Inactive status licensees are not required to fulfill the continuing education requirement.
- 4) A License may remain on inactive status indefinitely.
- 5) In the event a Person with Inactive Licensure status elects to return to active practice in [Jurisdiction], they shall submit a current renewal application form, the renewal fee, and documentation of the completion CEHs as per Regulation 304.4 before they may resume actively engaging in the Practice of Architecture.

After reviewing the renewal application, the Board may renew the License.

R308 Architect Emeritus Requirements

- 1) An Architect may apply for Architect emeritus status if the Architect satisfies the following criteria:
 - a. Holds a License in Good Standing;
 - b. Is retired from the active Practice of Architecture. “Retired” means the Architect no longer engages in the active Practice of Architecture as defined in Section 103 of Article I of the Act; and
 - c. Was registered for at least ten (10) years in (Jurisdiction) or is 65 years of age or older.
- 2) An Architect who can provide, to the Board’s satisfaction, documentation that the Architect is physically or mentally unable to engage in the Practice of Architecture may also apply for Architect emeritus status.
- 3) Upon application to the Board, if all requirements are met, the Architect shall be granted Architect emeritus status.
- 4) An individual granted Architect emeritus status may use the title “Architect emeritus” on any letter, title, sign, card, or device.
- 5) If an Architect emeritus wishes to engage in the active Practice of Architecture, they shall submit a current renewal application form, the renewal fee, and documentation of completing twelve (12) Health, Safety, and Welfare Continuing Education Hours required by regulation.

R309 Reinstatement of License Following Disciplinary Action

The Board shall have the power under Section 309 of the Act to reinstate a License that has been revoked, suspended, or restricted by the Board, for engaging in conduct in violation of the Act or these regulations. The Board may be petitioned for License reinstatement in writing on the form required by the Board, with payment of the required fee per R313.

R310 (Model Law Section 310. Prima Facie Evidence of Licensure)

[Reserved]

R311 Source of Data

Sources of data shared by the Board and NCARB for determination of qualifications for licensure (initial, reciprocity, or renewal) may include, but not be limited to:

- 1) Status of licensure in (Jurisdiction), and
- 2) History or status of complaints or Board(s) investigations, and
- 3) History or status of disciplinary actions taken by Board(s).

R312 Confidentiality

Notwithstanding any other law, an Applicant's Social Security number, federal employer identification number, or individual taxpayer identification number furnished to the Board pursuant to the Act or these regulations shall not be deemed a matter of public record, shall not be open to or made available for public inspection, shall not be used for a purpose inconsistent with the Act or these regulations, and shall be removed from the record in the custody of the Board at such time that such information is no longer necessary for the enforcement of the Act or these regulations. The Board shall maintain records for a period of at least three (3) years after the end of the period of time to which they relate.

R313 Fees

[Insert schedule of fees, with cross-references to statutory language permitting the Board to establish fees [Section 211(1)(e) of the Act], or to any fees set by statute. This list should identify all categories of fees, including those to be established from time to time by the Board.]

R314 Application Appeals

[Insert procedures as identified by the (Jurisdiction) Administrative Procedures Act]⁷

⁷ R314 In the event that no appeals process exists in the Administrative Procedures Act, the Board should establish broad procedures for instituting a process by which a candidate could have their application re-evaluated. The procedures should include, but not be limited to the following: the right to a hearing, notice of the hearing, right to counsel, procedures to be used during the hearing (evidence, witnesses, depositions, and subpoenas), final decisions, and other Board-specific items related to the application review process. This provides an additional layer of public protection by ensuring that the candidate's qualifications meet the standards of the Board.

R401.0 Design and Use of Architect's Seal

- 1) Pursuant to Section 401 of the Act and subject to R501(C), each Architect must procure a seal, which shall contain the Architect's first and last name, the Architect's License number, and the words "LICENSED ARCHITECT— [NAME OF JURISDICTION]." This seal must comply in all respects, including size and format, with the seal shown below: [INSERT SPECIMEN SEAL IMPRINT.]
- 2) As required by Section 401 of the Act, the seal must appear on all Technical Submissions prepared under the Responsible Charge of the Architect, including, but not limited to, each drawing sheet and the specifications cover. Such seal and signature may be electronic.

R401.1 Architect Seal

- 1) An Architect may seal and sign Technical Submissions only if the Technical Submissions were:
 - a. Prepared by the Architect;
 - b. Prepared by individuals under the Architect's Responsible Charge;
 - c. Prepared by another Architect if the sealing and signing Architect has reviewed the other Architect's work and either has coordinated the preparation of the work or has integrated the work into their own Technical Submissions; or
 - d. Prepared by another Architect licensed in any Jurisdiction and holding a current and valid NCARB Certificate if the sealing and signing Architect has reviewed the other Architect's work and has integrated the work into their own Technical Submissions.
- 2) An Architect may include in Technical Submissions and may seal and sign Prototypical Building documents prepared by an Architect licensed in any Jurisdiction. The Architect shall modify the Prototypical Building documents to comply with the requirements of (Jurisdiction).
- 3) An Architect may also seal and sign drawings, specifications, or other work that is not required to be sealed by this Act.
- 4) An Architect who has sealed and signed Technical Submissions integrating the work of another Architect into the Architect's own work shall maintain and make available to the Board adequate and complete records demonstrating the nature and extent of the Architect's review of and integration of the other Architect's work into their own Technical Submissions. Following such sealing and signing, these records shall comply with the provisions of Section 403 of Law.

R402 Titles for Individuals and Firms

- 1) Architects licensed in (Jurisdiction) are authorized to use any form of the word "Architect" or the word "architecture" to describe themselves and to describe services they offer and perform in (Jurisdiction).
- 2) A Firm licensed in (Jurisdiction) is authorized to use any form of the word "Architect" or the word "architecture" in its name or to describe services it offers or performs in (Jurisdiction).
- 3) No entity other than those qualified in subsections (1) and (2) of this section may use any form of the word "Architect" or "architecture" in its name or to describe services it offers or performs in (Jurisdiction).⁸

R403 (Model Law Section 403. Record Keeping)

[Reserved]

⁸ R402(3) Jurisdictions may add any additional language related to exceptions to the use of the word "Architect" or the word "architecture."

R501 Enforcement Authority and Grounds for Discipline

The Board may take disciplinary action based upon the grounds for discipline in Section 501 of the Act or one or more of the following grounds:

- 1) Conduct that violates security of the Architect Registration Examination as cited in NCARB Board Policies, as amended or supplanted, which are incorporated herein by reference, related to the Architect Registration Examination or any other Examination materials.
- 2) Conduct that violates the *Architectural Experience Program Guidelines* related to the Architectural Experience Program, which is incorporated herein by reference.
- 3) Conduct that violates the *NCARB Model Rules of Conduct* currently in effect at the time of the putative violation. The *NCARB Model Rules of Conduct*, as amended or supplanted, is incorporated herein by reference.

R502 Disciplinary Procedures

[Insert disciplinary procedures as identified by the (Jurisdiction) Administrative Procedures Act]⁹

R503 Disciplinary and Other Enforcement Actions

[Insert a disciplinary matrix of standard enforcement actions for certain violations.]¹⁰

Violation	Citation	Discipline	Fine or Penalty
Practice of Architecture while License or Firm registration is expired.	305(2) and R305		\$
Aiding or abetting any Person with engaging in the Practice of Architecture without being licensed or registered pursuant to the Act.	501(G)		\$
Unauthorized use of term "Architect" or "architectural."	402(2)		\$

⁹ R502 The Board should establish broad procedures for instituting disciplinary actions including but not limited to the following: the right to a hearing, notice of the hearing, right to counsel, informal settlements, procedures to be used during the hearing (evidence, witnesses, dispositions, and subpoenas), final decisions, appeals, and other Board-specific items related to the disciplinary process. Boards are encouraged to publish practice-related disciplinary actions. This provides an additional layer of public protection by making clients and future clients aware of such actions by Architects and anyone fraudulently holding themselves out as an Architect.

¹⁰ R503 The Board should publish a disciplinary matrix of standard enforcement actions for certain violations to provide notice to licensees and encourage consistent disciplinary actions.

R601 Complaint Procedures

[Insert procedures for reporting and receiving complaints of a possible violation of this Act as identified by (Jurisdiction) Administrative Procedures Act].¹¹

R602 (Model Law Section 602 Duty to Report Misconduct)

[Reserved]

¹¹ R601 Effectively addressing misconduct is a critical function of a Board to ensure public protection. Any regulations related to complaints received and investigations should be consistent with the (Jurisdiction's) Administrative Procedures Act, including, but not limited to, the following: how the agency receives a complaint, initial review of the complaint, the investigation process, dismissal of the complaint, referral for disciplinary action, and any alternative actions.

Boards may structure the investigative process in a variety of different formats, including, but not limited to, an in-house investigator, hired investigator, discipline committee consisting of Board members, or the Jurisdiction's Department of Justice. The process employed by the Board will often reflect the organizational structure of the agency within the Jurisdiction and the resources available. The results of the investigation should be shared with the full Board to make a final determination. Board members involved directly in the investigation should recuse themselves from the full Board deliberations and determinations to avoid conflicts.

Complaints and information collected in the course of an investigation should be protected from public records requests. It is recommended that Boards explore the possibility of obtaining an exemption for this information in its Public Records law.

R701 Severability

If any provision of these regulations is declared unconstitutional or illegal, or the applicability of these regulations to any Person or circumstance is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of these regulations and the application of these regulations to other Persons and circumstances, shall not be affected, and shall remain in full force and effect, without the invalid provision or application.

R702 Effective Date

In accordance with the (Jurisdiction) Administrative Procedures Act, amendments to these regulations should be publicly available.

Appendix B: Mapping of the Legislative Guidelines and Model Law/Model Regulations

National Council of Architectural Registration Boards

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APPENDIX B: MAPPING OF THE LEGISLATIVE GUIDELINES AND MODEL LAW/MODEL REGULATIONS

INTRODUCTION TO THIS RESOURCE

In FY17, the NCARB Model Law Task Force was tasked with undertaking a holistic review of the existing *NCARB Legislative Guidelines and Model Law and Regulations* document.

It is important to note that the majority of the laws and statutes outlined in the draft *NCARB Model Law and Regulations* were already in effect prior to the reorganization. While the task force modernized and updated the document to make it easier to use, the task force did not significantly change the licensing standards laid out in the original document. Instead, the task force reorganized the content to make it more useful and relevant for today's practice of architecture, and to ensure it is consistent with the updated uniform programs and national models for architectural licensure that have been developed by our Member Boards since the document was initially drafted decades ago.

Because the task force's proposed revisions are extensive, NCARB has not provided a mark-up version of the existing *NCARB Legislative Guidelines and Model Law and Regulations* document. Instead, this document provides a resource mapping where each component of the current document can be found in the new draft.

Elements of the proposed *NCARB Model Law and Regulations* that are new include:

- The definition of the practice of architecture, which builds upon the definition in the existing *Model Law*, but with additional emphasis on the activities relevant to architecture. Philosophically, the task force is recommending an approach that defines and includes elements that are central to architecture, rather than attempting to prescribe what is not architecture in an architectural practice act.
- The task force discovered a gap in the existing model language around best practices for board composition and has included provisions related to that issue in the *Model Law*.
- The task force also addressed gaps in the existing model language around best practices for both single and multi-profession board composition.
- The task force developed an approach to the concept of firm registration.
- The task force added language regarding misconduct and reporting complaints.

A vote in favor of the *NCARB Model Law and Regulations* does not indicate Member Boards laws and regulations are identical to the provisions outlined, but that the document represents appropriate national NCARB policy and an aspirational goal for the regulation of the practice of architecture. The *NCARB Model Law and Regulations* will serve strictly as a resource for the Member Boards, who will each decide whether to propose adoption of some or all of the updated provisions within their jurisdictions.

Because the *NCARB Model Law and Regulations* recognizes each jurisdiction's constitutional authority to determine the appropriate level of protection for its citizens, not all areas will be—or are expected to be—adopted by all U.S. architectural licensing boards. Instead, the document is designed to be a resource that provides a national model that assists boards in navigating challenging areas of architectural regulation that is easily adapted to fit the diverse needs of NCARB's individual members.

This introduction explains the purpose of this resource and highlights key similarities and differences between the existing and proposed *Model Law*.

APPENDIX B: MAPPING OF THE LEGISLATIVE GUIDELINES AND MODEL LAW/MODEL REGULATIONS

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This historical note and Introduction have been replaced with a new version outlining the purpose of the *NCARB Model Law and Regulations*.

The Legislative Guidelines have been incorporated into the Model Law, Model Regulations, or become commentary where appropriate.

Definitions can be found in Model Law Section 103 and Model Regulations R103. See page 21 for more detail on how definitions have changed.

Fees have moved to Model Regulations R313.

Registration Qualifications can be found in Model Law Article III, Sections 301-302. See page 22 for more detail.

Registration of Military Personnel can be found under Model Regulations R301(5).

Registration Renewal information can be found under Model Law Section 304-305 and Model Regulations R304-305.

Certificate of Registration has been removed to be consistent with contemporary practice and state requirements.

Language regarding seals can be found under Model Law Section 401 and Model Regulations R401.

Language regarding disciplinary authority can be found under Model Law Section 501 and Model Regulations R501.

Disciplinary Procedures has been separated into “Disciplinary Procedures” (Model Law Section 502/Regulations R502) and “Disciplinary and Other Enforcement Actions (Model Law Section 503/Regulations R503).

Registration *Prima Facie* Evidence can be found under Model Law Section 310 and Model Regulations R310.

Prohibition is now “Unlawful Practice” and can be found under Model Law Section 402 and Model Regulations R402.

Aspects of Construction Contract Administration Services Required have been absorbed into other defined terms in Model Law Section 103.

Exceptions have been streamlined and renamed “Activities and Individuals Excluded from the Practice of Architecture” and can be found under Model Law Section 104 and Model Regulations R104.

Enforcement can be found under Model Law Section 501 and Model Regulations R501.

Penalties has been incorporated into Model Law Section 503 and Model Regulations R503.

Note: The original language of Model Law can be found on pages 21-28. The proposed new Model Law can be found in Appendix A of the electronic version of the Draft Resolution Packet, pages 6-28.

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Severability is addressed in Model Law Section 701 and Model Regulations R701.

Terms can be found in Model Law Section 103 and Model Regulations R103. More information on definitions can be found on page 30.

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Board meetings can be found under Model Law Section 210 and Model Regulations R210.

Board seals are not addressed in the proposed Model Law and Regulations to reflect current practice.

Revised Public Information language can be found in Model Law Section 210 and Model Regulations R210.

The revised Model Law addresses the application process in Article III and due process procedures in Article V.

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Submission of Application information can be found under Model Law Section 301 and 302.

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Initial Registration requirements can be found under Model Law Section 301 and Model Regulations R301.

This section has been removed. See page 34 for more information.

Education, experience, and examination requirements can be found under Model Regulations R301(1-3).

RECIPROCAL REGISTRATION 35

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Registration Standards for Military Personnel can be found under Model Regulations R301(4).

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Examination information can be found under Model Regulations R301(3). See page 35-36 for more information.

Issuance has been incorporated into Model Law Sections 301-302 and Model Regulations R301-302.

Duration and Renewal can be found under Model Law Section 305 and Model Regulations R305. See page 36 for more information.

Not Transferable content has been removed.

Revocation, Suspension, Cancellation or Non-Renewal of Registration can be found under Model Law Section 306-307 and Model Regulations R306-307.

Reissuance can be found under Model Regulations R306-307 and R309.

Emeritus Status information can be found under Model Law Section 308 and Model Regulations R308.

Professional Conduct information can be found under Model Law Section 601 and Model Regulations R601-601.

Seal-related information can be found under Model Law 401 and Model Regulations R401.

Firm information can be found under Model Law Section 303 and Model Regulations R303.

These sections are addressed in Model Law Sections 104 and 402(2).

LEGISLATIVE GUIDELINES

HISTORICAL NOTE

At the June 1970 Annual Meeting, NCARB adopted five guidelines for legislation governing the registration of architects. A minor amendment was adopted the following year, and the guidelines were further amended at the Annual Meetings in 1976 and 1977. At the 1982 Annual Meeting, substantial changes to Guideline III were adopted to permit states to use the new NCARB Architect Registration Examination format (i.e., a single examination for all candidates), and, in response to the requests of a number of NCARB Member Boards, the Council added Guideline VI: “Classes and Characteristics of Structures with Respect to Which Persons Performing Building Design May Be Exempt from Registration Requirements,” following extensive study of the question by NCARB’s Committee on Procedures and Documents. At the 1985 Annual Meeting, Guideline VIII respecting “Regulation of Unregistered Persons Practicing Architecture” was adopted with corresponding minor adjustments in Guideline II and Guideline VI.

At the 1988 Annual Meeting, the Council amended Guideline I to recognize the conditions under which a design/build practice could be carried on. Substantial changes were made at the Annual Meeting in 1989, including Guideline VII, which required that an architect be engaged to furnish construction contract administration services.

Over the ensuing years, the guidelines have been modified from time-to-time. In 1999, the Council added Guideline IX, which describes a way in which foreign architects whose national registration standards vary from those in the United States may participate in U.S. architectural commissions. Also in 1999, the Council amended Guideline II by making specific reference to the Rule of Conduct (5.2) which requires that an architect have responsible control over all technical submissions not otherwise exempt.

INTRODUCTION

The NCARB *Legislative Guidelines* sets forth provisions adopted by the Member Boards of NCARB on nine significant areas of state regulation. Early in its consideration of state laws regulating the practice of architecture, NCARB reached the conclusion that guidelines were appropriate, rather than draft statutory language.

Guidelines were recommended because each of the existing state laws contained unique language, organization, and ancillary provisions; it might be disruptive and confusing to attempt to introduce, on a national basis, exact statutory language into existing state statutes. Nonetheless, in response to the requests of a number of state registration boards, NCARB has added to these guidelines a Model Law for the purpose of illustrating the way in which the guideline principles would fit into a statutory framework. The Model Law does not purport to cover all matters appropriate to a statute governing the registration of architects. Matters with respect to the appointment of board members, their relationship to umbrella state agencies, the compensation of board members, procedural issues, and the like are not included in the Model Law. In many states these largely administrative provisions are found in a section of the law preceding the laws specifically applicable to each registration board. In other states these administrative provisions are found in the architectural registration statute itself. The most important of the administrative provisions not found in the Model Law is the power to adopt rules and regulations. Once again it is typical to find that power in the general portions of the law applying to all registration boards. A draftsman who is revising the state law and using the Model Law should carefully examine the statutory framework to be sure that the power to adopt rules and regulations exists somewhere.

To round out the matter of legislative guidelines, NCARB has also added to this document Model Regulations to illustrate how the Model Law interfaces with a set of board Rules and Regulations. The Model Regulations build upon the Model Law, the *Model Rules of Conduct* recommended by the Council, and the standards adopted by the Council for certification. They recommend that states have analogous standards for registration and provide details on definitions, fees, applications, registration standards, examination, registration, rules of professional conduct, and practice by firms.

The historical note and introduction have been replaced with a new version outlining the purpose of the NCARB Model Law and Model Regulations.

LEGISLATIVE GUIDELINES

NCARB also reached the conclusion that the guidelines should be limited in scope; such subjects as the organization and incorporation of a regulatory board, procedures to be followed by the board, penalties for violation of the board rules, and the like are not treated in these *Legislative Guidelines*. Rather than attempt to provide guidelines to the states on matters which they are clearly better able to decide than any national organization, NCARB has limited its concern to nine major areas, all of which have implications beyond the boundaries of an individual state.

In the development of these guidelines, NCARB has been concerned with the respective roles of statutory enactment on the one hand and board rules or regulations on the other. Through a statute granting the power to adopt rules and regulations, the legislature permits a regulatory agency to elucidate and define further its statutory authority by establishing regulations. Regulations cannot contradict the statute. Practically, statutory change requires time, the mobilization of professional bodies to seek legislative support, and often considerable frustration when for one reason or another, the legislature postpones enacting the proposed reform. Regulations, on the other hand, may typically be adopted by the state board after notice and appropriate hearings. Thus, insofar as the regulation of the profession involves likely future changes in professional practice, the rules should be found in the regulations rather than the statute. The decision entails a reasonable calculation as to what matters a state legislature will permit a regulatory board to decide and what matters, as a question of public policy, should be decided by the legislature.

The nature of sanctions which may be imposed (fines, probation, suspension, revocation, and the like) is a matter customarily left to the legislature itself, while the question of educational and experience qualifications, a matter subject to changing concepts, might well be left to the registration board.

A connected question is the degree to which boards may rely on national standards as the standards to be used in their states. These guidelines refer specifically to the National Council of Architectural Registration Boards at various points and suggest that these references to NCARB be found in the statute. This decision is based on a legal judgment made from a survey of a variety of cases in various states that a board's reliance on NCARB procedures may be put in doubt in a court challenge if there is no legislative expression on the board's right so to rely. On the other hand, the reliance on these standards is permissive but not mandatory and is, in all cases, to be decided by the board in the board's regulations. Here it was the view of NCARB that legislators would be reluctant to fix in a statute the mandatory requirement that a national organization set the standards for the state, subject only to legislative amendment.

In sum, the *Legislative Guidelines* leaves to the boards flexibility and discretion to bring their states in line with the developing national standards for architectural registration and regulation. Such flexibility is ensured by leaving much of the detail to regulations to be promulgated by the board, while the enabling statute contains the general policy of the legislature.

LEGISLATIVE GUIDELINES

I DEFINITION

- A** The practice of architecture, for purposes of the registration statute, should be defined as consisting of providing or offering to provide certain services hereafter described, in connection with the design and construction, enlargement or alteration of a building or group of buildings and the space within and the site surrounding such buildings, which have as their principal purpose human occupancy or habitation. The services referred to include pre-design; programming; planning; providing designs, drawings, specifications and other technical submissions; the administration of construction contracts; and the coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects. The practice of architecture shall not include the practice of engineering, but an architect may perform such engineering work as is incidental to the practice of architecture. No person not registered

Rather than include Legislative Guidelines in the revised *NCARB Model Law and Regulations*, the task force has chosen to either include as statutory or regulatory language or as commentary where appropriate.

The practice of architecture is defined in Model Law Section 103(15).

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nor otherwise permitted to practice under the registration statute should be permitted to engage in the practice of architecture.

Except as provided in IV B and C, no person not registered should be permitted to acknowledge himself/herself as authorized to practice architecture or to use the title “architect” when offering to perform any of the services which the practice of architecture comprises or in circumstances which could lead a reasonable person to believe that such services were being offered; except that a person registered in another jurisdiction may use the title “architect” when identifying his/her profession in circumstances which would not lead a reasonable person to believe that the person using the title “architect” is offering to perform any of the services which the practice of architecture comprises.

A person currently employed under the responsible control of an architect and who maintains in good standing a National Council of Architectural Registration Boards Record may use the title “intern architect” or “architectural intern” in conjunction with his/her current employment, but may not engage in the practice of architecture except to the extent that such practice is excepted from the requirement of registration.

- B** A partnership or corporation offering a combination of architectural services together with construction services may offer to render architectural services only if (1) an architect registered in this state or otherwise permitted to offer architectural services participates substantially in all material aspects of the offering; (2) there is written disclosure at the time of the offering that such architect is engaged by and contractually responsible to such partnership or corporation; (3) such partnership or corporation agrees that such architect will have responsible control of the architectural work and that such architect’s services will not be terminated prior to the completion of the project without the consent of the person engaging the partnership or corporation; and (4) the rendering of architectural services by such architect will conform to the provisions of the architectural registration law and the rules adopted thereunder.
- C** State statutes will continue to exempt various structures and special categories of persons from the purview of the statutes. Planning activities by planners and construction contracts by persons customarily engaged in contracting work are examples of activities which should be specifically exempted.

COMMENTARY

The guideline adopts a definition of the practice of architecture that covers the wide variety of services that architects currently furnish and that architects are specifically trained to provide and on which applicants for registration are examined. Architects are properly concerned with the design, construction and modification of buildings, and the space within and the site surrounding such buildings. The services that an architect may be expected to perform include pre-design services, programming, planning, preparing various technical submissions, administering construction contracts, and coordinating the work produced by other design professionals working on the project, including work designed by engineers, landscape architects, and other specialty consultants. The prohibition in the statute is against a person, “not registered or otherwise permitted to practice,” rendering or offering to render the services described. No person is permitted to use the title “architect” unless he/she is registered, or unless the circumstances would not lead a reasonable person to believe that architectural services are being offered.

It is contemplated that state statutes will continue to exempt various categories of related design professions from the purview of this statute to the extent that the exercise of their profession may incidentally involve them in the practice of architecture. The importance of these exemptions should not be minimized. They should be carefully thought out to serve as a means for setting off legitimate activities of other registered design professionals from the practice of architecture.

Both architects and engineers are permitted to design structures under their respective registration statutes, but by emphasizing “human occupancy or habitation,” this guideline makes a sensible distinction between the practice of architecture and the practice of engineering.

Portions of this section of the Legislative Guidelines have been incorporated into Model Law Sections 104 and 402.

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Paragraph B allows design/build firms to offer to perform architectural services only under the condition that an architect is involved during the design and construction of the project. The requirement under Clause (2) of the written disclosure is to avoid any misapprehension by the client that the architect is in a fiduciary relationship to the client.

II REGULATION OF CONDUCT OF REGISTRANTS

- A** The state board should be authorized by statute to promulgate, as part of its regulatory function, rules of conduct governing the practice of registered architects. The statute should contain standards for the scope and content of such rules.
- B** The statute should include, as one of the enumerated grounds for revocation or suspension of registration or for the imposition of a civil fine, violation of rules of conduct promulgated by the board.
- C** The state board should review and adopt insofar as practicable the *Model Rules of Conduct* published by NCARB or equivalent rules. Some of those Rules serve as well as the foundation for regulatory legislation. For example, the Rule of Conduct (5.2) which restricts an architect's right to sign or seal technical submissions prepared by others and which sets out the requirements for "responsible control" should be part of the statutory framework of each state's regulation of practice.

COMMENTARY

Substantially all states, explicitly or by clear inference, authorize their registration boards to adopt rules or regulations governing the conduct of architects. States whose statutes provide a "clear inference" are typically those giving the board authority to adopt all regulations necessary to carry out the registration law and subsequently empowering the board to revoke or suspend registration for misconduct. (A board's rule-making power coupled with the power of revocation or suspension based on misconduct implicitly requires further description by the rule-making process of what will constitute misconduct.)

Because a matter as serious as revocation of registration may turn on a violation of board regulations, it is improper to adopt regulations governing conduct unless the power to do so is clear in the statute. This guideline urges that all states set out that clear authority.

The statute should also contain specific standards for the scope and content of such regulations in order to protect them from attack on the grounds that they are the results of an over-broad delegation of legislative authority. For example, the statute could explicitly empower the board to adopt regulations concerning "misrepresentations, conflicts of interest, disability, violations of law, or other unprofessional conduct."

Once the statute properly empowers a board to adopt such rules, the board should proceed in accordance with its local regulations (often found in the state administrative procedure act) governing the adoption of rules by the board. Once adopted, the rules will have the force of law in most states.

Obviously, the promulgation of rules of professional conduct will be ineffective, unless a violation of the rules results in a penalty. Accordingly, the guideline advises that a statute should explicitly make a violation of the rules of conduct a ground for suspension, revocation of registration, or civil fine.

In general, such rules of conduct should be in the regulations where they can be reviewed from time to time by the board to make sure that they are compatible with architecture as it is currently being practiced by competent and ethical professionals.

NCARB publishes, and revises from time to time, recommended *Model Rules of Conduct*. A majority of the state boards have adopted these Rules as their own *Model Rules of Conduct*.

Rules of conduct are outlined in Model Law Sections 501 and 503, as well as Model Regulations R501 and R602.

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III QUALIFICATION FOR REGISTRATION UNDER STATE PROCEDURE

INTRODUCTION

In 1982, this guideline was rewritten to afford state boards greater flexibility in dealing with changing national standards for education and examination. At the same time, NCARB decided to eliminate the minimum age requirement of 21, as it had earlier eliminated the citizenship or residency requirement. A short explanation is in order. In 1971, the 26th Amendment to the U.S. Constitution was ratified, extending the right to vote to 18 year olds. Many states responded by reducing the age of competency, for all purposes, to 18. In such states a minimum age requirement of 21 would run contrary to the prevailing law. Since it is inconceivable that a candidate could meet the requirements of education and training at 21 (let alone 18), retaining a minimum age in the registration statute was meaningless.

As to the elimination, some years earlier, of a citizenship or residency requirement, court decisions have left no doubt that a citizenship requirement for entry into a profession is unconstitutional. While a requirement of actual residence may be acceptable, related court decisions established that it is unconstitutional to require a certain duration of residence as a condition of registration. NCARB considers that when educational and employment opportunities encourage young architects to move from state to state, it is no longer reasonable to insist that an applicant be a resident of the state administering the examination.

- A** An applicant for registration should be required to hold a professional degree in architecture from an NAAB-accredited program and to have had such practical training as the state board, by regulations, shall deem appropriate. In lieu of the requirement of an NAAB-accredited degree, the state board may register an applicant who demonstrates, in accordance with such standards and requirements as the state board adopts by regulation, that he/she has such other educational experience as the state board deems equivalent to a professional degree in architecture from an NAAB-accredited program. The statute should permit the state board to adopt, as its own regulations relating to practical training and education, those guidelines published from time to time by the National Council of Architectural Registration Boards, and should permit the state board to adopt the accreditation decisions of the National Architectural Accrediting Board.
- B** To be registered, the applicant should be required to pass examinations covering such subjects and graded on such basis as the state board shall, by regulations, decide. The statute should permit the state board to adopt the examinations and grading procedures of the National Council of Architectural Registration Boards.

COMMENTARY

In A and B, flexible standards for education and training are set out. It is assumed and strongly encouraged that jurisdictions will, by regulation, bring themselves in line with national standards as they are being developed. As was discussed in the introduction, this guideline (and Guideline IV) recommends that the statute contain language authorizing the use of NCARB and the National Architecture Accrediting Board (NAAB) standards for regulatory purposes in order to avoid any challenge to that procedure.

It is important that the details of the examination not be found in the statute. It would be a great setback to the regulatory system if states were inhibited by their statute from adopting changes in the examination which are expected to occur from time to time in the future. The same is true with respect to educational and training requirements. The recommended language permits boards to adopt the NCARB-recommended education, training, and examination standards. The reference to a degree in architecture from an accredited program or similar language is already found in most state statutes.

Education requirements are covered in Model Law Section 301 and Model Regulations R301(1).

Examination requirements are covered in Model Law Section 301 and Model Regulations R301(3).

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- C** If the state wishes to invest its state board with discretion to reject or take disciplinary action against an applicant who is not of “good moral character,” the statute should specify only the aspects of the applicant’s background germane to the inquiry, such as
- i) conviction for commission of a felony;
 - ii) (misstatement or misrepresentation of fact or other misconduct in connection with seeking registration, including without limitation misconduct involving violation of applicable rules protecting the integrity of the architect licensing process such as the Architect Registration Examination or the Architectural Experience Program (AXP), formerly known as the Intern Development Program (IDP);
 - iii) violation of any of the rules of conduct required of registrants and set forth in the statutes or regulations (See Guideline II); and
 - iv) practicing architecture without being registered in violation of registration laws of the jurisdiction in which the practice took place.

If the applicant’s background includes any of the foregoing, the state board should be allowed, notwithstanding, to register the applicant on the basis of suitable evidence of reform.

COMMENTARY

Paragraph C sets out the NCARB recommendations in the event that the statute invests its board with discretion to consider “good moral character.” These standards make clear that this test is not to be applied arbitrarily to keep out an applicant whose political views, for example, are distasteful to the board.

IV QUALIFICATION FOR REGISTRATION UNDER RECIPROCITY PROCEDURE

- A** Every person seeking to practice architecture in a state should be registered, if
- 1 the person holds a current and valid registration issued by a registration authority recognized by the state board; and
 - 2 the person holds a current and valid National Council of Architectural Registration Boards Certificate; and
 - 3 the person files his/her application with the state board, upon a form prescribed by the board, containing such information satisfactory to the board, concerning the person, as the board considers pertinent.
- B** A person seeking an architectural commission in a jurisdiction in which he/she is not registered should be admitted to the jurisdiction for the purpose of offering to provide architectural services, and for that purpose only, without having first been registered by the jurisdiction, if
- 1 the person holds a current and valid registration issued by a registration authority recognized by the state board; and
 - 2 the person holds a current and valid National Council of Architectural Registration Boards Certificate; and
 - 3 the person notifies the board of the jurisdiction in writing that (a) he/she holds an NCARB Certificate and is not currently registered in the jurisdiction, but will be present in the jurisdiction for the purpose of offering to provide architectural services and (b) he/she will deliver a copy of the notice referred to in (a) to every potential client to whom the person offers to provide architectural services; and
 - 4 the person provides the board of the jurisdiction with a statement of intent that he/she will apply immediately to the board for registration, if selected as the architect for a project in the jurisdiction.

While the phrase “good moral character” has been largely removed from the updated document to align with current practice, elements of this section can be found under Model Law Section 501.

Reciprocal registration requirements are outlined under Model Law Section 302 and Model Regulations R302.

The topic of “fishing” without a license is covered under Model Law Section 104(2).

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The person should be prohibited from actually providing architectural services until he/she has been registered.

- C** A person seeking an architectural commission by participating in an architectural design competition for a project in a jurisdiction in which he/she is not registered should be permitted to participate in the competition, if
 - 1** the person holds a current and valid registration issued by a registration authority recognized by the state board; and
 - 2** the person holds a current and valid National Council of Architectural Registration Boards Certificate; and
 - 3** the person notifies the board of the jurisdiction in writing that he/she is participating in the competition and holds an NCARB Certificate; and
 - 4** the person provides the board of the jurisdiction with a statement of intent that he/she will apply immediately to the board for registration, if selected as the architect for the project.
- D** The foregoing provisions for registration under the reciprocity procedure are to be in addition to the provisions found in the statute for registering applicants under the examination procedure (see Guideline III) and to any provisions in the statute providing other forms of reciprocity.

COMMENTARY

State statutes should acknowledge the procedure for interstate practice which is being followed throughout the United States; i.e., the registration of a non-resident holding the NCARB Certificate. This section of the guideline provides the mechanics by which the state board registers the Certificate holder. While this generally follows the practice of most states, to avoid any question as to the power of the board to honor the NCARB Certificate, it is advisable to set forth the procedure explicitly in the statute.

Even with the NCARB procedure accepted by most jurisdictions, the out-of-state architect has often faced a dilemma when he/she offers to render services in an initial interview with a prospective client or by entry in an architectural design competition. Technically, that interview or that entry in a design competition may violate the provisions of the local state law, in that the out-of-state architect is holding himself/herself out to be an architect (offering to render architectural services), in attempting to get the commission, without first having been registered in the jurisdiction.

Despite streamlining of the processing at NCARB Headquarters in Washington, a delay is inevitable between the time that an architect is first invited to be interviewed or is first notified of the design competition and the time that his/her Council Certificate can be forwarded to the local state board, be reviewed, and have the registration issued. To solve these problems, the guidelines adopt procedures whereby a qualified architect holding the NCARB certificate is admitted for the purpose of offering to render architectural services or for the purpose of participating in an architectural design competition without first having been registered. These procedures have worked well in the jurisdictions that have adopted them and have proved of great convenience to the architectural profession.

V FIRM PRACTICE

- A** A partnership (including a registered limited liability partnership), a limited liability company or a corporation should be admitted to practice architecture in a state if (1) two-thirds (2/3) of the general partners (if a partnership), two-thirds (2/3) of the managers (if a limited liability company), or two-thirds (2/3) of the directors (if a corporation) are registered under the laws of any state to practice architecture or engineering; (2) one-third (1/3) of the general partners (if a partnership), one-third (1/3) of the managers (if a limited liability company), or one-third (1/3) of the directors (if a corporation) are registered under the laws of any state

Firm requirements are outlined under Model Law Section 303.

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to practice architecture; and (3) the person having the practice of architecture in his/her charge is himself/herself a general partner (if a partnership), or a manager (if a limited liability company), or a director (if a corporation) and is registered to practice architecture in that state. The board should be empowered to require by regulation any partnership, limited liability company, or corporation practicing architecture in that state to file information concerning its officers, directors, managers, beneficial owners, and other aspects of its business organization, upon such forms as the board prescribes.

COMMENTARY

While a majority of states now permit the practice of architecture in the conventional corporate and partnership forms, and in the newer limited liability company form, the restrictions placed on corporate practice and limited liability company practice (and to a lesser degree on partnership practice) are often onerous. Worse still, these restrictions are so varied among the several states as to require an architectural firm organized as a corporation or limited liability company to consult with legal counsel in all cases before accepting work in another state. The guidelines seek a reasonable, nationwide provision respecting firm practice.

The requirements are that two-thirds of the directors or managers be registered to practice architecture or engineering under the laws of any state; that one-third of the directors or managers (in other words, at least one-half of the architect and engineer directors or managers) be registered to practice architecture under the laws of any state; and that the person having the practice of architecture in his/her charge be a director or manager, and that such person be registered to practice architecture in the state of the project. (In the case of a limited liability company in which management of its business is vested in the members, the requirement is intended to apply to the members.) This guideline does not require that all the directors or managers be architects; there may be engineers sitting on the board of directors. Moreover, up to one-third of the total number of directors or managers may be laymen. For example, most states require that corporations have a minimum of three directors. Accordingly, the small closely-held corporation, having only the minimum number of directors, may have a business advisor, accountant, or other person sitting on the board with two design professionals. Larger firms may wish to have a banker, lawyer, accountant, business advisor, or real estate consultant, or several of the foregoing, sitting on the board. The guideline allows this flexibility.

The utility of a provision of the kind proposed by the guidelines is emphasized by the fact that present restrictions on firm practice have had the effect of promoting techniques for circumventing laws restricting firm practice which can be used equally by responsible and irresponsible firms. For example, it has become common for an architect associated with a corporate firm to take a contract in a restrictive state in his/her individual name, thus technically complying with the law although the work is being done by an out-of-state corporate entity. Under this practice, a construction company employing a single architect is as able to evade the restrictions as a reputable architectural firm whose entire board comprises architects. Strict enforcement to prevent such practices in order to ban the company not in control of design professionals proves impossible as a practical matter, because such enforcement would result in wholesale barring of responsible corporate architectural firms in many states. The type of rule set forth in Guideline V-A, in contrast, could be used successfully to bar entry to corporate or limited liability company firms not controlled by professionals while not forbidding practice by the vast majority of legitimate corporate or limited liability company firms that should be able to meet the requirements.

There is no requirement concerning the ownership of a firm (e.g., the stockholders of a corporation). This matter was carefully considered in drafting the guideline. There are a number of good reasons for not requiring that ownership be exclusively in the hands of design professionals. These range from a frequent situation in the small corporation where the principal of the firm wishes to bequeath his/her stock to his/her spouse or children, to the possibility of larger firms seeking public ownership in order to capitalize adequately their practice. Since there are strong reasons for not restricting ownership, these must be weighed in the balance against the reasons for imposing restrictions.

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The principal, if not sole, argument for restricting ownership is that it ensures ultimate control of the firm in the hands of design professionals. But this argument is illusory. For example, a corporation, by statute, is managed by its board of directors. The role of stockholders is limited to electing and removing the directors in whom management is vested. While it is therefore true that laymen owning a majority of the shares may change the persons who constitute the board of directors, the laymen can never substitute laymen on the board of directors for professionals. Thus, the argument is reduced to the proposition that the laymen can find compliant architects more likely to do their bidding on the board of directors than the stubborn architect whom they discharged, a situation analogous to that currently existing between the owner and the architect. The architect has control over the design of a project only for so long as the owner keeps him/her under contract. If the owner is displeased with the architect or if the owner wants the architect to take action which the architect feels is unprofessional, the owner can discharge the architect and seek a more compliant architect to do his/her bidding.

Since much was to be gained by leaving the question of ownership to the discretion of the firm practitioners and very little was to be gained by imposing restrictions, it was decided that this guideline should confine itself to the composition of the firm's management.

It should be noted that the guidelines require merely that the design professionals be registered in any state and not necessarily in the state of the practice. One of the great problems confronting large firms practicing architecture is that several of the states require all directors (in the case of a corporation), all managers (in the case of a limited liability company [or all of the members in the case of a limited liability company in which management of its business is vested in the members]), and all partners (in the case of a partnership) to be registered in that state. Expense and unnecessary processing to achieve that goal is out of proportion to any useful purpose it serves.

The real protection for the public is that the person who has the project in his/her charge is a person who has qualified to practice architecture in the state. This guideline makes certain that will always be the case. In order to make clear that the architect is to be a principal of the firm, this guideline requires that he/she also be a director (if a corporation), a manager (if a limited liability company), or a general partner (if a partnership). (In the case of a limited liability company in which management of its business is vested in the members, the guideline is intended to require that he/she also be a member.) In the case of a corporation, it should be emphasized that the officers are mere employees of the corporation subject at all times to the direction of the board of directors. Thus, those present state laws requiring the architect practicing through the corporate firm to be an officer of the corporation too often find themselves dealing with a third vice president, who, except for that title, holds no position of importance in the corporate firm.

It is not the intent that a firm be registered, but only that a firm, complying with this guideline, may be a vehicle by which a registered architect may legally practice architecture.

The guidelines suggest that a state board may wish to have a special filing for firm practice so that the state will know at all times who the officers, directors, managers, and beneficial owners of the firm are. Many states have adopted such a practice.

B A firm otherwise qualified to practice in a state should be permitted to practice in that state under a name which does not include the names of every director (if a corporation), every manager (if a limited liability company), or every general partner (if a partnership) registered in any state to practice architecture, provided the firm complies with reasonable regulations of the state board requiring the firm to file the names, addresses, and other pertinent information concerning the directors (if a corporation), managers (if a limited liability company), or general partners (if a partnership) of the firm.

COMMENTARY

A handful of states still proscribe use of any firm name other than a name which includes the surnames of principals. This has yielded a curious anomaly. These names and those firms gained considerable reputations; but when they went into a state that proscribed generic names, they discarded the name under which they have developed a reputation and practiced as John C. Smith

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or Peter Jones. In such circumstances, the use of the surname is more misleading than the use of the assumed name under which the firm has developed its practice.

Again, the guidelines encourage the local state board to require the filing of a statement by firms operating under an assumed name so that the real names of principals will at all times be available.

VI CLASSES AND CHARACTERISTICS OF STRUCTURES WITH RESPECT TO WHICH PERSONS PERFORMING BUILDING DESIGN MAY BE EXEMPT FROM REGISTRATION REQUIREMENTS

INTRODUCTION

Most architectural registration statutes specify various kinds of structures which may, under special conditions, be designed by unregistered persons. In an effort to provide a basis for more uniformity among jurisdictions in establishing reasonable exemptions, NCARB, through its Committee on Procedures and Documents (P&D), in 1979 initiated a study of current statutory exemptions. While the results of this effort indicated almost as many variations as there are jurisdictions, it became apparent that there were five basic characteristics of buildings which, when used in varying combinations, formed the basis of establishing exemptions. These characteristics are:

- Cost of construction
- Area or volume
- Intended use or occupancy
- Number of stories or height
- Number of units or occupants

P&D decided to study how such exemptions affect the health, safety, and welfare of the public and then to fashion a legislative guideline in the light of its findings.

As a means of expanding the information base and of examining the impact and the roles of public building officials and licensed design professionals as they relate to the safety of the consumer, NCARB, in early 1981, organized a round-table discussion, including representatives of:

- Illinois Council of Code Administrators
- AIA Division of Codes and Standards
- National Society of Professional Engineers
- Victor O. Schinnerer and Company, Inc. (Professional liability insurance)
- International Conference of Building Officials
- U.S. Department of Housing and Urban Development

Building officials attending the meeting stated that the public may assume that the state or municipal building inspectors or code administrators are an effective means of assuring public health, safety, and welfare, but in practice this is rarely the case. A code administrator pointed out that while some of the building officials are indeed trained and registered as engineers and/or architects, they are a very small minority and that the majority has no professional academic background in engineering or architecture, although some do receive modest training in plan review for code compliance. The expectation that these dedicated and often overworked public servants can evaluate the technical adequacy of a complex building design is, in most instances, unrealistic.

While substantiating statistics are not available from public records, all participants at the round table agreed that their experiences would strongly support the concept that the public health, safety, and welfare can only be assured by requiring that licensed professionals design any significant improvements to real property. It was further established that few, if any, governmental building departments, inspectors, or code administrators have sufficient qualified staff to carry

Exemptions from the practice of architecture are outlined in Model Law Section 104 and Model Regulations R104.

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out their responsibilities; and that they must depend heavily upon licensed design professionals to deliver to the public safe structures designed within the limits of current codes. To demonstrate further potential for loss to the public, it was pointed out that errors and omissions insurance is not available from any source to unregistered persons.

In the summer of 1999, NCARB distributed a questionnaire to 9,450 building officials affiliated with the three major code organizations. One of the purposes of the questionnaire was to obtain from these officials their opinions (not necessarily the requirements of their existing laws) on what exemptions should be included within their statutes which would not impose overly restrictive standards, but which would reasonably protect the public health, safety, and welfare.

Of those responding, 95 percent agreed that a registered architect or engineer is essential on any “substantial” building project. Eighty-seven percent (87%) agreed that even well-staffed building departments must rely on registered design professionals to ensure that building designs meet performance standards of modern codes. Eighty-seven percent (87%) said that registered architects and engineers should be required to perform construction contract administration services. In response to a question asking what exemptions should be permitted in a model statute, 88 percent favored limiting the exemption only to one- and two-family dwellings and farm buildings. And a substantial minority favored deleting one- or two-family dwellings from the exemption.

While current statutes, with their broadly varying exemptions, attempt to limit risk to the public by limiting the building in some way (area, height, span, cost, function, etc.), it does not necessarily follow that these limitations will accomplish that goal.

It is assumed in the following guidelines that state registration laws begin with the requirement that plans and specifications for all buildings having a principal purpose of human occupancy or habitation shall be prepared and sealed by an architect registered in the state. The guideline then suggests principles upon which appropriate exemptions from the law may be developed. (Note, however, that some jurisdictions permit no exemptions.) In 1989, the Council deleted references to the engineering registration law from these guidelines because the Council believes that the public health, safety, and welfare is best protected by having architects and not engineers responsible for the design of buildings constructed for human occupancy or habitation. The scope of other structures that require the involvement of a registered engineer should be dealt with in the engineering registration law and not in the architectural registration law.

- A** Persons not registered under this registration law may design detached single- and two-family dwellings and any accessory buildings incidental thereto, unless an architect is otherwise required by law or by the building authority having jurisdiction over the project.

COMMENTARY

Single-and two-family dwellings have historically been designed by their owners and more recently by contractors and developers. In many instances, state statutes have continued to permit this exemption as a concession to the right of an individual to make risk decisions impacting primarily on his/her own family. As a practical matter, legislators have been unwilling to attempt to curtail the practice of an owner designing or purchasing a structure to house his/her own family.

While some statutes have attempted to limit the exemption to “designer occupied” structures, others have permitted a broader participation in the design of dwellings by omitting the limiting impact of designer occupancy. This less restrictive phrasing opens the field to contractors and developers on the premise that size and use do limit risk. On the other hand, limiting the exemption to “designer occupied” dwellings affords no protection to subsequent purchasers of the dwelling.

- B** Persons not registered under this registration law may design farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry or storage, if such structures are designed to be occupied by no more than 10 persons.

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COMMENTARY

States having particular occupations, whose participants have traditionally designed structures for their own use, may wish to continue to permit such buildings to be designed by non-licensed persons. This guideline recognizes the political reality that long-standing custom relating to occupations involving significant numbers of participants is unlikely to be changed by members of the state legislature. Farmers probably comprise the largest single group coming under this exemption. It would be appropriate, however, to consider limiting this and other traditionally “family” occupations when the magnitude of their individual operations requires involvement of significant numbers of non-family employees. Some non-agricultural states may support other occupations which, on the basis of history and custom, may require that buildings housing these occupations be exempt.

In any case, any effective statute attempting to limit risk to the public from failures in buildings must recognize that the only certain method is to limit the number of occupants permitted in that structure. Structural limitations in the building design (area, height, span, etc.) and building cost have no limiting effect on the numbers of people who may occupy the building and cannot be relied upon as effective means of protecting the public. Structural failures in tall single-story buildings erected on or near property lines or rights-of-way may compromise the safety of persons nearby. Limiting exempt structures to a single story, fixing maximum heights, and requiring substantial setbacks from property lines and rights-of-way will tend to localize the impact of any failure. It follows from the last restriction that, without engaging a registered design professional, no building may be built close to the property line.

The number of persons allowed to be put at risk is a judgment to be made by each jurisdiction.

- C** Persons not registered under this law may design particular features of a building when such features do not affect structural or other safety features of the building and when the work contemplated by the design does not require the issuance of a permit under applicable building codes.

COMMENTARY

This exemption would apply to any structure, including dwellings, factories, offices, and other commercial buildings, and recognizes that in many circumstances, competent, skilled trades-people can do the work. The references to structural and life-safety aspects are particularly important in instances where codes have not been adopted.

VII REQUIRING THAT AN ARCHITECT BE ENGAGED DURING THE CONSTRUCTION OF A PROJECT

- A** An owner who proceeds to have constructed a project having as its principal purpose human occupancy or habitation and not exempted under Section VI shall be deemed to be engaged himself/herself in the practice of architecture unless he/she has employed an architect to perform at least minimum construction contract administration services, including (i) periodic site visits, (ii) shop drawing review, and (iii) reporting to the owner and building official any violations of codes or substantial deviations from the contract documents which the architect observed.
- B** It shall be the project design architect’s obligation to report to the state board and to the building official if he/she is not engaged to provide construction contract administration services described in Paragraph A.
- C** A state board may waive these requirements with respect to a particular project or class of projects if it determines that the public is adequately protected without the necessity of an architect performing the services described in Paragraph A.

Construction administration is addressed in the commentary on Model Law Section 103(15)(i).

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COMMENTARY

This guideline increases the required role of the design architect during construction to at least the listed minimum of construction contract administration services. By stating that an owner who fails to engage an architect to perform such services for a project having as its principal purpose human occupancy or habitation is deemed to be engaged in the practice of architecture, it gives the state board legal power to seek a remedy against the owner failing to meet the requirement.

The origin of this provision was the statement of a significant number of building officials taking part in a 1981 NCARB survey that contracts for professional services that terminate upon completion of construction documents, which do not then provide for professional administration during construction, often result in buildings that do not meet code requirements that were specified in the documents. (In a 1999 survey of building officials, 87 percent of the respondents favored requiring that architects and engineers perform on-site observation during construction.) The Council believes that in order to effectively protect the public health, safety, and welfare, statutes must include language requiring the retention of registered architects to provide responsible professional involvement throughout the construction process on all non-exempt structures.

The guideline suggests that the design architect be engaged for at least the minimum of construction phase professional services which include periodic site visits, shop drawing review, and reporting to the owner and the building official any violations of codes or substantial deviations from the contract documents which the architect observes. Most agreements between architects and their clients require that the architect report any observed code violations and defects in the work to the owner. The building codes of many jurisdictions require that a registered architect or engineer perform the other construction contract administration services listed in the guideline. For example, the city of Boston requires an architect or engineer to make at least one site visit per week, to be responsible for inspecting all phases of construction, and to notify the building official of any code violations, discrepancies between the design documents and the work in progress, and any condition constituting a hazard, which the architect observes. The International Building Code requires special inspections by a registered design professional.

Under legislation enacted pursuant to this guideline, if an architect is not engaged to perform the designated minimum construction phase services, then the owner is deemed to be himself/herself engaged in the unauthorized practice of architecture. This will allow the state board to seek an injunction, civil fines, and/or criminal complaints as appropriate to the circumstances and as permitted by the relevant state law. The enforcement role of the state board and local building official is aided by the design architect's obligation under the guideline to make both the state board and local building official aware of situations in which the design architect is not engaged to provide construction contract administration services. Presumably, the level of enforcement would be commensurate with the risk to the public health, safety, and welfare. For example, if an owner did not engage an architect to provide construction phase services in connection with the construction of a major downtown office building, the first course of action for a state board likely would be to seek an injunction to prevent the further construction of the building. A criminal complaint might be sought in circumstances where an owner has repeatedly disregarded this rule at peril to the public health, safety, and welfare. Civil fines might be imposed both to discourage transgressions of the law and to assist in funding enforcement efforts.

Of course, state boards should be free to waive these requirements for projects that do not require an architect to perform construction contract administration services in order to adequately protect the public. Structures that may be designed without the involvement of a registered architect under Section VI of the guidelines, for example, should also be exempted from the requirement that an architect be engaged to perform construction phase services. Where a public agency has its own experienced construction contract administration staff, the state board may exempt the agency's projects from this requirement. The board should be able to exempt both specific projects and categories of projects.

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VIII PRACTICING ARCHITECTURE

- A** While violation of the architectural registration law by unregistered persons should be a crime, the state board should also be authorized, after a hearing, to impose civil fines of up to a stated amount, such as \$3,000, and to issue orders to cease against unregistered persons and persons aiding or abetting unregistered persons. The board, as well as the state attorney general and county or other local law enforcement authorities, should be authorized to seek injunctions against practice by unregistered persons and the aiding or abetting of such practice, and judicial enforcement of civil fines imposed by the board.
- B** All plans, specifications, and other technical submissions (“technical submissions”) prepared in the course of practicing architecture (as defined in Guideline I) and required to be filed with state or local building or public safety officials should be sealed by an architect. If state law provides certain exceptions to the general requirement that technical submissions be sealed, then the person filing the technical submissions should specify on them the state law exempting the preparation of those technical submissions. Any permit issued on the basis of technical submissions not complying with these requirements shall be invalid.

COMMENTARY

Virtually all state laws make the unregistered practice of architecture a crime. Yet most state boards have found that busy public prosecutors are rarely persuaded to prosecute unregistered persons practicing architecture. Except where life or property may already have suffered, prosecutors have generally given priority to “more serious” crimes. Authorizing the board itself to impose a civil fine after a hearing will unburden busy prosecutors and at the same time provide a more fitting sanction for many cases of unregistered practice. New Jersey has long had such authority and has used it with great effect. Many other states also have legislative authorization to impose civil fines. Where a fine remains unpaid or where the board believes that a court injunction is necessary to halt continuing unregistered practice, the board itself, as well as other public law enforcement authorities, should be authorized to apply to courts to enforce the board’s orders to pay the fine or to cease the unregistered practice.

Local and state building and public safety officials have historically relied on the professional expertise implied by professional seals affixed to plans filed to obtain governmental permits. Therefore, state boards should consider pressing for including the substance of Guideline VII B in statutes, building codes, and other codes applicable throughout their states. By placing the burden of certifying the applicability of exemptions on applicants, they as well as building officials can be expected to aid enforcement of the seal requirement. By providing that permits erroneously issued without the required seals are invalid, NCARB expects private enforcement of these provisions by owners and their lenders.

IX PRACTICE BY FOREIGN ARCHITECTS

A person duly registered as an architect outside of the United States and Canada should be allowed to practice architecture in affiliation with a local architect within a state under the following conditions:

- A** The foreign architect must show that he/she holds a current registration in good standing which allows him/her to use the title “architect” and to engage in the unlimited practice of architecture in his/her national jurisdiction.
- B** The foreign architect must show that a bilateral agreement exists between NCARB and the national registration authority of his/her national jurisdiction.
- C** The foreign architect must affiliate with an architect duly registered in the state, who shall take responsible control over all aspects of the architectural services for any project in which the foreign architect is involved, and who shall file a written statement with the state board identifying the foreign architect, describing the project, and describing the foreign architect’s role.

Fines for practicing without a license are addressed under Model Law Section 503 and Model Regulations R503.

Technical submissions are addressed in Model Law Section 103(17).

Requirements for foreign architects are outlined in Model Regulations R301(6) and R302(1).

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D The [foreign] architect must use the title: “[X], a foreign architect, in consultation with [Y], an architect registered in [state].”

COMMENTARY

In 1998, the Council Board presented to the Annual Meeting a proposal by which foreign architects would be permitted to engage in architectural practice in the United States provided a U.S.-registered architect took responsible control over all aspects of the services to be performed. This proposal would require an agreement between NCARB, on the one hand, and the equivalent national registration body in the foreign country, on the other, before an architect registered in the foreign country would be permitted to engage in architectural practice in the United States. In contrast with inter-recognition agreements, such as the one between the U.S. and Canada, which accepts the two registration systems as sufficiently similar as to permit a registered architect in Canada and a registered architect in the United States freedom to practice in the other country, such agreements may be reached with countries whose registration requirements vary substantially from our own. State boards are encouraged to accept this procedure nonetheless because the public is protected by the role of the U.S. architect exercising responsible control over all aspects of the work.

Based on the 1998 report, the Council adopted the notion of bilateral accords in principle, asking that a legislative guideline be submitted to the 1999 Annual Meeting. That was done, and the Council adopted the new guideline without dissent.

Rather than include Legislative Guidelines in the revised *NCARB Model Law and Regulations*, the task force has chosen to either include as statutory or regulatory language or as commentary where appropriate.

Section 1 – Definitions

The following words as used in Sections 1 to 13 inclusive, unless the context otherwise requires, shall have the following meaning:

“Architect.”

Any person who engages in the practice of architecture as hereinafter defined.

“Architect Emeritus.”

Means an honorific title granted to a previously registered architect who has retired from the active practice architecture.

“Board.”

The Board of Registration of Architects established by **[Here, make reference to statute establishing Board; if no separate statute exists which sets out the composition of Board, terms, compensation, etc., insert those provisions as “Section 2–Board” and renumber existing Section 2 and all subsequent sections.]**.

“Good moral character.”

Such character as will enable a person to discharge the fiduciary duties of an architect to his/her client and to the public for the protection of health, safety, and welfare. Evidence of inability to discharge such duties shall include the commission of an offense justifying discipline under Section 7.

“Practice of architecture.”

Providing or offering to provide those services, hereinafter described, in connection with the design and construction, enlargement, or alteration of a building or group of buildings and the space within and the site surrounding such buildings, which have as their principal purpose human occupancy or habitation. The services referred to include pre-design, programming, planning, providing designs, drawings, specifications and other technical submissions, the administration of construction contracts, and the coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects; provided that the practice of architecture shall not include the practice of engineering as defined in **[Statute Reference]**, but a registered architect may perform such engineering work as is incidental to the practice of architecture.

“Prototypical building.”

Any commercial building or space within a commercial building that is intended to be constructed in multiple locations, and in fact then has been constructed in multiple locations, and which conveys an owner’s intended uniform business program, plan, or image.

“Prototypical building documents.”

Technical submissions for prototypical buildings that are prepared by or under the responsible control of an architect then registered in any United States jurisdiction and holding a current and valid certification issued by the National Council of Architectural Registration Boards, that identify such architect together with the architect’s registration number, jurisdiction of registration, and National Council of Architectural Registration Boards Certificate number and that are marked “Prototypical Design Documents Not for Construction.” Prototypical building documents do not comprise a final, comprehensive set of design and construction documents because a prototypical building also requires adaptations for local conditions, including site conditions, and may require additional design as well.

“Registered architect.”

An architect holding a current registration.

“Registration.”

The certificate of registration issued by the Board.

Definitions can be found in Model Law Section 103 and Model Regulations R103.

While “Architect Emeritus” is no longer included as a definition, it is addressed in Model Law Section 308 and Model Regulations R308.

While “Good Moral Character” is no longer included as a definition, it is addressed in Model Law Section 301.

While “Registered architect” is no longer included as a separate definition, for consistency the reference is now the term “Architect.”

“Responsible control.”

That amount of control over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by a registered architect applying the required professional standard of care, including but not limited to an architect’s integration of information from manufacturers, suppliers, installers, the architect’s consultants, owners, contractors, or other sources the architect reasonably trusts that is incidental to and intended to be incorporated into the architect’s technical submissions if the architect has coordinated and reviewed such information. Other review, or review and correction, of technical submissions 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 submissions throughout their preparation.

“Technical Submissions.”

Designs, drawings, specifications, studies, and other technical documents prepared in the course of practicing architecture. All technical submissions shall be identified by date and by the name and address of the architect or the architect’s firm.

Section 2 – Fees

[Here, set out fee structure for all matters for which a fee is set by statute, and/or identify procedure for establishing fees which are set other than by statute. Do not include examination fees.]

Section 3 – Registration Qualifications

Every person applying to the Board for initial registration shall submit an application accompanied by the fee established in accordance with Section 2, with satisfactory evidence that such person holds an accredited professional degree in architecture or has completed such other education as the Board deems equivalent to an accredited professional degree. If an applicant is qualified in accordance with the preceding sentence, such person shall then provide the Board with satisfactory evidence that such person has completed such practical training in architectural work as the Board requires and has passed an examination on such technical and professional subjects as are accepted by the Board. None of the examination materials shall be considered public records **[for purposes of state public records act]**. The Board may exempt from such written examination an applicant who holds a current and valid certification issued by the National Council of Architectural Registration Boards. The Board may accept as its own the requirements governing practical training and education published from time to time by the National Council of Architectural Registration Boards. The Board may also accept the examinations and grading procedures of the National Council of Architectural Registration Boards and the accreditation decisions of the National Architectural Accrediting Board. The Board shall issue its registration to each applicant who is found to be of good moral character and who satisfies the requirements set forth in this Section. Such registration shall be effective upon issuance.

Any person who holds a current and valid certification issued by the National Council of Architectural Registration Boards, who holds a current and valid registration issued by a registration authority recognized by the Board, who files his/her application with the Board on a form prescribed by the Board containing information pertinent to such person as is satisfactory to the Board, and who pays such fee as is prescribed by the Board shall have satisfied the basic education, experience, and national examination requirements of the Board for registration.

Section 3A – Registration of Military Personnel

The board may, upon presentation of satisfactory evidence by an applicant for licensure, accept education, training, or service completed by an individual as a member of any branch of the military toward the qualifications to receive their license. The board shall promulgate rules to implement this section.

“Responsible control” has been renamed “Responsible Charge” in the updated document, better reflecting current practice.

Fees can be found in Model Regulations R313.

Registration Qualifications can be found under Model Law Article III – Licensing, Sections 301 and 302 and Model Regulations R301 and R302. In line with current board language, the task force has provided a clearer separation between initial licensure qualifications and reciprocal licensure qualifications.

The task force has also included the concept of Firm Registration in Model Law Section 303.

Licensure requirements for military personnel can be found under Model Regulations R301(5).

Section 4 – Registration Renewal

The Board shall mail yearly **[or state other time interval]** to every registered architect an application for renewal of registration. Such application, properly filled out and accompanied by the renewal fee established in accordance with Section 2, shall be returned to the Board on or before the date established by the Board. After review of the facts stated in the general renewal application, the Board shall issue a registration which shall be valid for one year **[or state other time interval]**. Any holder of a registration who fails to renew his/her application on or before the prescribed date shall, before again engaging in the practice of architecture within the state, be required to apply for reinstatement, pay the prescribed fee, and, in circumstances deemed appropriate by the Board, be required to be reexamined.

There is hereby created, for registration renewal purposes, a status to be known as “architect emeritus,” which shall apply to architects who are retired and not practicing any aspects of Architecture and who are 65 years of age or older or have been registered for a minimum of “10” years [in their state].

[States requiring that each registered architect demonstrate continuing education should include the following] A registered architect must demonstrate completion of annual continuing education activities. The Board shall by regulation describe such activities acceptable to the Board and the documentation of such activities required by the Board. The Board may decline to renew a registration if the architect’s continuing education activities do not meet the standards set forth in the Board’s regulations.

Section 5 – Certificate of Registration

Every registered architect having a place of business or employment within the state shall display his/her certificate of registration in a conspicuous place in such place of business or employment. A new certificate of registration, to replace a lost, destroyed or mutilated certificate, shall be issued by the Board upon payment of a fee established in accordance with Section 2 and such certificate shall be stamped or marked “duplicate.”

Section 6 – Seal

Every registered architect shall have a seal of a design authorized by the Board by regulation. All technical submissions, which are (a) required by public authorities for building permits or regulatory approvals, or (b) are intended for construction purposes, including all addenda and other changes to such submissions, shall be sealed and signed by the architect. The signature and seal may be electronic. By signing and sealing a technical submission the architect represents that the architect was in responsible control over the content of such technical submissions during their preparation and has applied the required professional standard of care. An architect may sign and seal technical submissions only if the technical submissions were: (i) prepared by the architect; (ii) prepared by persons under the architect’s responsible control; (iii) prepared by another architect registered in the same jurisdiction if the signing and sealing architect has reviewed the other architect’s work and either has coordinated the preparation of the work or has integrated the work into his/her own technical submissions; or (iv) prepared by another architect registered in any United States jurisdiction and holding a current and valid certification issued by the National Council of Architectural Registration Boards if (a) the signing and sealing architect has reviewed the other architect’s work and has integrated the work into his/her own technical submissions and (b) the other architect’s technical submissions are prototypical building documents. An architect may also sign and seal drawings, specifications or other work which is not required by law to be prepared by an architect if the architect has reviewed such work and has integrated it into his/her own technical submissions. No public official charged with the enforcement duties set forth in [statutory references for building officials] shall accept or approve any technical submissions involving the practice of architecture unless the technical submissions have been sealed as required by this Section or the applicant has certified thereon to the applicability of a specific exception under Section 11 permitting the preparation of such technical submissions by a person not registered hereunder. A building permit

Registration renewal information can be found under Model Law Section 305 and Model Regulations R305.

Continuing education has become its own section under Model Law Section 304 and Model Regulations R304.

This section is not included in the revised document to be consistent with contemporary practice and state requirements.

Language regarding seals can be found under Model Law Section 401 and Model Regulations R401.

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issued with respect to technical submissions which do not conform with the requirements of this Section shall be invalid. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible control by persons not regularly employed in the office where the architect is resident, shall maintain and make available to the board upon request for at least five years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the architect's control over and detailed knowledge of such technical submissions throughout their preparation. Any registered architect signing or sealing technical submissions integrating the work of another architect into the registered architect's own work as permitted under clauses (iii) or (iv) above shall maintain and make available to the board upon request for at least five years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the registered architect's review of and integration of the work of such other architect's work into his/her own technical submissions, and that such review and integration met the required professional standard of care.

Section 7 – Disciplinary Powers

The Board may revoke, suspend, or annul a registration, or impose a civil penalty in an amount not greater than [] thousand dollars for each violation, upon proof satisfactory to the Board that any person has violated the provisions of this Chapter or any rules promulgated by the Board under **[statutory reference giving Board authority to establish rules and regulations]**. In hearing matters arising under this Section, the Board may take into account suitable evidence of reform.

Section 8 – Disciplinary Procedures

Charges against any person involving any matter coming within the jurisdiction of the Board shall be in writing and shall be filed with the Board. Such charges, at the discretion of the Board, shall be heard within a reasonable time after being so filed. The accused person shall have the right at such hearing to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his/her defense. The Board shall set the time and place for such hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused person, at his/her latest place of residence or business known to the Board, at least [] days before such date. If after such hearing the Board finds the accused person has violated any of the provisions of this Chapter or any of the rules promulgated by the Board, it may issue any order described in Section 7. If the Board finds no such violation, then it shall enter an order dismissing the charges. If the order revokes, suspends or annuls an architect's registration, the Board shall so notify, in writing, the State Secretary and the Clerk of the city or town in the state wherein such architect has a place of business, if any.

The Board may re-issue a registration to any person whose registration has been revoked. Application for the reissuance of said registration shall be made in such a manner as the Board may direct, and shall be accompanied by a fee established in accordance with Section 2.

Section 9 – Registration *Prima Facie* Evidence

Every registration issued and remaining in force shall be *prima facie* evidence in all courts of the state that the person named therein is legally registered as an architect for the period for which it is issued, and of all other facts stated therein.

Section 10 – Prohibition

Except as hereinafter set forth in Section 11, no person shall directly or indirectly engage in the practice of architecture in the state or use the title "Architect," "Registered Architect," "Architectural designer," or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that such person is an architect or is practicing architecture, unless he/she is registered under the provisions of this Chapter, except that a person registered in another jurisdiction or a person retired from the practice of architecture may use

Language regarding disciplinary authority can be found under Model Law Section 501 and Model Regulations R501.

This section has been separated into "Disciplinary Procedures" (Model Law Section 502/Regulations R502) and "Disciplinary and Other Enforcement Actions (Model law Section 503/Regulations R503).

This section can be found under Model Law Section 310 and Model Regulations R310.

This section has been renamed "Unlawful Practice" and can be found under Model Law Section 402 and Model Regulations R402.

the title “architect” when identifying his/her profession in circumstances which would not lead a reasonable person to believe that the person using the title “architect” is offering to perform any of the services which the practice of architecture comprises. No person shall aid or abet any person, not registered under the provisions of this Chapter, in the practice of architecture.

Section 10A – Construction Contract Administration Services Required

1. The Owner of any real property who allows a Project to be constructed on such real property shall be engaged in the practice of architecture unless such Owner shall have employed or shall have caused others to have employed a registered architect to furnish Construction Contract Administration services with respect to such Project.
2. For purposes of this Section the following terms shall have the following meanings:
 - a) “Owner” shall mean with respect to any real property any of the following persons: (i) the holder of a mortgage secured by such real property; (ii) the holder, directly or indirectly, of an equity interest in such real property exceeding 10 percent of the aggregate equity interests in such real property; (iii) the record owner of such real property; or (iv) the lessee of all or any portion of such real property when the lease covers all of that portion of such real property upon which the Project is being constructed, the lessee has significant approval rights with respect to the Project, and the lease, at the time the construction of the Project begins, has a remaining term of not less than 10 years.
 - b) “Project” shall mean the construction, enlargement, or alteration of a building, other than a building exempted by the provisions of Section 11.1, which has as its principal purpose human occupancy or habitation.
 - c) “Construction Contract Administration Services” shall comprise at least the following services: (i) visiting the construction site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the building official at the time the building permit was issued; (ii) processing shop drawings, samples, and other submittals required of the contractor by the terms of construction contract documents; and (iii) notifying an Owner and the Building Official of any code violations; changes which affect code compliance; the use of any materials, assemblies, components, or equipment prohibited by a code, major or substantial changes between such technical submissions and the work in progress; or any deviation from the technical submissions which he/she identifies as constituting a hazard to the public, which he/she observes in the course of performing his/her duties.
 - d) “Building Official” shall mean the person appointed by the municipality or state subdivision having jurisdiction over the Project to have principal responsibility for the safety of the Project as finally built **[or use state statute or building code language]**.
3. If the registered architect who sealed the technical submissions which were submitted to the Building Official at the time the building permit was issued has not been employed to furnish Construction Contract Administration Services at the time such registered architect issued such technical submissions, he/she shall note on such technical submissions that he/she has not been so employed. If he/she is not employed to furnish Construction Contract Administration Services when construction of the Project begins, he/she shall file, not later than 30 days after such construction begins, with the Board and with the Building Official, on a form prescribed by the Board, a notice setting forth the names of the Owner or Owners known to him/her, the address of the Project, and the name, if known to him/her, of the registered architect employed to perform Construction Contract Administration Services. If he/she believes that no registered architect has been so employed, he/she shall so state on the form. Any registered architect who fails to place the note on his/her technical submissions or to file such notice, as required by this paragraph, shall have violated the provisions of this chapter and shall be subject to discipline as set forth herein.
4. If the Board determines, with respect to a particular Project or class of Projects, that the public is adequately protected without the necessity of a registered architect performing Construction Contract Administration Services, the Board may waive the requirements of this Section with respect to such Project or class of Projects.

Aspects of this concept have been absorbed into other defined terms in Section 103.

Section 11 – Exceptions

Nothing in this chapter shall be construed to prevent:

1. The practice of architecture performed in connection with any of the following:
 - a) A detached single- or two-family dwelling and any accessory buildings incidental thereto, unless an architect is otherwise required by law or by the building authority having jurisdiction over the project; or
 - b) Farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if such structures are designed to be occupied by no more than 10 persons; or
 - c) Any construction of particular features of a building, if the construction of such features does not require the issuance of a permit under any applicable building code and does not affect structural or other life-safety aspects of the building.
2. The preparation of submissions to an architect by manufacturers, suppliers, installers, the architect's consultants, owners, contractors, or others of any materials, components, equipment, or other information incidental to the architect's design of the entire project that describe or illustrate the use of such submissions.
3. The preparation of any details or shop drawings required of the contractor by the terms of the construction documents.
4. The management of construction contracts by persons customarily engaged in contracting work.
5. The preparation of technical submissions or the administration of construction contracts by persons acting under the responsible control of a registered architect.
6. Officers and employees of the United States of America from engaging in the practice of architecture as employees of said United States of America.
7. The following entities: a partnership (including a registered limited liability partnership), limited liability company, or corporation (including a professional corporation) from performing or holding itself out as able to perform any of the services involved in the practice of architecture; provided, that two-thirds of the general partners (if a partnership), or two-thirds of the managers (if a limited liability company), or two-thirds of the directors (if a corporation) are registered under the laws of any United States jurisdiction as architects or engineers and that one-third are registered as architects; and further provided that any agreement to perform such services shall be executed on behalf of the entity by an officer of the entity with authority to contractually bind the entity, a general partner, manager, or director, as the case may be, who holds registration in this state, and that an officer, general partner, manager, or director who holds registration in this state will exercise responsible control over the particular services contracted for by the partnership, limited liability company, or corporation; and provided further that the partnership, limited liability company, or corporation furnishes the Board with such information about its organization and activities as the Board shall require by regulation. "Managers" shall mean the members of a limited liability company in which management of its business is vested in the members, and the managers of a limited liability company in which management of its business is vested in one or more managers.
8. A partnership (including a registered limited liability partnership), limited liability company, or corporation (including a professional corporation) from offering a combination of (i) services involved in the practice of architecture and (ii) construction services; provided that
 - a) a registered architect or person otherwise permitted under paragraph 9 of this Section to offer architectural services participates substantially in all material aspects of the offering;
 - b) there is written disclosure at the time of the offering that a registered architect is engaged by and contractually responsible to such partnership, limited liability company, or corporation;

This section has been streamlined and renamed "Activities and Individuals Excluded from the Practice of Architecture" and can be found under Model Law Section 104 and Model Regulations R104.

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- c) such partnership, limited liability company, or corporation agrees that the registered architect will have responsible control of the work and that such architect's services will not be terminated without the consent of the person engaging the partnership, limited liability company, or corporation, and;
 - d) the rendering of architectural services by such registered architect will conform to the provisions of the Chapter and the rules adopted hereunder.
9. A person, who holds a current and valid certification issued by the National Council of Architectural Registration Boards but who is not currently registered in the jurisdiction, from offering to provide the professional services involved in the practice of architecture; provided that he/she shall not perform any of the professional services involved in the practice of architecture until registered as hereinbefore provided; and further provided that he/she notifies the Board in writing that (i) he/she holds an NCARB Certificate and is not currently registered in the jurisdiction, but will be present in **[the State]** for the purpose of offering to provide architectural services; (ii) he/she will deliver a copy of the notice referred to in (i) to every potential client to whom the person offers to provide architectural services; and (iii) he/she will provide the Board with a statement of intent that he/she will apply immediately to the Board for registration, if selected as the architect for a project in **[the State]**.
10. A person, who holds a current and valid certification issued by the National Council of Architectural Registration Boards but who is not currently registered in the jurisdiction, from seeking an architectural commission by participating in an architectural design competition for a project in **[the State]**; provided that he/she notifies the Board in writing that (i) he/she holds an NCARB Certificate and is not currently registered in the jurisdiction, but will be present in **[the State]** for the purpose of participating in an architectural design competition; (ii) he/she will deliver a copy of the notice referred to in (i) to every person conducting an architectural design competition in which the person participates; and (iii) he/she will provide the Board with a statement of intent that he/she will apply immediately to the Board for registration, if selected as the architect for the project.
11. A person who is not currently registered in this state, but who is currently registered in another United States or Canadian jurisdiction, from providing uncompensated (other than reimbursement of expenses) professional services at the scene of an emergency at the request of a public officer, public safety officer, or municipal or county building inspector acting in an official capacity. "Emergency" shall mean earthquake, eruption, flood, storm, hurricane, or other catastrophe that has been designated as a major disaster or emergency by the President of the United States or **[the governor or other duly authorized official of the state]**.
12. An individual, registered and practicing in a nation other than the United States or Canada (a "foreign architect") from practicing in this jurisdiction, so long as such practice is in strict accordance with the provisions of this subsection:
 - a) The foreign architect must show that he/she holds a current registration in good standing which allows him/her to use the title "architect" and to engage in the "unlimited practice of architecture" (defined as the ability to provide services on any type building in any state, province, territory, or other political subdivision of his/her national jurisdiction).
 - b) The foreign architect must show that a bilateral agreement exists between NCARB and the national registration authority of his/her national jurisdiction.
 - c) An architect registered in this jurisdiction shall take responsible control over all aspects of the architectural services for said project.
 - d) The foreign architect may not seek, solicit, or offer to render architectural services in this jurisdiction, except with the material participation of the architect referred to in (c) above.
 - e) Promptly after the foreign architect has been selected to provide architectural services for a project within this jurisdiction, the architect referred to in (c) above must file a statement with the Board, (1) identifying the foreign architect, (2) describing the project, and (3) describing the foreign architect's role.

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f) In all aspects of offering or providing architectural services within this jurisdiction, the foreign architect must use the title “[X], a foreign architect in consultation with [Y], an architect registered in **[this jurisdiction]**.”

- 13.** A person currently employed under the responsible control of an architect, and who maintains in good standing a National Council of Architectural Registration Boards Record, from using the title “intern architect” or “architectural intern” **[some states allow both; some only one]** in conjunction with his/her current employment. Such person may not engage in the practice of architecture except to the extent permitted by other provisions of this Section 11.

Section 12 – Enforcement

The Board shall be charged with the enforcement of the provisions of Sections 1 through 11 inclusive and of the rules adopted hereunder. If any person refuses to obey any decision or order of the Board, the Board or, upon the request of the Board, the Attorney General or the appropriate District Attorney shall file an action for the enforcement of such decision or order, including injunctive relief, in the **[designate court with appropriate jurisdiction]**. After due hearing, the court shall order the enforcement of such decision or order, or any part thereof, if legally and properly made by the Board and, where appropriate, injunctive relief.

Section 13 – Penalties

Whoever violates any provisions of Sections 1 to 11, inclusive, shall be punished by a fine of not more than [] thousand dollars or by imprisonment in a jail or house of correction for not more than [] months, or both.

This section can be found under Model Law Section 501 and Model Regulations R501.

This section has been incorporated into Model Law Section 503 and Model Regulations R503.

NOTE ON THE CONSTITUTIONAL LIMITS OF DELEGATION OF REGULATORY STANDARDS

The constitution of each state provides that the lawmaking power of the state shall be vested in its legislature. A state legislature may delegate its lawmaking power to administrative agencies as long as the legislature provides sufficient guidance for the proper exercise of that power. While lawmaking powers may not be delegated to non-governmental bodies, courts allow the incorporation of standards set by non-governmental bodies into statutes and regulations if the administrative agency, such as the architectural registration board, retains the discretion to approve or disapprove the standards. *Madrid v. St. Joseph's Hosp.*, 928 P.2d 250, 257, 258 (N.M. 1996). In such a case, the legislature “does not give the outside entity the power to determine what the law will be”. See *id.* at 256. See also *Bd. of Trustees of the Employees' Ret. Sys. Of the City of Baltimore v. Mayor and City Council of Baltimore City*, 562 A. 2d 720, 730 (Md. 1989), *Sutherland v. Ferguson*, 397 P.2d 335, 340 (Kan. 1964); *Tain v. State Bd. of Chiropractic Exam'rs*, 30 Cal.Rptr.3d 330, 347 (Cal. Ct. App. 2005).

For these reasons, the Model Law is permissive in allowing a state architectural registration board to adopt the education, training, and examination requirements promulgated by NCARB. (“The Board may adopt as its own regulations governing practical training and education those guidelines published from time to time by the National Council of Architectural Registration Boards. The Board may also adopt the examinations and grading procedures of the National Council of Architectural Registration Boards and the accreditation decisions of the National Architectural Accrediting Board.”) The Model Regulations also permit the Board to accept NCARB education, training and examination requirements from time to time (“as accepted by the Board from time to time”). Also, the Model Regulations provide in Section 100.301(B) that an applicant may show that other experience is equivalent or better than that required by the NCARB standards.

Even if the NCARB standards were explicitly required by law or regulation, many courts have upheld such incorporation “where the standards are issued by a well-recognized, independent authority, and provide guidance on technical and complex matters within the entity’s area of expertise”. *Bd. of Trustees*, 562A. 2d at 731 and cases cited. While NCARB is a non-governmental body, its only members who set its policies are state and territorial boards of registration of architects.

While informed by NCARB legal counsel, the revised document does not explicitly include legal theory explanations.

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SCOPE; DEFINITIONS

100.001 Purpose

These rules and regulations are set forth for the purpose of interpreting and implementing **[cited statute]** establishing the Board, and conferring upon it responsibility for registration of architects and the regulation of the practice of architecture.

100.002 Citation

These rules and regulations shall be known, and may be cited, as **[popular name]**.

100.003 Board's Regulatory Authority

These rules and regulations are promulgated under authority of **[cited statute]**, and in conformity with applicable provisions of the state administrative procedure act. **[cited statute]**

100.004 Severability

If any provisions of these regulations or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or the application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

100.005 Terms Defined by Statute

Terms defined in **[cited statute]** shall have the same meanings when used in these regulations unless the context or subject matter clearly requires a different interpretation.

100.006 Terms Defined Herein

As used in these regulations, the following terms shall have the following meanings unless the context or subject matter clearly requires a different interpretation.

Applicant

An individual who has submitted an application for registration to the Board.

Architect

[Presumed to be defined in statute. If not, incorporate definition from Model Law.]

Education Requirements

The education requirements including equivalences established from time to time by NCARB as the education requirements for certification by NCARB, as accepted by the Board from time to time.

Examination

The Architect Registration Examination® (ARE®) prepared by and administered through NCARB, as accepted by the Board from time to time.

NCARB

The National Council of Architectural Registration Boards.

Practice of Architecture

[Presumed to be defined in statute. If not, incorporate definition from Model Law]

Prototypical Building

Any commercial building or space within a commercial building that is intended to be constructed in multiple locations, and in fact then has been constructed in multiple locations, and which conveys an owner's intended uniform business program, plan or image.

Purpose and authority are outlined in R102.

Severability is addressed in Model Law Section 701 and Model Regulations R701.

Unless otherwise noted, definitions can be found in Model Regulations R103.

The term "Applicant" was moved to Model Law Section 103.

The term "Architect" was moved to Model Law Section 103.

Education requirements were moved to Model Law Section 103.

Examination was moved to Model Law Section 103.

NCARB was moved to Model Law Section 103.

The practice of architecture is defined in Model Law Section 103.

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Prototypical Building Documents

Technical submissions for prototypical buildings that are prepared by or under the responsible control of an architect then registered in any United States jurisdiction and holding a current and valid certification issued by the NCARB, that identify such architect together with the architect's registration number, jurisdiction of registration and NCARB certificate number and that are marked "Prototypical Design Documents Not for Construction." Prototypical building documents do not comprise a final, comprehensive set of design and construction documents because a prototypical building also requires adaptations for local conditions, including site conditions, and may require additional design as well.

Responsible Control

That amount of control over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by a registered architect applying the required professional standard of care, including but not limited to an architect's integration of information from manufacturers, suppliers, installers, the architect's consultants, owners, contractors, or other sources the architect reasonably trusts that is incidental to and intended to be incorporated into the architect's technical submissions if the architect has coordinated and reviewed such information. Other review, or review and correction, of technical submissions 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 submissions throughout their preparation.

Technical Submissions

Designs, drawings, specifications, studies and other technical documents prepared in the course of practicing architecture. All technical submissions shall be identified by date and by the name and address of the registered architect or the registered architect's firm.

Training Requirements

The Architectural Experience Program (AXP), formerly known as the Intern Development Program (IDP), training requirements established from time to time by NCARB for certification by NCARB, as accepted by the Board from time to time.

[Boards requiring that each registered architect demonstrate continuing education should include the following definitions.]

Continuing Education (CE)

Continuing education is post-licensure learning that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public's health, safety, and welfare.

Continuing Education Hour (CEH)

One continuous instructional hour (50 to 60 minutes of contact) spent in Structured Educational Activities intended to increase or update the architect's knowledge and competence in Health, Safety, and Welfare Subjects. If the provider of the Structured Educational Activities prescribes a customary time for completion of such an Activity, then such prescribed time shall, unless the Board finds the prescribed time to be unreasonable, be accepted as the architect's time for Continuing Education Hour purposes irrespective of actual time spent on the activity.

Health, Safety, and Welfare Subjects

Technical and professional subjects related to the practice of architecture that the Board deems appropriate to safeguard the public and that are within the following continuing education subject areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

PRACTICE MANAGEMENT: This category focuses on areas related to the management of architectural practice and the details of running a business.

While this concept is addressed, the term "Prototypical Building Documents" is not explicitly defined in the revised regulations.

"Responsible control" was defined as "Responsible Charge" under Model Law Section 103.

The term "Technical Submissions" was moved to Model Law Section 103.

Training requirements were moved to Model Law Section 103.

The concept of "Continuing Education" is addressed in R304.

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PROJECT MANAGEMENT: This category focuses on areas related to the management of architectural projects through execution.

PROGRAMMING & ANALYSIS: This category focuses on areas related to the evaluation of project requirements, constraints, and opportunities.

PROJECT PLANNING & DESIGN: This category focuses on areas related to the preliminary design of sites and buildings.

PROJECT DEVELOPMENT & DOCUMENTATION: This category focuses on areas related to the integration and documentation of building systems, material selection, and material assemblies into a project.

CONSTRUCTION & EVALUATION: This category focuses on areas related to construction contract administration and post-occupancy evaluation of projects.”

Structured Educational Activities

Educational activities in which at least 75 percent of an activity’s content and instructional time must be devoted to Health, Safety, and Welfare Subjects related to the practice of architecture, including courses of study or other activities under the areas identified as Health, Safety and Welfare Subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.

GENERAL PROVISIONS

100.101 Board Meetings

[Reference any applicable provisions of state administrative procedure act, including provisions governing quorums, majority actions, etc.]

100.102 Board Seal

[Describe.] This seal shall be applied to all registrations issued by the Board.

100.103 Public Information

- A)** The Board shall maintain a roster of duly registered architects **[and business entities subject to 100.901]** open to public inspection which shall show each registered architect’s **[or entity’s business]** name, registration or certificate or authorization number and last known mailing address.
- B)** Each of the following documents relating to an application for registration as an architect **[and for a certificate of authorization or entities]** shall be treated as a public record: **[list]**.
- C)** None of the following documents shall be treated as a public record pursuant to **[refer to state’s public records law, or equivalent]** or otherwise disclosed to an applicant or any other member of the public: the ARE and all documents relating to the grading, content, administration or security thereof **[this must be modified if review or appeal is permitted pursuant to 100.602]** and **[list other documents which, if permitted by applicable law, may be excluded from 100.103(B) and otherwise deemed not to be public records]**.

100.104 Prohibition of Improper Contacts

Prior to the filing of an application for registration or the commencement of any disciplinary action, and after final Board action on an application or disciplinary action, verbal and written communication with individual Board members or any member of the Board’s staff shall be freely permitted; provided, however, that in no event is any member of the Board or its staff authorized to give any indication of what specific action the Board may take upon the merits of any application or disciplinary action. General advice, however, may be given as to the manner of completing or submitting applications, the procedures to be followed in processing applications or responding to disciplinary actions and the nature of the standards applied by the Board in evaluating applications or disciplinary actions. While an application for registration or disciplinary

Board meetings can be found under Model Law Section 210 and Model Regulations R210.

Board seals are not addressed in the revised model reflecting current practice.

This section has been updated and revised and found in Model Law Section 210 and Model Regulations R210.

While the revised model does not include this level of administrative policy, it addresses application process in Article III and the due process procedures in Article V.

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action is pending before the Board, no one shall initiate any written or oral communication with individual Board members concerning the matter; but inquiries may be made orally or in writing to the Board staff or in writing to the Board.

100.105 NCARB

- A) The Board shall maintain membership in NCARB and pay the necessary costs thereof.
- B) The Board shall keep up-to-date information on the recommended policies adopted from time to time by NCARB.
- C) The Board shall cooperate with NCARB in establishing uniform standards of architectural registration throughout the United States.

100.106 Availability of Forms

Any forms prepared in accordance with these regulations shall be available upon request made in person or by writing to the Board. If any such forms are amended by the Board, a copy of each such amended form shall be mailed or electronically transmitted by the Board staff to all individuals whose applications are known to be pending and are affected by such amendment.

100.107 Fees

[Insert schedule of fees, with cross-references to statutory language permitting the Board to establish fees, or to any fees set by statute. This list should identify all categories of fees, including those to be established from time to time by the Board, and it should require the Board to maintain and provide to all individuals upon request a current and complete list of its fees.]

APPLICATION FOR REGISTRATION

100.201 Submission of Application

Every individual seeking a registration shall submit an application to the Board on a form prescribed by the Board, accompanied by **[a photograph and]** the filing fee **[cross-reference to 100.107]**.

100.202 Refund of Fee

The Board, in its discretion and if otherwise allowed by law, may return the application fee paid by any applicant whose application has been rejected. No refund of the application fee shall be returned to any applicant who takes any portion of the Examination or who voluntarily withdraws after his/her application has been approved.

100.203 Appeals

[Insert any references to applicable law providing for administrative or judicial review of the Board's decisions respecting applicants.]

This section can be found under Model Regulations R212.

Availability of forms is addressed in Article III and R301.

Fees can be found under Model Regulations R313.

Submission of Application information has been moved to Model Law Sections 301 (initial licensure) and 302 (reciprocal licensure).

General fee policies are addressed in Model Law Section 211 and Model Regulations R313.

Appeals can be found under Model Regulations R314.

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REGISTRATION STANDARDS

100.301 Initial Registration Standards

To be granted registration other than pursuant to 100.401, an applicant must meet the requirements set forth in 100.301–305.

- A)** In evaluating qualifications, the Board may, prior to reaching its decision, require the applicant to substantiate his/her qualifications.
- B)** Other experience may be substituted for the registration requirements set forth in 100.303 only insofar as the Board considers it to be equivalent to or better than such requirements. The burden shall be on the applicant to show by clear and convincing evidence the equivalency or better of such other experience.

100.302 Good Character

An applicant must be of good character as verified to the Board by employers and others.

100.303 Education

An applicant must meet the Education Requirements as accepted by the Board from time to time.

100.304 Training

An applicant must meet the Training Requirements as accepted by the Board from time to time.

100.305 Examination

An applicant must have passed the Examination in accordance with the NCARB pass/fail standards current at the time the applicant took the Examination, all as accepted by the Board from time to time.

[REGISTRATION STANDARDS FOR MILITARY PERSONNEL]

[100.401 Initial Registration Standards – Military Personnel

To be granted registration other than pursuant to 100.501, an applicant must meet the requirements set forth in 100.401-100.405.

- A)** In evaluating qualifications, the Board may, prior to reaching its decision, require the applicant to substantiate his/her qualifications.
- B)** Other experience may be substituted for the registration requirements set forth in 100.403 only insofar as the Board considers it to be equivalent to or better than such requirements. The burden shall be on the applicant to how by clear and convincing evidence the equivalency or better of such other experience.

100.402 Good Character – Military Personnel

An applicant must be of good character as verified to the Board by employers or by honorable discharge evidenced by copy of military discharge document (DD 214).

100.403 Education – Military Personnel

An applicant must meet the Education Requirements as accepted by the Board from time to time.

Initial licensure requirements can be found under Model Law Section 301 and Model Regulations R301.

To avoid confusion, the revised models do not further define terms that are commonly understood or would otherwise be covered by overarching laws. This includes “adjudicatory proceeding,” “applicant,” “client,” “conviction,” “felony,” “reciprocity,” “revoke,” and “standard of care.” These terms are likely already defined in another part of a Jurisdiction’s laws, such as the state administrative procedures acts.

Education, experience, and examination requirements can be found under Model Regulations R301(1-3).

Initial license standards for military personnel—including sections 100.401-100.405—can be found under Model Regulations R301(4).

MODEL REGULATIONS

100.404 Training – Military Personnel

An applicant must meet the Training Requirements as accepted by the Board from time to time. The Board may accept “professional training while in active duty” as it deems acceptable and in keeping with the Training Requirements set forth by the National Council of Architectural Registration Boards.

100.405 Examination – Military Personnel

An applicant must have passed the Examination in accordance with the NCARB pass/fail standards current at the time the applicant took the Examination, all as accepted by the Board from time to time.]

RECIPROCAL REGISTRATION

100.501 Registration of NCARB Certificate Holders

An applicant who holds a current and valid certification issued by NCARB and submits satisfactory evidence of such certification to the Board shall be registered without the necessity of complying with the provisions of 100.301-305 or 100.401 - 405 if he/she:

- A) holds a current and valid registration as an architect issued by a registration authority of the United States or Canada, and submits satisfactory evidence of such registration to the Board, and
- B) files his/her application with the Board, upon a form prescribed by the Board, containing such information satisfactory to the Board concerning the applicant, as the Board considers pertinent, and pays the applicable fee established by the Board.

100.502

[Insert any other reciprocity provisions desired and permitted by statute.]

EXAMINATION

100.601 Examination Eligibility

- A) *[For the purpose of qualifying for the examination, an applicant shall present satisfactory evidence to the board that he/she:*
 - i) *Holds a professional degree from a school whose curriculum has been accredited by the National Architectural Accrediting Board (NAAB), or*
 - ii) *Is a student actively participating in a NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within a NAAB-accredited professional degree program in architecture, or*
 - iii) *Has met the education and experience requirements outlined in {insert specific reference to applicable laws/rules}*
- B) The Board will determine applicant eligibility and forward eligibility information to NCARB (or the Board may request NCARB to determine such eligibility subject to its approval thereof).

100.602 Conditions of Examination

- A) The Board will allow applicants to take the ARE at any NCARB-approved test center, whether or not it is located within this state.
- B) The Board will accept the ARE results as determined by NCARB and will report the results to the applicant, or the Board may request NCARB to report such results to the applicant.

Reciprocal licensure requirements can be found under Model Law Section 302 and Model Regulations R302.

Exam eligibility requirements can be found under Model Regulations R301(3).

MODEL REGULATIONS

- C) If there is any alleged misbehavior on the part of an applicant in connection with taking the examination, the board will investigate the allegation and take appropriate action. This behavior may include, without limitation, violation of NCARB's guidelines or policies, or an applicant's confidentiality agreements with respect to the examination.

[100.603 Appeal]

[NCARB recommends that an applicant not be permitted to review or appeal any division of the Examination which he/she fails, and thus does not recommend adoption of this section; if, however, the jurisdiction requires that such appeals be allowed, reference should be made here to the specific requirements of the jurisdiction to be followed:

- A) **The Board will determine the time and place for each review of a failed examination. All reviews will take place at an NCARB approved test center.**
- B) **A Board member or a member of the Board's staff will be present during the review.**
- C) **The individual results on graphic vignettes may not be challenged.**
- D) **The individual test questions on multiple-choice divisions may be challenged. All challenges must be made at the time of the review, in accordance with NCARB standards and procedures.]**

[Note that it is possible to allow reviews and not challenges. In such cases, strike (D) and reword (C) to read: "The individual results on multiple-choice questions and graphic vignettes may not be challenged."]

100.604 Transfer of Scores to and from Other Boards

The Board, in its discretion, may forward to any other United States or Canadian architectural registration board or NCARB, or may receive from any other such board or NCARB the grades achieved by an applicant in the various divisions of the ARE for the respective purposes of evaluating such applicant's eligibility for registration or permitting NCARB to evaluate such applicant's eligibility for NCARB certification. Any applicant making such a request shall state his/her reason for requesting transfer, and pay any applicable transfer fee established by the Board. Such transfer to another jurisdiction shall terminate the applicant's application pending before the Board or such other transmitting jurisdiction as the case may be.

REGISTRATION

100.701 Issuance

When the Board has determined that an applicant for registration has satisfied the registration standards set forth herein, the Board shall issue a registration containing the registered applicant's name and registration number.

100.702 Duration

Each registration issued by the Board shall be valid for **[state applicable period, e.g., one year or two years]**.

100.703 Renewal

[Describe terms, including fee with cross-reference to 100.107, citing applicable statute.]

[The Board may require that each registered architect demonstrate continuing education by including the following provisions.]

Continuing Education Requirements. In addition to all other requirements for registration renewal, an architect must complete a minimum of 12 Continuing Education Hours each calendar year or be exempt from these continuing education requirements as provided below. Failure to comply with these requirements may result in non-renewal of the architect's registration.

Examination score result challenges are covered under R301(3).

NCARB Record transmittals now encompass most ARE scoring for boards.

Section 100.701 has been incorporated into Model Law Sections 301-302 and Model Regulations R301-R302.

Sections 100.702-100.703 can be found under Model Law Section 305 and Model Regulations R305.

Continuing education information can be found under Model Law Section 304 and Model Regulations R304.

MODEL REGULATIONS

- A)** Continuing Education Hours. 12 Continuing Education Hours must be completed in Health, Safety, and Welfare Subjects acquired in Structured Educational Activities. Continuing Education Hours may be acquired at any location. Excess Continuing Education Hours may not be credited to a future calendar year.
- B)** Reporting and Record keeping. An architect shall complete and submit forms as required by the Board certifying that the architect has completed the required Continuing Education Hours. Forms may be audited by the Board for verification of compliance with these requirements. Documentation of reported Continuing Education Hours shall be maintained by the architect for six years from the date of award. If the Board disallows any Continuing Education Hours the architect shall have 60 days from notice of such disallowance either to provide further evidence of having completed the Continuing Education Hours disallowed or to remedy the disallowance by completing the required number of Continuing Education Hours (but such Continuing Education Hours shall not again be used for the next calendar year). If the Board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required Continuing Education Hours, the architect may be subject to disciplinary action in accordance with the Board regulations.
- C)** Exemptions. An architect shall not be subject to these requirements if:
- 1)** The architect has been granted emeritus or other similar honorific but inactive status by the Board; or
 - 2)** The architect otherwise meets all renewal requirements and is called to active military service, has a serious medical condition, or can demonstrate to the Board other like hardship, then upon the Board's so finding, the architect may be excused from some or all of these requirements.
- D)** A registrant who lists his or her occupation as "Retired" or "inactive" on the Board approved renewal form and who further certifies that he or she is no longer practicing shall be exempt from the Continuing Education Hours required. In the event such a person elects to return to active practice, he/she shall document completion of 12 HSW CEH's before returning to active practice. Inactive or retired registrants returning to active practice must report CEH's earned prior to the request to reactivate.
- E)** The Board adopts the forms [at the end of the Model Regulations] as the forms to be used for reporting compliance with these requirements.

100.704 Not Transferable

A registration shall not be transferable.

100.705 Revocation, Suspension, Cancellation or Non-Renewal of Registration

In the event of revocation, cancellation, suspension, or non-renewal of any registration, the architect shall be required immediately to return his/her registration to the Board.

[Add reference to any statutory provisions regarding an architect's rights to contest such action.]

100.706 Reissuance

[Describe terms, including fee with cross-reference to 100.107, citing applicable statute for reissuance of registrations revoked, suspended, cancelled or not renewed.]

Section 100.704 has been removed from the updated document.

Section 100.705 can be found under Model Law Sections 306 and 307 and Model Regulation R306 and R307.

Section 100.706 can be found under Model Regulation R306, R307, and R309.

MODEL REGULATIONS

100.707 Emeritus Status

- A)** An architect whose registration is in good standing may apply for architect emeritus status if he or she meets the following criteria:
 - 1)** The applicant is retired from the active practice of architecture. “Retired” means the architect no longer engages in the active practice of architecture as defined in [point to statute defining the practice of architecture], and
 - 2)** The applicant has been registered for at least “10” years [in their state], or
 - 3)** The applicant is 65 years of age or older.
- B)** An architect who can provide, to the Board’s satisfaction, documentation that they are physically or mentally unable to participate in the active practice of architecture may also apply for architect emeritus status.
- C)** Upon application to the Board, if all requirements are met, the architect shall be granted architect emeritus status.
- D)** An individual granted architect emeritus status may use the title “Architect Emeritus” or “Emeritus Architect” on any letter, title, sign, card or device.
- E)** If an emeritus architect wishes to return to the active practice of architecture, he/she may do so by submitting a current renewal application form, the renewal fee, and documentation of completing the continuing education hours required by regulation.

RULES OF PROFESSIONAL CONDUCT

100.801 Competence

- A)** In engaging in the practice of architecture, a registered architect’s primary duty is to protect the public’s health, safety, and welfare. In discharging this duty, a registered architect shall act with reasonable care and competence, and shall apply the knowledge and skill which are ordinarily applied by registered architects of good standing practicing in the same locality.
- B)** In designing a project, a registered architect shall take into account all applicable state and municipal building laws and regulations. While a registered architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent and meaning of such laws and regulations, once having obtained such advice, a registered architect shall not knowingly design a project in violation of such laws and regulations.
- C)** A registered architect shall undertake to perform professional services only when he/she, together with those whom the registered architect may engage as consultants, is qualified by education, training, and experience in the specific technical areas involved.
- D)** No individual shall be permitted to engage in the practice of architecture if, in the Board’s judgment, such individual’s professional competence is substantially impaired by physical or mental disabilities.

100.802 Conflict of Interest

- A)** A registered architect shall not accept compensation in connection with his/her services from more than one party on a project (and never in connection with specifying or endorsing materials or equipment) unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.
- B)** If a registered architect has any business association or direct or indirect financial interest which is substantial enough to influence his/her judgment in connection with the performance of professional services, the registered architect shall fully disclose in writing to his/her client or employer the nature of the business association or financial interest. If the client or employer objects to such association or financial interest, the registered architect will either terminate such association or interest or offer to give up the commission or employment.

Architect Emeritus information can be found under Model Law Section 308 and Model Regulations R308.

Professional Conduct information can be found under Model Law Section 601 and Model Regulations R601 and R602.

MODEL REGULATIONS

- C) A registered architect shall not solicit or accept compensation from material or equipment suppliers in connection with specifying or endorsing their products. As used herein, “compensation” shall not mean customary and reasonable business hospitality, entertainment, or product education.
- D) When acting as the interpreter of building contract documents and the judge of contract performance, a registered architect shall render decisions impartially, favoring neither party to the contract.

100.803 Full Disclosure

- A) A registered architect making public statements on architectural questions shall disclose when he/she is being compensated for making such statements or when he/she has an economic interest in the issue.
- B) A registered architect shall accurately represent to a prospective or existing client or employer his/her qualifications and the scope of his/her responsibility in connection with work for which he/she is claiming credit.
- C) If, in the course of his/her work on a project, a registered architect becomes aware of a decision taken by his/her employer or client against such registered architect’s advice which violates applicable state or municipal building laws and regulations and which will, in the registered architect’s judgment, materially and adversely affect the safety to the public of the finished project, the registered architect shall:
 - 1) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations; and
 - 2) refuse to consent to the decision; and
 - 3) in circumstances where the registered architect reasonably believes that other such decisions will be taken notwithstanding his/her objection, terminate his/her services with respect to the project unless the registered architect is able to cause the matter to be resolved by other means. In the case of a termination in accordance with this clause (3), the registered architect shall have no liability to his/her client or employer on account of such termination.
- D) A registered architect shall not deliberately make a materially false statement or fail deliberately to disclose accurately and completely a material fact requested in connection with his/her application for a registration or renewal thereof or otherwise lawfully requested by the Board.
- E) A registered architect shall not assist the application for registration of an individual known by the registered architect to be unqualified in respect to education, training, experience or character.
- F) A registered architect possessing knowledge of a violation of the provisions set forth in 100.801 through 100.806 by another registered architect shall report such knowledge to the Board.

100.804 Compliance with Laws

- A) A registered architect shall not in the conduct of his/her architectural practice knowingly violate any state or federal criminal law.
- B) A registered architect shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official’s judgment in connection with a prospective or existing project in which the registered architect is interested.
- C) A registered architect shall comply with the registration laws and regulations governing his/her professional practice in any United States jurisdiction. An architect may be subject to disciplinary action if, based on grounds substantially similar to those which lead to disciplinary action in this jurisdiction, the architect was disciplined in any other United States jurisdiction.

MODEL REGULATIONS

- D)** An employer engaged in the practice of architecture shall not have been found by a court or an administrative tribunal to have violated any applicable federal or state law protecting the rights of persons working for the employer with respect to fair labor standards or with respect to maintaining a workplace free of discrimination. **[States may choose instead to make specific reference to the “Federal Fair Labor Standards Act of 1938, as amended,” and “Equal Employment Opportunity Act of 1972, as amended,” and to state laws of similar scope.]** For purposes of this rule, any registered architect employed by a firm engaged in the practice of architecture who is in charge of the firm’s architectural practice, either alone or with other architects, shall be deemed to have violated this rule if the firm has violated this rule.

100.805 Professional Conduct

- A)** Each office in [name of state] engaged in the practice of architecture shall have a registered architect resident and regularly employed in that office.
- B)** All technical submissions, which are (a) required by public authorities for building permits or regulatory approvals, or (b) are intended for construction purposes, including all addenda and other changes to such submissions, shall be signed and sealed by the registered architect, which signature and seal may be electronic. The signature and seal shall mean that the registered architect was in responsible control over the content of such technical submissions during their preparation and has applied the required professional standard of care. A registered architect may sign and seal technical submissions only if the technical submissions were (i) prepared by such architect; (ii) prepared by persons under such architect’s responsible control; (iii) prepared by another registered architect if the signing and sealing architect has reviewed the other architect’s work and either has coordinated the preparation of the work or has integrated the work into his/her own technical submissions; or (iv) prepared by another architect registered in any United States jurisdiction and holding a current and valid certification issued by NCARB and (a) the signing and sealing architect has reviewed the other architect’s work and has integrated the work into his/her own technical submissions and (b) the other architect’s technical submissions are prototypical building documents. A registered architect may also sign and seal drawings, specifications, or other work which is not required by law to be prepared by an architect if the architect has reviewed such work and has integrated it into his/her own technical submissions. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under that architect’s responsible control by persons not regularly employed in the office where the architect is resident, shall maintain and make available to the Board upon request for at least five years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the architect’s control over and detailed knowledge of such technical submissions throughout their preparation. Any registered architect signing or sealing technical submissions integrating the work of another architect into the registered architect’s own work as permitted under clauses (iii) or (iv) above shall maintain and make available to the Board upon request for at least five years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the registered architect’s review of and integration of the work of such other architect’s work into his/her own technical submissions, and that such review and integration met the required professional standard of care.
- C)** A registered architect shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the registered architect is interested.
- D)** An architect possessing knowledge of an applicant’s qualifications for registration shall cooperate with the applicant, the Board and/or NCARB by responding appropriately regarding those qualifications when requested to do so. An architect shall provide timely verification of employment and/or experience earned by an applicant under his or her supervision if there is reasonable assurance that the facts to be verified are accurate. An architect shall not knowingly sign any verification document that contains false or misleading information.

MODEL REGULATIONS

- E) A registered architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.
- F) An architect shall not make misleading, deceptive or false statements or claims.

100.806 Design and Use of Architect's Seal

- A) Pursuant to [statutory reference] and subject to 100.705 and 100.805(B), each registered architect shall procure a seal, which shall contain the name of the registered architect; his/her registration number, and the words REGISTERED ARCHITECT—[NAME OF STATE]. This seal shall comply in all respects, including size and format, with the seal shown below: [INSERT SPECIMEN SEAL IMPRINT.]
- B) As required by [statutory reference], the seal shall appear on all technical submissions, as follows: on each design and each drawing; on the cover and index pages identifying each set of specifications; and on the cover page (and index, if applicable) of all other technical submissions. Such seal and signature may be electronic.
- C) The seal appearing on any technical submission shall be prima facie evidence that said technical submission was prepared by or under the responsible control of the individual named on said seal.
- D) All technical submissions prepared by a registered architect shall contain the following legend wherever the architect's seal appears: "The professional services of the architect are undertaken for and are performed in the interest of [name of person employing architect]. No contractual obligation is assumed by the architect for the benefit of any other person involved in the project."

PRACTICE

[100.901 Permission to Practice Architecture as a Corporation, Limited Liability Company, or Partnership

- A) Any corporation (which term as used herein shall include any professional corporation), any limited liability company, and any partnership (which term as used herein shall include any limited liability partnership), whether organized under the laws of this or any other jurisdiction, may not offer to engage in or engage in the practice of architecture in [name of state] until such corporation, limited liability company, or partnership has obtained a certificate of authorization issued by the Board. A certificate of authorization shall be issued as of the date it is approved by the Board and shall be valid for one year from said date.
- B) The Board shall issue a certificate of authorization to a corporation, limited liability company, or partnership upon receipt of the materials listed below, and upon ascertaining that the conditions set forth in [statutory reference] have been met.
 - 1) An application on a form approved by the Board.
 - a) In the case of a corporation, the application shall be signed by the president and [secretary or clerk], and shall include the following information: the jurisdiction under which such corporation is organized; the name and residential addresses, and state(s) of registration and registration number(s) (if applicable) of each director; and the identity of each director or officer engaging in the practice of architecture on behalf of such entity in [name of state].
 - b) In the case of a limited liability company, the application shall be signed by a manager (or by a member in the case of a limited liability company in which management of its business is vested in all of the members) who is a registered architect, and shall include the following information: the jurisdiction under which such limited liability company is organized; the name and residential addresses, and state(s) of registration number(s) (if applicable) of each manager (or each member in the case of a limited liability company in which management of its business is vested in the members); and the identity of each manager (or each

Seal-related information can be found under Model Law Section 401 and Model Regulations R401(0) and R401(1).

Firm information can be found under Model Law Section 303 and Model Regulations R303.

MODEL REGULATIONS

member) or officer engaging in the practice of architecture on behalf of such entity in **[name of state]**.

- c) In the case of a partnership, the application shall be signed by a general partner who is a registered architect, and shall include the following information: the jurisdiction under which such partnership is organized; the name and residential addresses, and the state(s) or registration and registration number(s) (if applicable) of each general partner; and the identity of each general partner or officer engaging in the practice of architecture on behalf of such entity in **[name of state]**.
- 2) In the case of a corporation, a limited liability company, or a registered limited liability partnership, a copy of the articles of incorporation, registration statement, or similar charter document certified by the secretary of state of the jurisdiction in which the corporation, limited liability company, or registered limited liability partnership is organized; provided, however, that, subject to 100.901(C), such documents need not be resubmitted when seeking renewal of a certificate of authorization.
- 3) A fee of **[set forth fee]** **[cross-reference to 100.107]**.
- C) If any change occurs in any of the information provided to the Board pursuant to 100.901(B)(1) or (2) during the period for which a certificate of authorization is granted, such change shall be reported to the Board within 30 days after the effective date of such change.
- D) The Board may revoke, suspend, or cancel a certificate of authorization granted pursuant to 100.901 if any officer, director, or employee of a corporation, or any manager or employee of a limited liability company (or any member in the case of a limited liability company in which management of its business is vested in the members), or any general partner or employee of a partnership violates any provision of **[cite statute]** or these regulations; provided, however, that it shall be an affirmative defense to show that such individual was not acting as an agent of the corporation, the limited liability company, or the partnership at the time such violation occurred.]

[100.902 Restricted and Prohibited Uses of Business Titles]

[Insert provisions regulating the use of business titles. Titles to be restricted or prohibited may include titles that include the names of non-architects, non-registered architects, related professionals, and deceased persons, as well as titles that do not include any individual names.]

100.903 Activities Involving the Practice of Interior Architecture

[Cited statute] provides that the practice of architecture includes services in connection with the design and construction, enlargement, or alteration of a building or group of buildings and “the space within” buildings, meaning interior architecture. Such interior space includes, without limitation, all areas, assemblies and components of buildings, whether new or existing, intended for human occupancy and with respect to which codes, laws and regulations intended to ensure the safety of building occupants are applicable in whole or in part. Examples of the foregoing codes, laws, and regulations are occupancy classification, use and zoning requirements, construction classification requirements, ingress and egress requirements, accessibility requirements, fire-rated construction assembly and finish requirements, alarm and suppression system requirements, smoke control system requirements, environmental health requirements, electrical, structural and seismic requirements. Such examples would not include services rendered in selling, selecting or assisting in the selection of furnishings, furniture, decorative accessories, art work or other decorative materials, paint and color schemes, textiles, wall coverings, window treatments or floor coverings.

This concepts under 100.902 and 100.903 are addressed in the definition of “Architect” in Model Law Section 104. The definition of the practice of architecture in the new model includes designing the exterior and interior of buildings, and the concept known as interior architecture is addressed in commentary in Model Law Section 402(2).



Appendix C: Supplement Model Law and Regulations Resolution Reference Guide

2021 NCARB Annual Business Meeting

November 2020

This resource document was created to help Member Boards understand what information is contained within the updated Model Law versus the updated Model Regulations, and to demonstrate how the two components work together to provide comprehensive draft language by topic. In addition, the resource also provides commentary explaining the Model Law Task Force's reasoning in specific areas.

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This document was last updated in November 2020. The *Model Law* and *Model Regulations* portions of this document may only be changed by an absolute majority vote of the NCARB Member Boards.

Draft: NCARB Model Law and Regulations

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First developed in 1970, the *NCARB Model Law and Regulations* serves as a guide containing draft statutory and regulatory language for use by NCARB's Member Boards as they carry out their mission to protect the public by regulating the practice of architecture.

When originally adopted, the document was designed to provide guidelines for legislation in areas agreed upon by NCARB's membership as ideal uniform standards for each U.S. jurisdiction. Over time, the guidelines were modified in a piecemeal fashion to address additional areas and provide updated draft language at the request of its members.

In 2016, NCARB began a holistic review and refresh of the existing *NCARB Model Law and Regulations*, for the purposes of modernizing the document and providing a more relevant, useful tool for its members. The current version serves as a national model for architectural regulation and offers a resource for jurisdictions to adapt and adopt as they update their practice acts and regulatory framework.

The *NCARB Model Law and Regulations* is designed to follow best practices and includes three elements:

- Model Law—Provides a broad framework of the various authorities an architectural licensing board should be granted by its jurisdictional legislature through statutory language.
- Model Regulations—Offers detailed language outlining rules for implementation of the authority and responsibilities granted to the board.
- Commentary—Explains the intent of the of the model laws and/or regulations and notes areas of personalization for jurisdictions.

The document reflects language and model programs that will most effectively protect the public health, safety, and welfare related to the contemporary practice of architecture, while also providing uniform standards that encourage professional mobility.

Because the *NCARB Model Law and Regulations* recognizes each jurisdiction's constitutional authority to determine the appropriate level of protection for its citizens, not all areas will be—or are expected to be—adopted by all U.S. architectural licensing boards. Instead, the document is designed to be a resource that provides a national model that assists boards in navigating challenging areas of architectural regulation, offers consistent licensing and regulatory standards, is easily adapted to fit the diverse needs of NCARB's individual members, and will serve as the foundation for future enhancements to the reasonable regulation of the profession.

Commentary is noted throughout the document:

LX Section X = Commentary on the Law portion of the document

RX RXXX = Commentary on the Regulations portion of the document

Article I – Title, Purpose, and Definitions

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 101. Title of Act</p> <p>This (Jurisdiction) Architecture Practice Act shall also be known as the “Act.”</p>	<p>R101 (Model Law Section 101. Title of Act)</p> <p>[Reserved]</p>	
<p>Section 102. Legislative Declaration of Purpose</p> <p>The Practice of Architecture in the Jurisdiction of (Jurisdiction) is declared a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. It is a matter of public interest and concern that the Practice of Architecture, as defined under this Act, merits and receives the confidence of the public and that the Practice of Architecture be limited to those Persons determined by the Board to be qualified under this Act. This Act shall be liberally construed to carry out these objectives and purposes.</p> <p>It is the purpose of this Act to promote, preserve, and protect the public health, safety, and welfare by and through the licensure and regulation of Persons, whether within or outside of (Jurisdiction), who engage in the Practice of Architecture within (Jurisdiction). In furtherance of this purpose, this Act creates the (Jurisdiction) Board of Architecture whose members, functions, and procedures shall be established in accordance with the provisions of this Act. The regulatory structure calls for Architects and public members to serve on the Board, and this Act recognizes the need for professional expertise provided by Architects serving the public interest.</p>	<p>R102 Legislative Declaration of Purpose</p> <p>These regulations are adopted by [Board Name] under the authority of [Act], establishing the Board and conferring upon it responsibility for licensing of Architects and the regulation of the Practice of Architecture, and in conformity with other applicable jurisdictional acts.</p>	

Article I – Title, Purpose, and Definitions

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 103. Definitions</p> <p>The following words as used in this Act, unless the context otherwise requires, shall have the following meanings¹¹:</p> <ol style="list-style-type: none"> 1) Applicant – An individual who seeks a License in accordance with the process set forth by the Board. 2) Approved Educational Program – An educational program for architecture that is accepted by the Board. 3) Approved Experience Program – An experience program for architecture that is accepted by the Board. 4) Approved Examination – An examination for architecture that is accepted by the Board. 5) Architect – An individual currently licensed by the Board who has successfully completed the education, experience, and examination requirements as defined by (Jurisdiction), who demonstrates Competence to engage in the Practice of Architecture under this Act. 6) Board – The (Board Name) established by this Act. 7) Building¹² – An open or enclosed structure that has as its principal purpose human occupancy or habitation. 8) Competence – The knowledge, experience, and skill required by an Architect for the Practice of Architecture in accordance with the accepted standard of care. 9) Firm – Any legally formed business entity registered with the Board through which architectural services are provided. 10) Good Standing – An unrestricted License granted by the Board to engage in the Practice of Architecture. 11) Jurisdiction – Any state, commonwealth, the District of Columbia, or other insular territory of the United States. 12) License – Approval granted by the Board to an individual to engage in the Practice of Architecture. 13) NCARB – The National Council of Architectural Registration Boards. 	<p>R103 Definitions</p> <p>Terms defined in [Act] have the same meanings when used in these regulations. As used in these regulations, the following terms have the following meanings:</p> <ol style="list-style-type: none"> 1) Continuing Education Hour (CEH) – One continuous instructional hour (50 to 60 minutes of contact) spent in Structured Educational Activities intended to increase or update the Architect’s knowledge and Competence in Health, Safety, and Welfare Subjects. If the provider of the Structured Educational Activities prescribes a customary time for completion of such an activity, then such prescribed time shall, unless the Board finds the prescribed time to be unreasonable, be accepted as the Architect’s time for Continuing Education Hour purposes irrespective of actual time spent on the activity. 2) Health, Safety, and Welfare Subjects – Technical and professional subjects related to the Practice of Architecture that the Board deems appropriate to safeguard the public and that are within the following continuing education subject areas necessary for the proper evaluation, design, construction, and utilization of Buildings and the built environment. <ol style="list-style-type: none"> a. Practice Management: This category focuses on areas related to the management of architectural practice and the details of running a business. b. Project Management: This category focuses on areas related to the management of architectural projects through execution. c. Programming & Analysis: This category focuses on areas related to the evaluation of project requirements, constraints, and opportunities d. Project Planning & Design: This category focuses on areas related to the preliminary design of sites and Buildings. 	<p>¹¹Section 103 To avoid confusion, <i>NCARB Model Law and Model Regulations</i> does not further define terms that are commonly understood or would otherwise be covered by overarching laws. This includes “adjudicatory proceeding,” “Applicant,” “client,” “conviction,” “felony,” “reciprocity,” “revoke,” and “standard of care.” These terms are likely already defined in another part of a Jurisdiction’s laws, such as the state administrative procedures acts.</p> <p>¹²Section 103(7) Providing a broad definition of the term “Building” allows each Jurisdiction the flexibility to provide more specificity as it relates to different building types within their regulations.</p>

Article I – Title, Purpose, and Definitions

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 103 (Continued)</p> <p>14) Person – Any individual, Firm, partnership, association, joint venture, cooperative, corporation, or other group or combination acting in concert.</p> <p>15) Practice of Architecture¹³ – The art and science of designing, in whole or in part, the exterior and interior of Buildings and the site around them, in a manner that protects the public health, safety, and welfare. The Practice of Architecture includes providing or offering to provide planning services; developing concepts; preparing documents that define form and function; coordinating consultants; and construction administration.</p> <ol style="list-style-type: none"> a. <i>Planning services</i> include, but are not limited to, programming and planning. b. <i>Developing concepts</i> includes, but is not limited to, preliminary studies, pre-design, investigations, and evaluations. c. <i>Preparing documents that define form and function</i> includes, but is not limited to, drawings and Technical Submissions, including incorporation of the requirements of the authorities having jurisdiction. d. <i>Coordinating consultants</i> includes, but is not limited to, the coordination of any elements of Technical Submissions prepared by others. e. <i>Construction administration</i> includes, but is not limited to, evaluation of construction to determine that the work is proceeding in accordance with the contract documents¹⁴. <p>16) Responsible Charge – The control over and detailed professional knowledge of the development and execution of the project, including Technical Submissions, as is ordinarily exercised by an Architect applying the required professional standard of care.</p>	<p>R103 Definitions (Continued)</p> <ol style="list-style-type: none"> e. Project Development & Documentation: This category focuses on areas related to the integration and documentation of Building systems, material selection, and material assemblies into a project. f. Construction & Evaluation: This category focuses on areas related to construction contract administration and post-occupancy evaluation of projects. <p>3) Prototypical Building – Any Building or any space within a Building intended to be constructed in multiple locations for a client and that conveys a standard design.</p> <p>4) Structured Educational Activities – Educational activities in which at least 75 percent of an activity’s content and instructional time must be devoted to Health, Safety, and Welfare Subjects related to the Practice of Architecture, including courses of study or other activities under the areas identified as Health, Safety, and Welfare Subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.</p> <p>5)</p>	<p>¹³Section 103(15) NCARB acknowledges jurisdictional statutes will continue to exempt various activities of other design professionals from the purview of this statute, to the extent their work incidentally involves elements of the Practice of Architecture. In a similar way, Architects may perform elements of the practice of engineering incidental to their work. NCARB is committed to partnering with the national regulatory associations of other design professions to further define the concept of incidental practice.</p> <p>¹⁴Section 103(15)(i) NCARB recognizes there are construction administration activities that are not the Practice of Architecture. These include activities that do not interpret or revise the Architect’s sealed and signed Technical Submissions. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Administration, review, and oversight of construction-related activities, such as those responsibilities defined in the contracts between contractor and owner • Contractor pay applications • Change order costs • Schedule adherence • Site access requirements • Site safety

Article I – Title, Purpose, and Definitions

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 103 (Continued)</p> <p>17) Technical Submissions – The documents necessary to demonstrate compliance with applicable regulatory requirements and/or to fabricate or construct a project including, but not limited to, drawings, digital models, specifications, performance criteria, and installation requirements.</p>		
<p>Section 104. Activities and Individuals Excluded from the Practice of Architecture</p> <p>The following activities shall not be deemed to be the Practice of Architecture nor shall the following require a License under this Act:</p> <p>1) Activities performed in connection with any of the following:</p> <ul style="list-style-type: none"> a. Detached single- or two-family residential dwelling Buildings. b. Agricultural structures intended solely for the storage of equipment, horticulture products or livestock, and not used by the public. c. Fabrication drawings, installation drawings, component specifications, or operation and maintenance manuals of individual components of a Building incidental to the Architect’s design of the entire project that describe or illustrate the use of such components. d. Alterations or renovations that do not affect structural or life safety aspects of a Building. <p>2) Any individual who possesses a valid NCARB Certificate seeking an architectural commission in the Jurisdiction performing either of the following^{L5}:</p> <ul style="list-style-type: none"> a. Offering to provide services involved in the Practice of Architecture; or 	<p>R104 (Model Law Section 104. Activities and Individuals Excluded from the Practice of Architecture)</p> <p>[Reserved]</p>	<p>^{L5}Section 104(2) This provision allows out-of-state Architects with an NCARB Certificate who are not yet licensed in the Jurisdiction to seek a commission—a practice sometimes referred to as “fishing without a license.” The requirements under this Act still apply to the Architect, who must obtain a License before beginning any project. Boards permitting this activity by individuals with an NCARB Certificate can be confident the Architect is competent and in Good Standing, while also facilitating greater professional mobility and consumer choice.</p>

Article I – Title, Purpose, and Definitions

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 104 (Continued)</p> <ul style="list-style-type: none"> b. Participating in an architectural design competition for a project, which does not include acting as the Architect for a project. 3) Any individual licensed to engage in the Practice of Architecture in another Jurisdiction rendering voluntary services in the event of a declared emergency. 4) Any individual licensed to engage in the Practice of Architecture in another Jurisdiction while performing duties as a federal government employee or as a part of their military service. 5) Any individual who is unlicensed in (Jurisdiction) and is performing services on a project under the supervision of an Architect, as long as the Architect serves as the Architect in Responsible Charge of the project. 		

Article II – Board of Architecture

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 201. Delegation of Authority</p> <p>The responsibility to enforce the provisions of this Act is hereby delegated to the Board by (Jurisdiction). The Board shall have all of the duties, powers, and authority specifically granted by, or otherwise necessary to enforce this Act, as well as such other duties, powers, and authority as it may be granted from time to time by law.</p>	<p>R201 (Model Law Section 201. Delegation of Authority)</p> <p>[Reserved]</p>	
<p>Section 202. Board Composition</p> <p>[The Board may be composed pursuant to either of the following options:]</p> <p>[Architect Profession Board Option]</p> <p>The Board shall consist of (Number) members appointed under Section 204 of this Act, at least (Number) of whom shall be a representative(s) of the public, and the remainder of whom shall be Architects who possess the qualifications specified in Section 203 of this Act. It is the intent of this Act for Board composition to consist of the expertise necessary for the effective and efficient regulation of the Practice of Architecture.</p> <p>[Or]</p> <p>[Multiple Profession Board Option] The Board shall consist of (Number) members appointed under Section 204 of this Act who possess the qualifications specified in Section 203 of this Act and comprise the following:</p> <ul style="list-style-type: none"> a. (Number) public members as described in Section 203(2); b. (Number) Architects as described in Section 203(1); and c. (Number) (Profession) members as defined in (citation to relevant practice act referencing residence, licensed in Good Standing, licensed for a specified period of time). 	<p>R202 (Model Law Section 202. Board Composition)</p> <p>[Reserved]</p>	

Article II – Board of Architecture

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 203. Qualifications for Board Membership</p> <ol style="list-style-type: none"> 1) Each Architect Board member shall at all times: <ol style="list-style-type: none"> a. Be a resident of (Jurisdiction); b. Be an Architect in Good Standing; c. Maintain in Good Standing any other active professional license issued by a licensing authority in this or any other Jurisdiction; and d. Have had at least five (5) years of practice as an Architect. 2) Each public member of the Board shall at all times: <ol style="list-style-type: none"> a. Be a resident of (Jurisdiction); b. Maintain in Good Standing any active professional license issued by a licensing authority in this or any other Jurisdiction; and c. Not be, nor shall ever have been, (i) an Architect or the spouse of a current or former Architect; or (ii) an individual who has had any material financial interest in the provision of architecture services or who is currently engaged in any activity directly related to the Practice of Architecture. 3) Each Board member shall at all times maintain eligibility to serve on the Board by avoiding relationships that would interfere with the Board’s mission of public protection. 4) Each Board member shall not be an officer or hold any leadership position in a Jurisdiction’s professional association or national professional association serving Architects for the term of such Board member’s appointment to the Board. 5) Each Board member shall complete training of a duration and covering content approved by the (Jurisdiction). Such coursework or training shall address relevant regulatory procedures. 	<p>R203 (Model Law Section 203. Qualifications for Board Membership)</p> <p>[Reserved]</p>	

Article II – Board of Architecture

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 204. Board Member Appointment and Oversight</p> <p>In accordance with the principle of separation of powers and to provide for sufficient oversight by the respective branches of government, the governor or governor’s designee shall appoint the Board members in accordance with the provisions of this Act and the (Jurisdiction) constitution.</p>	<p>R204 (Model Law Section 204. Board Member Appointment and Oversight)</p> <p>[Reserved]^{R1}</p>	<p>^{R1}R204 Most Jurisdictions have a process by which Board member appointments are conducted. In many cases that is through a governor’s appointment office. Boards should take care to ensure that any rule addressing appointment complies with the process identified at the Jurisdictional level. Some Boards have Board members who represent specific geographical regions within their Jurisdiction. Specific details related to identification, selection, or election of candidates for those positions should be described here.</p>
<p>Section 205. Terms</p> <ol style="list-style-type: none"> 1) Except as provided in subsection (2) of this Section 205, Board members shall be appointed for a term of (Number) years, except Board members who are appointed to fill vacancies that occur prior to the expiration of a former member’s full term shall serve the remaining portion of such unexpired term. 2) The Board members’ terms shall be staggered so that the terms of no more than half of the members shall expire in any year. Each member shall serve until a qualified successor is appointed, unless such member cannot serve by reason of such member’s resignation or removal from the Board. 3) A Board member may serve for up to (Number) consecutive full terms. The completion of the remaining portion of an unexpired term shall not constitute a full term for purposes of this Section 205.¹⁶ 4) 	<p>R205 (Model Law Section 205. Terms)</p> <p>[Reserved]</p>	<p>¹⁶Section 205(3) This document includes a limit on consecutive full terms for professional and public Board members. The benefits of this provision include allowing a greater number of individuals to serve on the Board and allowing for diverse perspectives and viewpoints when making decisions that influence public health, safety, and welfare. Adding new Board members also allows the governor or governor’s designee to evaluate the type of skillsets the Board requires at the time of appointment, resulting in an efficient and well-rounded Board. Term limits also encourage Board members to purposefully focus on their roles and responsibilities without the potential for burnout over time and reduces the likelihood of complacency or abuse of office. Consequences of this approach that would need to be mitigated include the potential loss of Board members with prior knowledge of disciplinary action who can ensure fair and consistent application of the laws and regulations, the loss of institutional memory, the loss of decision-making history, and consistency in NCARB policy and operations, as Board members are the primary source of volunteers and leadership for NCARB.</p>

Article II – Board of Architecture

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 206. Board Member Vacancies</p> <p>Any vacancy that occurs in the Board membership for any reason, including expiration of a term, removal, resignation, death, disability, or disqualification, shall be filled as prescribed in Section 204 of this Act in a timely manner so that the Board may fulfill its duties as charged.</p>	<p>R206 (Model Law Section 206. Board Member Vacancies)</p> <p>[Reserved]</p>	
<p>Section 207. Removal of Board Member</p> <p>The governor or governor’s designee shall have the authority to remove a Board member with or without cause. The Board may recommend a Board member’s removal to the governor or governor’s designee upon an affirmative vote of a majority of members otherwise eligible to vote upon one or more of the following grounds:</p> <ol style="list-style-type: none"> 1) The refusal or inability for any reason of a Board member to perform the duties required of a Board member in an efficient, responsible, and professional manner; 2) The misuse of a Board member’s position to obtain, or attempt to obtain, any financial or material gain, or any advantage personally or for another, through such office; 3) A final adjudication by a recognized body, including any court, that there has been a violation of the laws governing the Practice of Architecture by a Board member; or 4) Conviction of a felony or misdemeanor other than a minor traffic offense. 	<p>R207 (Model Law Section 207. Removal of Board Member)</p> <p>[Reserved]</p>	

Article II – Board of Architecture

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 208. Organization of the Board</p> <ol style="list-style-type: none"> 1) The Board shall elect from its members a chairperson, vice-chairperson, and such other officers, as it deems appropriate and necessary to conduct its business. The Chairperson shall preside at all meetings of the Board and shall perform those duties customarily associated with the position and such other duties assigned from time to time by the Board. 2) And ending upon the election of the officer's successor or removal, with or without cause, by the affirmative vote of a majority of Board members otherwise eligible to vote. 	<p>R208 Organization of the Board</p> <p>A Board member shall serve a term of (Number) year(s) as an officer, commencing with the day of the officer's election and ending upon the election of the officer's successor. An officer shall serve no more than (Number) consecutive (Number)-year terms in each office to which they are elected.</p>	
<p>Section 209. Executive Director</p> <ol style="list-style-type: none"> 1) Under the oversight of the Board, the Executive Director shall be responsible for the proper performance of the Board's duties. 2) The Board may delegate authority to the Executive Director as necessary to properly fulfill the Board's duties. 	<p>R209 Executive Director</p> <p>The Executive Director^{R2} is responsible for the day-to-day operations of the Board office and is the Person who shall be served in judicial proceedings against the Board. The Board delegates to the Executive Director certain responsibilities to properly fulfill the Board's duties, which may include, but are not limited to, the following:</p> <ol style="list-style-type: none"> 1) Review and prepare applications for Board approval; 2) Oversee investigations of complaints and present proposed adjudication for Board action; 3) Draft new rules and amendments to rules for Board proposal and adoption; 4) Develop the budget for Board approval; 5) Collect fees and monitor expenditures of funds; 6) Contract for required business services; 7) Report key operations performance measures to the Board; 8) Engage the Board in planning and implement the strategic plan; 9) Oversee and evaluate all staff; 10) Facilitate communications to and among Board members and make arrangements for Board meetings; 	<p>^{R2}R209 There are different types of Board structure that impact the responsibilities of an Executive Director. Member Boards should review this section and modify to ensure the responsibilities are appropriately documented for the Board's model.</p>

Article II – Board of Architecture

MODEL LAW	MODEL REGULATION	COMMENTARY
	<p>R209 (Continued)</p> <ul style="list-style-type: none"> 11) Serve as an agent of the Board when communicating with other jurisdictional agencies and the public; 12) Issue meeting minutes, reports, and notices required of the Board; and 13) Any other duties the Board may assign from time to time. 	
<p>Section 210. Meetings of the Board</p> <p>The Board shall hold regular meetings to transact business in compliance with all applicable (Jurisdiction) laws.</p>	<p>R210 Meetings of the Board</p> <p>All aspects of any meeting of the Board shall comply with all requirements prescribed by (Jurisdiction) law, including the (Jurisdiction) Administrative Procedure Act and Open Meetings Act, and any regulations promulgated thereunder.</p> <ul style="list-style-type: none"> 1) The Board shall meet at least every calendar quarter (i.e., every three months). The Board shall meet at such additional times as may be called by the Chairperson of the Board or by two-thirds (2/3) vote of the members of the Board. Meetings should be scheduled to timely address the issues to be voted on at the NCARB Regional and Annual Business Meetings, including to discuss regional and Board of Directors elections, review proposed resolutions, and determine Board delegates to the meeting. 2) The Board shall meet at such locations as it may from time to time determine. The location for each meeting shall be determined prior to giving notice of any such meeting and shall not be changed after such notice is given without adequate prior notice. 3) The Board, consistent with (Jurisdiction) law and any regulations promulgated thereunder, may allow Board members not present at the meeting location to participate by means of conference telephone or by means of communication by which all Persons in the meeting are able to hear one another and otherwise fully participate in the meeting. Such participation shall constitute presence in person at the meeting. 	

MODEL LAW	MODEL REGULATION	COMMENTARY
	<p>R210 (Continued)</p> <ol style="list-style-type: none"> 4) Notice of all Board meetings shall be given in the manner and pursuant to all requirements prescribed by the (Jurisdiction) Administrative Procedure Act. 5) A majority of Board members as constituted by statute shall constitute a quorum for the convening and conduct of a Board meeting and, except where a greater number is required under statute or the Act or by any regulation of the Board, all actions of the Board shall be by a majority of the members present at a meeting at which quorum is present. 6) A record of all Board meetings shall be maintained in accordance with the (Jurisdiction) Open Meetings Acts. 7) Each Board member shall be given a daily allowance and itemized reimbursement in compliance with (Jurisdiction) law for expenses related to Board meetings and other Board related business, including attending NCARB regional and national meetings. 8) Official minutes of Board meetings shall be prepared and approved at the next regular meeting. 9) Unless required otherwise, by law or by these regulations, Robert’s Rules of Order shall be used to conduct Board meetings. 10) Among other official records required by law, or by rules of other agencies in support of law, there shall be kept in the Board offices accurate and current records. Such records may be kept in paper or electronic format and may include, but are not limited to ^{R3}: <ol style="list-style-type: none"> a. Minutes of all Board meetings; b. The name and registration number of all Persons to whom Licenses or registrations are issued, the last known address of all such Architects and Firms; 	<p>^{R3}R210(10) If an existing retention schedule for such records does not exist through other jurisdictional law, the Board shall establish an appropriate retention schedule for each record. Recommendations for retention are as follows:</p> <ol style="list-style-type: none"> A. Minutes: Into perpetuity. B. Name, License or registration number, and address of licensees (individual and Firm): Into perpetuity. C. Documentation supporting licensee qualifications: Until death of licensee. D. Investigatory/disciplinary documentation: Until death of licensee. E.

Article II – Board of Architecture

MODEL LAW	MODEL REGULATION	COMMENTARY
	<p>R210 (Continued)</p> <ul style="list-style-type: none"> c. Documentation supporting/attesting to the Architect’s or Firm’s qualifications; and d. Alleged violations and investigatory documentation related to disciplinary actions. 	
<p>Section 211. Powers and Duties of the Board</p> <p>1) The following powers and duties are delegated to the Board by (Jurisdiction):</p> <ul style="list-style-type: none"> a. The Board is authorized to make, adopt, amend, and repeal such regulations as may be deemed necessary by the Board from time to time for the proper administration and enforcement of this Act. Such regulations shall be promulgated in accordance with the requirements of the (Jurisdiction) Administrative Procedures Act. b. The Board is authorized to issue Licenses to engage in the Practice of Architecture as further described in Article III – Licensing. c. The Board is authorized to regulate Firms as further described in Article III – Licensing. d. The Board is authorized to enforce all the provisions of this Act and any regulations duly promulgated hereunder, including, but not limited to, discipline as further described in Article V – Discipline. The Board has jurisdiction over Architects, and all other Persons, whether or not licensed by the Board, who are engaged in the Practice of Architecture or other conduct regulated by this Act. e. In addition to the fees specifically authorized under this Act, the Board is authorized to assess reasonable fees for licensure and other services rendered to carry out its duties and responsibilities as required or authorized under this Act or regulations duly promulgated hereunder. 	<p>R211 Powers and Duties Delegated to the Board</p> <p>In addition to the powers and duties in Section 211, the Board shall perform its duties and transact its business, including, but not limited to:</p> <ul style="list-style-type: none"> 1) Review and approve applications; 2) Review complaints and adjudicate enforcement cases brought under the Act and these regulations; 3) Make, adopt, amend, and repeal regulations; 4) Monitor the budget and operations via key performance measures; 5) Strategically plan the focus and initiatives of the Board; 6) Review and comment on NCARB resolutions for the jurisdictional submittal process consistent with <i>NCARB Bylaws</i>; 7) Discuss business matters and authorize the Board’s voting delegate to represent the Board’s interest at the NCARB Regional and Annual Business Meetings; 8) Review and respond to requests to assist the (Jurisdiction’s) legislative and executive branch processes; 9) Review and respond to other matters as they arise; and 10) Make available for public access the names of all licensed and registered Persons. 11) 	

Article II – Board of Architecture

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 211 (Continued)</p> <ul style="list-style-type: none"> f. The Board is authorized to receive and expend funds from parties other than (Jurisdiction) in addition to its Annual/Biennial) appropriation. g. The Board from time to time shall issue a report outlining the activities of the Board, including reference to the effectiveness and efficiencies of the Board. h. The Board shall have such other powers and duties as may be necessary to carry out the purposes of or enforce any provision of this Act or any regulations duly promulgated hereunder. <p>2) The powers and duties set forth in this Section 211 shall be in addition to any other powers and duties delegated to the Board under the provisions of this Act.</p>		
	<p>R212 National Council of Architectural Registration Boards</p> <ul style="list-style-type: none"> 1) The Board shall maintain membership in NCARB and its Regional Conferences and pay the necessary costs thereof. 2) The Board must keep up-to-date information on the experience and examination programs and recommended policies adopted by NCARB. 3) The Board shall participate in NCARB discussions related to establishing uniform standards of architectural registration throughout the United States and its territories. 4) The Board shall develop policies for Board member participation in NCARB committees, leadership, or other volunteer opportunities. 	

Article III – Licensing

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 301. Initial License Qualifications</p> <p>1) To obtain an initial License in (Jurisdiction), an Applicant shall satisfy the following requirements:</p> <ul style="list-style-type: none"> a. Provide documentation satisfactory to the Board that the Applicant: <ul style="list-style-type: none"> i. Successfully completed an Approved Education Program; ii. Successfully completed an Approved Experience Program; iii. Successfully completed an Approved Examination; and b. Submit to the Board a completed application and pay the required fee. c. Provide to the Board a Social Security number, federal employer identification number, individual taxpayer identification number, or an affidavit attesting that the Applicant has no such number, for the Board to establish the Applicant’s identity. Any such information provided to the Board shall be released by the Board to identify Applicants, including verifying an Applicant’s identity with the examination entity, and as may be required by law. <p>2) A License shall be effective upon approval of the Board.</p>	<p>R301.0 Initial License Qualifications</p> <p>1) To obtain an initial License other than pursuant to R301.4, an Applicant must meet the requirements set forth in R301.0 – R301.3.</p> <p>2) In evaluating qualifications, the Board may, prior to reaching its decision, require the Applicant to substantiate the Applicant’s qualifications.</p> <p>R301.1 Education</p> <p>1) An Applicant shall complete an Approved Educational Program, or its equivalent as described herein, to obtain an initial License.</p> <p>2) An Approved Educational Program is a degree accredited by the National Architectural Accrediting Board (NAAB) or education deemed equivalent by the Board to the <i>NCARB Education Standard</i> pursuant to R301.1(2)(B). At a minimum, the criteria for determining such compliance with the education requirements shall include:</p> <ul style="list-style-type: none"> a. An original, certified transcript from an Approved Educational Program transmitted through NCARB; or b. As an alternative to satisfying the Approved Educational Program requirement, the Board may consider (i) any other architectural curriculum that has not been accredited by NAAB, but that has been evaluated and found to be an equivalent standard based on the NCARB Alternatives to Education Requirement as identified in the <i>NCARB Certification Guidelines</i>, the most recent version being incorporated herein by reference; or (ii) demonstration of successful completion of an Education Evaluation Services for Architects (EESA) review. The Board may also consider an Applicant’s combination of education and experience that has been evaluated and found to be equivalent to the <i>NCARB Education Standard</i>, the most recent version being incorporated herein by reference. 	

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	<p>R301.1 (Continued)</p> <p>3) Other experience may be substituted for the licensure requirements set forth in [Education] only insofar as the Board considers it to be equivalent to or better than such requirements. The Applicant must provide to the Board clear and convincing evidence of the equivalency or better of such other experience.</p> <p>R301.2 Experience</p> <p>An Applicant shall successfully complete the Approved Experience Program to obtain an initial License. An Approved Experience Program means the Architectural Experience Program (AXP) administered by NCARB.</p> <p>R301.3 Examination</p> <p>1) An Applicant shall pass the Approved Examination in accordance with the NCARB standards current at the time the Applicant took the Approved Examination to obtain an initial License. An Approved Examination means the Architect Registration Examination (ARE) administered by NCARB ^{R4}.</p> <p>2) To qualify for the Approved Examination, an Applicant shall present satisfactory evidence to the Board of one of the following:</p> <ul style="list-style-type: none"> a. An architecture degree from an Approved Educational Program; or b. Active enrollment in a NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within an Approved Educational Program. <p>3) The Board shall accept the ARE results as determined by NCARB.</p> <p>4) Any violation or alleged violation of NCARB's guidelines or policies by an Applicant, including an Applicant's confidentiality agreements with respect to the examination,</p>	<p>^{R4}R301 (3) Some Jurisdictions require a jurisprudence or supplemental examination and may insert such requirement into their rules. If jurisprudence or supplemental examination(s) are required by the (Jurisdiction), Applicant shall pass the NCARB Approved Examination prior to administration of the supplemental examinations.</p>

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	<p>R301.3 (Continued)</p> <p>will be investigated and acted upon by NCARB. NCARB will report disciplinary actions taken based on such violation to the Board for possible disciplinary action under R501.</p> <p>5) The Board may allow an Applicant to review a failed examination result in accordance with NCARB standards and procedures.</p> <ul style="list-style-type: none"> a. The Board shall work with NCARB staff to determine the time and place for each review of a failed examination. b. A Board staff member shall be present during an Applicant’s review of the Applicant’s failed examination. c. The Board shall accept NCARB’s final determination on all examination score result review and challenges. <p>R301.4 Initial License Standards – Military Personnel</p> <p>1) To obtain a License other than pursuant to R301.0 – R301.3, an Applicant who is military personnel shall meet the requirements set forth in this section R301.5.</p> <ul style="list-style-type: none"> a. In evaluating qualifications, the Board may, prior to reaching its decision, require the Applicant to substantiate the Applicant’s qualifications. b. Other experience may be substituted for the initial License requirements set forth in [Education military] insofar as the Board considers it to be at least equivalent to or more comprehensive than such requirements. The Applicant must show by clear and convincing evidence the equivalency or better of such other experience. <p>2) An Applicant shall be of good character as verified to the Board by an Applicant’s employers or by honorable discharge evidenced by a copy of military discharge document (DD 214).</p>	

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	<p>R301.4 (Continued)</p> <ol style="list-style-type: none"> 3) An Applicant shall complete an Approved Educational Program. 4) An Applicant shall complete an Approved Experience Program. In lieu of an Approved Experience Program, the Board may accept “professional training while in active duty” as it deems acceptable and in keeping with the experience requirements set forth by the NCARB. 5) An Applicant shall pass an Approved Examination. <p>R301.5 Qualifications for Practice Under Disaster Declaration</p> <p>Any individual licensed to engage in the Practice of Architecture in another Jurisdiction may provide disaster assessment services^{R5} within the scope of their License and in response to a disaster declared by the U.S. Federal Government, governor, or other appropriate authority of (Jurisdiction). On written notice to the Board, such services may be provided in (Jurisdiction) without a License for the duration of the incident period, defined as the time interval during which disaster-causing incident occurs, as established by the U.S. Department of Homeland Security’s Federal Emergency Management Agency in the FEMA-State Agreement and Published in the Federal Register. The individual providing services pursuant to this regulation is bound by (Jurisdiction) law. The Board reserves the authority to remove, revoke, rescind, or restrict this disaster-declaration practice privilege of any individual without a hearing by a majority vote of its members.</p> <p>R301.6 Initial License for Foreign Applicants</p> <p>To obtain an initial License, a foreign Applicant shall complete the same requirements as identified in R301.0 – R301.3.</p>	<p>^{R5}R301(5) “Disaster assessment services” are limited to evaluation of structural integrity or nonstructural elements affecting life, safety, and habitability. Other architectural services beyond disaster assessment services, including but not limited to design of repairs, demolition plans, construction documents, or construction administration, should only be undertaken by an Architect licensed in the Jurisdiction.</p>

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<p>Section 302. Reciprocal License Qualifications¹⁷</p> <p>1) To obtain a reciprocal License in (Jurisdiction), an Applicant shall satisfy the following requirements:</p> <ul style="list-style-type: none"> a. Provide documentation satisfactory to the Board that such Applicant: <ul style="list-style-type: none"> i. Holds a current and valid License issued by another Jurisdiction or a licensing authority recognized by the Board; and ii. Holds a current NCARB Certificate. b. Submit to the Board a completed application and pay the required fee. c. Provide to the Board a Social Security number, federal employer identification number, individual taxpayer identification number, or an affidavit attesting that the Applicant has no such number, for the Board to establish the Applicant’s identity. Any such information provided to the Board shall be released by the Board to identify Applicants, including verifying an Applicant’s identity with the examination entity, and as may be required by law. <p>2) A License shall be effective upon approval of the Board.</p>	<p>R302.0 Reciprocal License Qualifications</p> <p>Pursuant of Section 302 of the Act, to obtain a reciprocal License in (Jurisdiction), an Applicant must have their NCARB Record transmitted to the Board, file an application with the Board, and pay the applicable fee.</p> <p>R302.1 Reciprocal License for Foreign Architects</p> <p>Individuals actively licensed as an Architect by a regulatory authority outside of the United States or Canada, who currently hold an NCARB Certificate obtained through a Mutual Recognition Agreement, Mutual Recognition Arrangement, or Tri-National Agreement, shall be eligible for a License.</p>	<p>¹⁷Section 302 The granting of a reciprocal License facilitates portability (or mobility) of an Architect’s License from Jurisdiction to Jurisdiction. This concept is currently referred to in some existing statutes as comity, endorsement, mutual recognition, or out-of-state transfer, among other terms. This document recommends the term “reciprocity” be used uniformly to describe a more consistent process for facilitating licensure portability.</p>
<p>Section 303. Firm Registration</p> <p>To perform architectural services in a Jurisdiction as a Firm, a legally formed business entity must first meet any regulatory requirements set forth by the Board.</p>	<p>R303 Firm Registration</p> <p>Legally formed business entities shall apply to the Board for a certificate of Firm registration and shall provide the information required in Board regulations prior to doing business in (Jurisdiction).</p> <p>1) Any legally formed business entity, whether organized under the laws of (Jurisdiction) or any other Jurisdiction, may neither offer nor provide architectural services in (Jurisdiction) until such entity has obtained a certificate of Firm registration issued by the Board. A certificate of Firm registration may be issued as of the date it is approved by the Board and shall be valid for two (2) years.</p>	

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	<p>R303 (Continued)</p> <p>2) The Board may issue a certificate of Firm registration to a legally formed business entity upon receipt of all of the following:</p> <ul style="list-style-type: none"> a. An application prescribed by the Board, which shall designate one or more supervising Architects who shall perform or directly supervise the performance of all architectural services by said Firm in (Jurisdiction). Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the Architect or under the Architect’s direct supervision only when the requirements of this regulation (R303) are fully satisfied. To be designated as a supervising Architect, an Architect must be: <ul style="list-style-type: none"> i. Licensed by the Board; ii. A full-time active employee of the Firm; and iii. Primary occupation is with the Firm. b. The applicable fee. <p>3) If any change occurs in any of the information provided to the Board pursuant to R303(2) during the period for which a certificate of Firm registration is granted, such change must be reported to the Board within 30 days after the effective date of such change.</p> <p>4) Pursuant to Section 501 of the Act, the Board may revoke or suspend a certificate of Firm registration granted pursuant to R303 if any officer, director, or employee of a registered Firm violates any provision of the Act or these regulations; provided, however, that it shall be an affirmative defense if the Firm demonstrates to the Board that such individual was not acting as an agent of the Firm at the time such violation occurred.</p>	

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<p>Section 304. Continuing Education</p> <p>The Board shall by regulation establish procedures and requirements for continuing education after an Architect obtains a License to demonstrate continuing Competence in the Practice of Architecture for the protection of the public. Such requirements shall include a description of acceptable activities and appropriate documentation required for License renewal.</p>	<p>R304 Continuing Education</p> <p>In addition to all other requirements for License renewal, an Architect must complete Continuing Education Hours each calendar year or be exempt from these Continuing Education requirements as provided below. Failure to comply with these requirements may result in non-renewal of the Architect’s License.</p> <ol style="list-style-type: none"> 1) Continuing Education Hours. 12 Continuing Education Hours must be completed in Health, Safety, and Welfare Subjects acquired in Structured Educational Activities. Continuing Education Hours may be acquired at any location. Excess Continuing Education Hours shall not be credited to a future calendar year. 2) Reporting and Record Keeping. An Architect shall complete and submit forms as required by the Board certifying that the Architect has completed the required Continuing Education Hours. Forms may be audited by the Board for verification of compliance with these requirements. Documentation of reported Continuing Education Hours shall be maintained by the Architect for six (6) years from the date of award. If the Board disallows any Continuing Education Hours, the Architect shall have 60 days from notice of such disallowance either to provide further evidence of having completed the Continuing Education Hours disallowed or to remedy the disallowance by completing the required number of Continuing Education Hours (but such Continuing Education Hours shall not again be used for the next calendar year). If the Board finds, after proper notice and hearing, that the Architect willfully disregarded these requirements or falsified documentation of required Continuing Education Hours, the Architect may be subject to disciplinary action in accordance with the [Act] and Board regulations. 3) Exemptions. An Architect shall not be subject to these requirements if: <ol style="list-style-type: none"> a. The Architect has been granted emeritus or inactive status by the Board; or 	

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	<p>R304 (Continued)</p> <ul style="list-style-type: none"> b. The Architect otherwise meets all renewal requirements and is called to active military service, has a serious medical condition, or can demonstrate to the Board other like hardship, then upon the Board's so finding, the Architect may be excused from some or all of these requirements; or c. The Architect lists the Architect's occupation as "retired" or "inactive" on the Board approved renewal form and further certifies that the Architect is no longer engaging in the Practice of Architecture. <p>4) Reinstatement of Retired or Inactive Architects. In the event such a retired or inactive Person elects to return to active practice, they shall request reinstatement of their License by providing the Board with documentation of the completion of twelve (12) Health, Safety, and Welfare Continuing Education Hours within the preceding twelve (12) months before they may resume actively engaging in the Practice of Architecture. Inactive or retired Persons returning to active practice must report CEHs earned prior to the request to reactivate.</p>	
<p>Section 305. Requirements for License Renewal</p> <ul style="list-style-type: none"> 1) An Architect shall demonstrate completion of continuing education set forth by the Board in regulations. The Board may decline to renew an Architect's License if the Architect's continuing education activities do not meet the standards set forth in the Board's regulations. 2) Each Architect shall submit to the Board a completed application and pay the required fee. 3) A License shall be effective upon approval of the Board. 	<p>R305 Requirements for License Renewal</p> <p>[Describe terms, including fee with cross-reference to R313, citing applicable statute.]</p> <ul style="list-style-type: none"> 1) A License shall be renewed every two (2) years.^{R6} 2) An Architect shall renew the License prior to its renewal date to continue engaging in the Practice of Architecture. It is the responsibility of the Architect to timely renew the License. 3) To renew a License, an Architect shall complete a renewal application prescribed by the Board and pay the renewal fee established in R313 on or before the renewal date. 4) After reviewing the renewal application, the Board may renew the License. 	<p>^{R6}R305 (1) Jurisdictions have various renewal schedules and methods. In an effort to ensure continuous revenue stream throughout the renewal period, consider renewals on a two-year even-odd cycle to expire at the end of the month two years from issue date. In addition to continuity of cash flow, this allows for a smoother process for staff processing renewals.</p>

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<p>Section 306. Expired License</p> <p>An Architect's failure to renew a License by the designated renewal date shall result in the expiration of the Architect's License.</p>	<p>R306 Requirements for Reinstatement of Delinquent and Expired License</p> <ol style="list-style-type: none"> 1) A License not renewed by its renewal date shall be a "Delinquent License" for a period of up to 120 days after its renewal date until the License is reinstated. A License not renewed after 120 days of its renewal date shall be an "Expired License" until the License is reinstated. An Architect with a Delinquent License or Expired License is prohibited from engaging in the Practice of Architecture in this (Jurisdiction) until such License is reinstated pursuant to this section R306. 2) To resume engaging in the Practice of Architecture, an Architect with a Delinquent License or Expired License shall apply for reinstatement by the Board to resume engaging in the Practice of Architecture. Each Applicant for reinstatement of a Delinquent or Expired License must submit documentation satisfactory to the Board meeting in accordance with the following criteria: <ol style="list-style-type: none"> a. Delinquent License: An Applicant for reinstatement of a Delinquent License shall submit to the Board: <ol style="list-style-type: none"> i. A completed application for License reinstatement prescribed by the Board and payment of applicable fees including a late fee as determined by the Board but not to exceed three times the Board's initial licensure application fee; and ii. Documentation of successful completion of all applicable licensure renewal requirements. b. Expired License: An Applicant for reinstatement of an Expired License shall satisfy the requirements set forth in this R306 and R301.0 – R301.3 and is subject to the following: <ol style="list-style-type: none"> i. In connection with any application for an Expired License reinstatement, the Board may impose any additional reasonable requirements it deems necessary. 	

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	<p>R306 (Continued)</p> <ul style="list-style-type: none"> ii. The Board may also consider any relevant extenuating circumstances duly submitted in conjunction with any reinstatement application for an Expired License where the Applicant can demonstrate hardship, so long as the Board maintains its public protection mission in considering any such reinstatement application. iii. Applicants for reinstatement of an Expired License must also submit evidence to the Board of completing twenty-four (24) Continuing Education Hours in Health, Safety, and Welfare Subjects acquired in Structured Educational Activities within a two (2) year period immediately prior to the reinstatement application. 	
<p>Section 307. Inactive License</p> <p>The Board shall by regulation set forth the requirements and procedures for an Architect in Good Standing to place a License on inactive status and the requirements and procedures to activate an Inactive License. While their License is on inactive status, the Architect shall not engage in the Practice of Architecture in (Jurisdiction) or use the title “Architect” and shall be exempt from License renewal requirements.</p>	<p>R307 Reinstatement of Inactive License</p> <p>[Describe terms, including fee with cross-reference to R313, citing applicable statute.]</p> <ul style="list-style-type: none"> 1) An Architect may apply for Inactive License status if the Architect satisfies the following criteria: <ul style="list-style-type: none"> a. Holds a License in Good Standing; and b. Certifies that they shall not engage in the Practice of Architecture while on inactive status except to identify themselves as an inactive licensee. 2) Upon application to the Board, if all requirements are met, the Architect shall be granted Inactive License status. 3) Inactive status licensees are not required to fulfill the continuing education requirement. 4) A License may remain on inactive status indefinitely. 	

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	<p>R307 (Continued)</p> <p>5) In the event a Person with Inactive Licensure status elects to return to active practice in [Jurisdiction], they shall submit a current renewal application form, the renewal fee, and documentation of the completion CEHs as per Regulation 304.4 before they may resume actively engaging in the Practice of Architecture.</p> <p>After reviewing the renewal application, the Board may renew the License.</p>	
<p>Section 308. Architect Emeritus</p> <p>The Board shall by regulation establish the requirements for the title of “Architect emeritus,” which is an honorary title granted by the Board to a previously licensed Architect who has retired in Good Standing from the active Practice of Architecture.</p>	<p>R308 Architect Emeritus Requirements</p> <p>1) An Architect may apply for Architect emeritus status if the Architect satisfies the following criteria:</p> <ul style="list-style-type: none"> a. Holds a License in Good Standing; b. Is retired from the active Practice of Architecture. “Retired” means the Architect no longer engages in the active Practice of Architecture as defined in Section 103 of Article I of the Act; and c. Was registered for at least ten (10) years in (Jurisdiction) or is 65 years of age or older. <p>2) An Architect who can provide, to the Board’s satisfaction, documentation that the Architect is physically or mentally unable to engage in the Practice of Architecture may also apply for Architect emeritus status.</p> <p>3) Upon application to the Board, if all requirements are met, the Architect shall be granted Architect emeritus status.</p> <p>4) An individual granted Architect emeritus status may use the title “Architect emeritus” on any letter, title, sign, card, or device.</p> <p>5) If an Architect emeritus wishes to engage in the active Practice of Architecture, they shall submit a current renewal application form, the renewal fee, and documentation of completing twelve (12) Health, Safety, and Welfare Continuing Education Hours required by regulation.</p>	

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<p>Section 309. Reinstatement of License Following Disciplinary Action</p> <p>The Board shall by regulation set forth procedures and requirements for the reinstatement of an Architect's License.</p>	<p>R309 Reinstatement of License Following Disciplinary Action</p> <p>The Board shall have the power under Section 309 of the Act to reinstate a License that has been revoked, suspended, or restricted by the Board, for engaging in conduct in violation of the Act or these regulations. The Board may be petitioned for License reinstatement in writing on the form required by the Board, with payment of the required fee per R313.</p>	
<p>Section 310. Prima Facie Evidence of License</p> <p>A certified copy of an Architect's License record shall be maintained by the Board and shall be accepted as <i>prima facie</i> evidence that the individual is legally licensed as an Architect for the period for which it is issued and of all other facts included in the record.</p>	<p>R310 (Model Law Section 310. Prima Facie Evidence of Licensure)</p> <p>[Reserved]</p>	
<p>Section 311. Source of Data</p> <p>The Board may use documentation and verified data stored by NCARB in the same way that it may use data stored by the Board to establish an Applicant's qualifications for a License. Notwithstanding any other provision of law to the contrary, the Board shall share such information with NCARB as may be reasonably requested from time to time, provided that NCARB agrees to maintain the confidentiality of such information.</p>	<p>R311 Source of Data</p> <p>Sources of data shared by the Board and NCARB for determination of qualifications for licensure (initial, reciprocity, or renewal) may include, but not be limited to:</p> <ol style="list-style-type: none"> 1) Status of licensure in (Jurisdiction), and 2) History or status of complaints or Board(s) investigations, and 3) History or status of disciplinary actions taken by Board(s). 	

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	<p>R312 Confidentiality</p> <p>Notwithstanding any other law, an Applicant’s Social Security number, federal employer identification number, or individual taxpayer identification number furnished to the Board pursuant to the Act or these regulations shall not be deemed a matter of public record, shall not be open to or made available for public inspection, shall not be used for a purpose inconsistent with the Act or these regulations, and shall be removed from the record in the custody of the Board at such time that such information is no longer necessary for the enforcement of the Act or these regulations. The Board shall maintain records for a period of at least three (3) years after the end of the period of time to which they relate.</p>	
	<p>R313 Fees</p> <p>[Insert schedule of fees, with cross-references to statutory language permitting the Board to establish fees [Section 211(1)(e) of the Act], or to any fees set by statute. This list should identify all categories of fees, including those to be established from time to time by the Board.]</p>	
	<p>R314 Application Appeals</p> <p>[Insert procedures as identified by the (Jurisdiction) Administrative Procedures Act]^{R7}</p>	<p>^{R7}R314 In the event that no appeals process exists in the Administrative Procedures Act, the Board should establish broad procedures for instituting a process by which a candidate could have their application re-evaluated. The procedures should include, but not be limited to the following: the right to a hearing, notice of the hearing, right to counsel, procedures to be used during the hearing (evidence, witnesses, depositions, and subpoenas), final decisions, and other Board-specific items related to the application review process. This provides an additional layer of public protection by ensuring that the candidate’s qualifications meet the standards of the Board.</p>

Article IV – Practice Requirements

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 401. Seal¹⁸</p> <ol style="list-style-type: none"> 1) Every Architect shall have a seal of an image authorized by the Board. The seal may be electronic. It is the responsibility of the Architect to provide adequate security over the use of the Architect's seal. 2) All Technical Submissions prepared under the Responsible Charge of the Architect required by public authorities having jurisdiction for Building permits or regulatory approvals shall be sealed and signed by the Architect. By sealing a Technical Submission, the Architect represents that the Architect was in Responsible Charge over the content of such Technical Submissions during its preparation and has applied the required professional standard of care. 3) The public authorities having jurisdiction and charged with the administration and enforcement of adopted codes shall accept or approve Technical Submissions involving the Practice of Architecture only if the Technical Submissions have been sealed as required by this Act. A Building permit issued for a Technical Submission that does not conform with the requirements of this Act shall be invalid. 	<p>R401.0 Design and Use of Architect's Seal</p> <ol style="list-style-type: none"> 1) Pursuant to Section 401 of the Act and subject to R501(C), each Architect must procure a seal, which shall contain the Architect's first and last name, the Architect's License number, and the words "LICENSED ARCHITECT— [NAME OF JURISDICTION]." This seal must comply in all respects, including size and format, with the seal shown below: [INSERT SPECIMEN SEAL IMPRINT.] 2) As required by Section 401 of the Act, the seal must appear on all Technical Submissions prepared under the Responsible Charge of the Architect, including, but not limited to, each drawing sheet and the specifications cover. Such seal and signature may be electronic. <p>R401.1 Architect Seal</p> <ol style="list-style-type: none"> 1) An Architect may seal and sign Technical Submissions only if the Technical Submissions were: <ol style="list-style-type: none"> a. Prepared by the Architect; b. Prepared by individuals under the Architect's Responsible Charge; c. Prepared by another Architect if the sealing and signing Architect has reviewed the other Architect's work and either has coordinated the preparation of the work or has integrated the work into their own Technical Submissions; or d. Prepared by another Architect licensed in any Jurisdiction and holding a current and valid NCARB Certificate if the sealing and signing Architect has reviewed the other Architect's work and has integrated the work into their own Technical Submissions. 2) An Architect may include in Technical Submissions and may seal and sign Prototypical Building documents prepared by an Architect licensed in any Jurisdiction. The Architect shall 	<p>¹⁸Section 401 Design of the built environment is regulated by applicable Building codes and statutes. Architects seal Technical Submissions to certify applicable codes have been appropriately addressed. The seal also represents that the Architect is in Responsible Charge of the design, is familiar with all aspects of the document preparation, and the submission is complete for construction. The public authorities in charge of issuing Building permits or granting regulatory approvals are responsible for determining that the construction documents adequately describe a Building project that, when completed, will meet the applicable codes. It is not unusual for such authorities to make comments that will result in corrections or discussions with the Architect. It is NCARB's expectation that these authorities do not issue a Building permit to construct until all comments have been appropriately addressed and the amended documents have been sealed and signed.</p>

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	<p>R401.1 (Continued)</p> <p>modify the Prototypical Building documents to comply with the requirements of (Jurisdiction).</p> <p>3) An Architect may also seal and sign drawings, specifications, or other work that is not required to be sealed by this Act.</p> <p>4) An Architect who has sealed and signed Technical Submissions integrating the work of another Architect into the Architect’s own work shall maintain and make available to the Board adequate and complete records demonstrating the nature and extent of the Architect’s review of and integration of the other Architect’s work into their own Technical Submissions. Following such sealing and signing, these records shall comply with the provisions of Section 403 of Law.</p>	

Article IV – Practice Requirements

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<p>Section 402. Unlawful Practice</p> <ol style="list-style-type: none"> 1) Except as otherwise provided under this Act, it shall be unlawful for any individual to engage in the Practice of Architecture unless duly licensed as an Architect under the applicable provisions of this Act. 2) Except as set forth in Article III, no individual shall engage in the Practice of Architecture¹⁹ in (Jurisdiction) or use the title “Architect” or any modification or derivative in its name or description of its business activity in a manner that indicates or implies that it engages in the Practice of Architecture or offers to engage in the Practice of Architecture in the Jurisdiction. 	<p>R402 Titles for Individuals and Firms</p> <ol style="list-style-type: none"> 1) Architects licensed in (Jurisdiction) are authorized to use any form of the word “Architect” or the word “architecture” to describe themselves and to describe services they offer and perform in (Jurisdiction). 2) A Firm licensed in (Jurisdiction) is authorized to use any form of the word “Architect” or the word “architecture” in its name or to describe services it offers or performs in (Jurisdiction). 3) No entity other than those qualified in subsections (1) and (2) of this section may use any form of the word “Architect” or “architecture” in its name or to describe services it offers or performs in (Jurisdiction).^{R8} 	<p>¹⁹Section 402(2) The Practice of Architecture includes services in connection with the design and construction, enlargement, or alteration of a Building or group of Buildings and the space within Buildings known as “interior architecture.” Such interior space includes, without limitation, all areas, assemblies and components of buildings, whether new or existing, intended for human occupancy and with respect to which codes, laws and regulations intended to ensure the safety of building occupants are applicable in whole or in part. Examples of the foregoing codes, laws, and regulations are occupancy classification, use and zoning requirements, construction classification requirements, ingress and egress requirements, accessibility requirements, fire-rated construction assembly and finish requirements, alarm and suppression system requirements, smoke control system requirements, environmental health requirements, electrical, structural and seismic requirements. Such examples would not include services rendered in selling, selecting or assisting in the selection of furnishings, furniture, decorative accessories, art work or other decorative materials, paint and color schemes, textiles, wall coverings, window treatments or floor coverings.</p> <p>^{R8}R402(3) Jurisdictions may add any additional language related to exceptions to the use of the word “Architect” or the word “architecture.”</p>
<p>Section 403. Record Keeping</p> <p>An Architect shall maintain documentation of Technical Submissions for at least five (5) years and make records available to the Board upon request. Records must be adequate to demonstrate the Architect’s Responsible Charge over the Technical Submissions, whether prepared entirely by the Architect or by integrating the work of others.</p>	<p>R403 (Model Law Section 403. Record Keeping)</p> <p>[Reserved]</p>	

Article V – Discipline

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 501. Enforcement Authority and Grounds for Discipline</p> <p>1) The Board shall be charged with the enforcement of this Act and the regulations adopted hereunder. Persons, whether or not licensed or registered by the Board, who engage in conduct in violation of this Act or the regulations adopted hereunder, are subject to the Board’s authority. Persons licensed or registered by the Board cannot divest the Board of its authority by changing their licensure or registration status or relinquishing their License or registration.</p> <p>2) Conduct in violation of this Act or the regulations adopted hereunder includes, but is not limited to:</p> <ol style="list-style-type: none"> a. A conviction for or other official determination of a violation of any law, rule, or regulation of (Jurisdiction), any other Jurisdiction, or the federal government, pertaining to any aspect of the Practice of Architecture; b. Unprofessional conduct relating to the Practice of Architecture; c. Failure to conform to the accepted minimum standard of care; d. Financial misconduct such as improper or fraudulent billing practices; e. Incapacity or impairment, for whatever reason, that prevents an Architect from engaging in the Practice of Architecture consistent with the accepted minimum standard of care; f. Conviction of a felony; g. Engaging, or aiding and abetting any Person with engaging, in the Practice of Architecture without being licensed or registered pursuant to this Act; h. Falsely using the title of “Architect” or any derivative thereof; 	<p>R501 Enforcement Authority and Grounds for Discipline</p> <p>The Board may take disciplinary action based upon the grounds for discipline in Section 501 of the Act or one or more of the following grounds:</p> <ol style="list-style-type: none"> 1) Conduct that violates security of the Architect Registration Examination as cited in NCARB Board Policies, as amended or supplanted, which are incorporated herein by reference, related to the Architect Registration Examination or any other Examination materials. 2) Conduct that violates the <i>Architectural Experience Program Guidelines</i> related to the Architectural Experience Program, which is incorporated herein by reference. 3) Conduct that violates the <i>NCARB Model Rules of Conduct</i> currently in effect at the time of the putative violation. The <i>NCARB Model Rules of Conduct</i>, as amended or supplanted, is incorporated herein by reference. 	

Article V – Discipline

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 501 (Continued)</p> <ul style="list-style-type: none"> i. A conviction or other official determination of engaging in the Practice of Architecture in another Jurisdiction without being duly licensed in that Jurisdiction; j. Attempting to use or using the License or seal of another Architect as their own; k. Having had any license to engage in the Practice of Architecture subjected to disciplinary action by a licensing authority recognized by the Board, if the basis of such disciplinary action would have resulted in a violation in (Jurisdiction);¹¹⁰ l. Failure to comply with policies and procedures related to the examination and Approved Experience Program required by the Board for an initial License; m. Having been sanctioned by the NCARB Board of Directors; n. Failure to report to the Board any information as required under Article VI – Complaints of this Act; o. Failure to disclose a fact or misrepresentation of a fact to the Board; p. Failure to cooperate with the Board in an investigation pending against any Person; q. Failure to comply with any stipulation or agreement of any Board disciplinary action; or r. Any other grounds as provided by the Board in regulation. 		<p>¹¹⁰Section 501(2)(k) This provision is not intended to be used to impose additional discipline or civil penalties for minor or administrative infractions that have been resolved in the relevant Jurisdiction. Jurisdictions should rely on this provision only if the Board determines additional disciplinary action intended to limit the public’s exposure to the Architect’s practice is required for actions such as a refusal to renew, revocation or suspension of licensure, or a restriction or limitation on practice.</p>

Article V – Discipline

MODEL LAW	MODEL REGULATION	COMMENTARY																
<p>Section 502. Disciplinary Procedures</p> <ol style="list-style-type: none"> 1) The Board shall by regulation set forth procedures for discipline pursuant to the (Jurisdiction) Administrative Procedures Act, including, but not limited to, the right to a hearing and judicial review. 2) The Board acting by itself or through a designee may administer oaths, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, records, memoranda, or other information necessary to enforce this Act. 	<p>R502 Disciplinary Procedures</p> <p>[Insert procedures as identified by the (Jurisdiction) Administrative Procedures Act]^{R9}</p>	<p>^{R9}R502 The Board should establish broad procedures for instituting disciplinary actions including but not limited to the following: the right to a hearing, notice of the hearing, right to counsel, informal settlements, procedures to be used during the hearing (evidence, witnesses, dispositions, and subpoenas), final decisions, appeals, and other Board-specific items related to the disciplinary process. Boards are encouraged to publish practice-related disciplinary actions. This provides an additional layer of public protection by making clients and future clients aware of such actions by Architects and anyone fraudulently holding themselves out as an Architect.</p>																
<p>Section 503. Disciplinary and Other Enforcement Actions</p> <ol style="list-style-type: none"> 1) For conduct violating any provision of this Act or the regulations adopted hereunder, the Board may refuse to issue, renew, or reinstate, or may suspend, revoke, reprimand, restrict or otherwise limit the License or registration of any Person, whether or not currently licensed, pursuant to the (Jurisdiction) Administrative Procedure Act. The Board in addition to other enforcement actions may impose civil penalties, including recovery of costs, for violations of this Act and the regulations adopted hereunder. 2) The Board or, upon the request of the Board, the Attorney General, or the appropriate District Attorney, shall file an action to enjoin or restrain a Person, whether or not licensed or registered, from violating any provision of this Act or the regulations adopted hereunder, including injunctive relief, in the court with appropriate jurisdiction. 	<p>R503 Disciplinary and Other Enforcement Actions</p> <p>[Insert disciplinary matrix of standard enforcement actions for certain violations]^{R10}</p> <table border="1" data-bbox="827 816 1486 1263"> <thead> <tr> <th>Violation</th> <th>Citation</th> <th>Discipline</th> <th>Fine or Penalty</th> </tr> </thead> <tbody> <tr> <td>Practice of Architecture while License or Firm registration is expired.</td> <td>305(2) and R305</td> <td></td> <td>\$</td> </tr> <tr> <td>Aiding or abetting any Person with engaging in the Practice of Architecture without being licensed or registered pursuant to the Act.</td> <td>501(G)</td> <td></td> <td>\$</td> </tr> <tr> <td>Unauthorized use of term “Architect” or “architectural.”</td> <td>402(2)</td> <td></td> <td>\$</td> </tr> </tbody> </table>	Violation	Citation	Discipline	Fine or Penalty	Practice of Architecture while License or Firm registration is expired.	305(2) and R305		\$	Aiding or abetting any Person with engaging in the Practice of Architecture without being licensed or registered pursuant to the Act.	501(G)		\$	Unauthorized use of term “Architect” or “architectural.”	402(2)		\$	<p>^{R10}R503 The Board should publish a disciplinary matrix of standard enforcement actions for certain violations to provide notice to licensees and encourage consistent disciplinary actions.</p>
Violation	Citation	Discipline	Fine or Penalty															
Practice of Architecture while License or Firm registration is expired.	305(2) and R305		\$															
Aiding or abetting any Person with engaging in the Practice of Architecture without being licensed or registered pursuant to the Act.	501(G)		\$															
Unauthorized use of term “Architect” or “architectural.”	402(2)		\$															

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 503 (Continued)</p> <p>3) If any Person refuses to comply with any decision or order of the Board, then the Board or, upon the request of the Board, the Attorney General, or the appropriate District Attorney, shall file an action for the enforcement of such decision or order, including injunctive relief, in the court with appropriate jurisdiction. After due hearing, the court shall order the enforcement of such decision or order, or any part thereof, if legally and properly made by the Board and, where appropriate, injunctive relief.</p>		

Article VI – Complaints

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 601. Complaint Procedures</p> <p>The Board shall establish comprehensive procedures for reporting and receiving complaints of a possible violation of this Act.</p>	<p>R601 Complaint Procedures</p> <p>[Insert procedures for reporting and receiving complaints of a possible violation of this Act as identified by (Jurisdiction) Administrative Procedures Act].ⁱⁱⁱ</p>	<p>ⁱⁱⁱR601 Effectively addressing misconduct is a critical function of a Board to ensure public protection. Any regulations related to complaints received and investigations should be consistent with the (Jurisdiction's) Administrative Procedures Act, including, but not limited to, the following: how the agency receives a complaint, initial review of the complaint, the investigation process, dismissal of the complaint, referral for disciplinary action, and any alternative actions.</p> <p>Boards may structure the investigative process in a variety of different formats, including, but not limited to, an in-house investigator, hired investigator, discipline committee consisting of Board members, or the Jurisdiction's Department of Justice. The process employed by the Board will often reflect the organizational structure of the agency within the Jurisdiction and the resources available. The results of the investigation should be shared with the full Board to make a final determination. Board members involved directly in the investigation should recuse themselves from the full Board deliberations and determinations to avoid conflicts.</p> <p>Complaints and information collected in the course of an investigation should be protected from public records requests. It is recommended that Boards explore the possibility of obtaining an exemption for this information in its Public Records law.</p>
<p>Section 602. Duty to Report Misconduct</p> <p>Any Architect, Applicant, or Firm who has knowledge of any conduct by any Person that may constitute grounds for disciplinary action under any provision of this Act or any regulation duly promulgated hereunder shall report such conduct to the Board. An Architect, Applicant, or Firm who violates this Act or any regulation promulgated hereunder is required to self-report such violation to the Board.</p>	<p>R602 (Model Law Section 602 Duty to Report Misconduct)</p> <p>[Reserved]</p>	

Article VII – Other

MODEL LAW	MODEL REGULATION	COMMENTARY
<p>Section 701. Severability</p> <p>If any provision of this Act is declared unconstitutional or illegal, or the applicability of this Act to any Person or circumstance is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of this Act and the application of this Act to other Persons and circumstances, shall not be affected, and shall remain in full force and effect, without the invalid provision or application.</p>	<p>R701 Severability</p> <p>If any provision of these regulations is declared unconstitutional or illegal, or the applicability of these regulations to any Person or circumstance is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of these regulations and the application of these regulations to other Persons and circumstances, shall not be affected, and shall remain in full force and effect, without the invalid provision or application.</p>	
<p>Section 702. Effective Date</p> <p>This Act shall be in full force and effect on (Date).</p>	<p>R702 Effective Date</p> <p>In accordance with the (Jurisdiction) Administrative Procedures Act, amendments to these regulations should be publicly available.</p>	

Appendix D: NCARB Policy Resolutions to Sunset: 1980-2018, Part 1

Project Background

In FY19, Board discussions unveiled a resolution from 2000 that dictated an NCARB position on an issue/policy that, in 2020, no longer aligns with current practice or philosophy. Evaluation of the resolution was assigned to a task force for review and discussion, but led to the question about the status of other resolutions that dictated official NCARB policy or position. Policies or positions implemented by membership vote remain active unless the membership takes a follow-up action to sunset it, provides a deadline, or includes information granting authority of future adjustments to another party in the resolution.

NCARB staff began a research project to evaluate the status of all historical NCARB resolutions, and the Policy Advisory Committee (PAC) has been asked to make recommendations to the NCARB Board of Directors on whether the resolutions should remain NCARB policy or sunset.

The resolutions are being reviewed by category, and in FY21, the PAC reviewed resolutions from 1980-2018 (there were no resolutions in 2019 or 2020) in the following areas:

- Financial
- Records/Process
- Education
- Experience
- NCARB Certificate
- Continuing Education

Additional resolutions from more categories and decades will be reviewed over the next several years as NCARB cleans up its resolution database.

Resolutions Recommended for Sunset as part of Resolution 2021-G:

Resolution 1996-03: Encouraging Recognition of Practice of Academic Promotion/Tenure

“RESOLVED, that NCARB encourage the institutions of higher learning to recognize the creative work associated with practice experience and to place fair value on the knowledge gained in that experience when evaluating an educator's qualifications for academic advancement.”

Rationale: NCARB does not have the authority to weigh in on “an education’s qualification for academic advancement” at institutes of high learning. NCARB will continue to provide feedback and recommendations to NAAB and ACSA, as appropriate, to ensure programs are preparing students to enter practice, which includes the need for licensed practitioners on staff.

Resolution 1995-11: Addition of the IDP Requirement to Architectural School Catalogs

“RESOLVED, that NCARB, through its representatives to the National Architectural Accrediting Board (NAAB), request that schools of architecture include the following statement in their catalogs:

"Many states require that an individual intending to become an architect complete the Intern Development Program (IDP). This program requires a record of internship experience."

and that NCARB request that the Association of Collegiate Schools of Architecture (ACSA) encourage the incorporation of the above statement in the catalogs of its member ACSA schools.”

Rationale: While NCARB likely made the request to NAAB and ACSA at the time, this resolution did not include a deadline. NCARB now engages in more effective communication methods to inform architecture students about the AXP and other requirements for licensure.

Resolution 1994-01: Amending 1992 Resolution to Authorize Two ADVP Monographs Each Year

“RESOLVED, that clause (i) of Resolution 92-7 be amended by striking the phrase "one monograph and associated quiz" and substituting, therefore, "monographs and associated quizzes," so that the Council will be authorized to publish annually two monographs.”

Rationale: The monograph program has been replaced by the Continuum Education Program, and now releases more than two continuing education (CE) offerings a year. There is no need to limit the number of offerings per year.

Resolution 1992-06 and 07*: Professional Development (Continuing Education)/Activating ADVP

*Two resolutions were merged together at the 1992 Annual Meeting and were voted on at once.

“RESOLVED, that the Council activate the Architect Development Verification Program (ADVP) subject to the following conditions:

- i. beginning on July 1, 1993, NCARB will publish annually one monograph and associated quiz on a subject relevant to the health, safety and welfare of the public;
- ii. any Certificate holder may participate in ADVP;
- iii. non-Certificate holders in a jurisdiction mandating a continuing education requirement may participate in ADVP through their state board;
- iv. NCARB will set the charge for participation in ADVP as nearly as feasible to cover all direct and indirect costs associated with the program;

- v. NCARB will not require participation in ADVP as a condition of maintaining the Council Certificate; NCARB will take no action to encourage or discourage state legislation requiring ADVP or any form of mandatory continuing education; and
- vi. if a state adopts a mandatory program, NCARB will use its best efforts to persuade the state to accept ADVP as a vehicle for satisfying the state's requirements.
- vii. To the extent permitted by law, NCARB will pursue this endeavor with the ultimate goal of a commitment by all five (5) collateral organizations representing the profession, NCARB (certification), AIA (professional activities), ACSA (education), NAAB (accreditation) and AIAS (students)] for a unified program that is structured such that quality of professional development programs and participation in same is validated.”

Rationale: While we no longer call this ADVP, the program still exists and has gone through three name changes since this resolution. Although NCARB continues to do some of the conditions outlined in this resolution, some of them no longer align to how the Continuum Education Program works today. For example, when it was decided to make NCARB’s CE offerings free to NCARB Certificate holders, the organization was no longer in compliance with section iv. Sunsetting this resolution provides flexibility for the Board of Directors (with recommendations from the CE Subcommittee) to make additional adjustments in the future.

Resolution 1987-15: Removal of Impediments to Interstate Practice

Passed 55-0

Submitted by NCARB Board of Directors

“RESOLVED, that all Member Boards be, and hereby are, encouraged to remove impediments to interstate practice for NCARB certificate holders by accepting the principles set forth in the report of the Procedures and Documents Committee to the 1987 Annual Meeting.”

Rationale: The principles set forth in the report include information on a paper-form process the Council no longer uses and says the Council should advocate against jurisdiction-specific examinations, which it currently does not.

Resolution 1983-04 Establishing a Procedure for Evaluating Alternate Education

“RESOLVED, that there be established an NCARB standing committee designated as the Education Evaluation Committee, with an Advisory Panel comprising representatives of NAAB, AIA, ACSA, and other educators (not representing any collateral organization) designated the Architects Evaluation Advisory Panel; and that the Committee, with the assistance of the Advisory Panel, establish Education Criteria for approval by NCARB in order to assess the education of candidates for NCARB certification without an accredited degree and make such Education Criteria available to member boards which wish to use the criteria for evaluating candidates for registration without an accredited degree; such Committee and Advisory Panel to function as described in the report of the Education Committee to the 1983 Annual Meeting of the Council.

FURTHER RESOLVED, that the Committee, with the assistance of the Advisory Panel, will evaluate a certification candidate's education in the light of such Education Criteria and identify for such candidates any deficiencies in their architectural education.”

Rationale: Most of this resolution has been sunset and replaced by other follow-up resolutions, but it creates an Advisory Panel that no longer exists and should be officially sunset.

DRAFT