

BEFORE THE BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.114.501 architect )  
examination, 24.114.502 architect )  
licensure by examination, )  
24.114.1402 education and )  
experience required for landscape )  
architect licensure, 24.114.2105 )  
architect continuing education )  
requirements, and 24.114.2301 )  
unprofessional conduct )

TO: All Concerned Persons

1. On March 15, 2019, the Board of Architects and Landscape Architects (board) published MAR Notice No. 24-114-37 regarding the public hearing on the proposed amendment of the above-stated rules, at page 275 of the 2019 Montana Administrative Register, Issue No. 5.

2. On April 9, 2019, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the April 12, 2019, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: One commenter stated that only "landscape" should be stricken from the description of who may offer direct supervision to someone completing required experience in ARM 24.114.1402. The commenter made additional recommendations but acknowledged they exceeded the amendments in the proposal notice.

RESPONSE 1: The board appreciates all comments received in the rulemaking process but is removing the word "licensed" to allow all experience outlined in ARM 24.114.1402(2). Currently, two-thirds of the required experience must come under the direct supervision of a licensed landscape architect. The amendment is directed at the remaining one-third of the experience, which can be obtained under the direct supervision of an engineer, an architect, a landscape architect, or a city planner. City planners can be certified by a nationally recognized certifying body, but they are not licensed. The board cannot consider comments outside the rule changes in the proposal notice.

COMMENT 2: One commenter expressed disappointment in the proposed amendment to the landscape architect experience requirement and indicated that a

portion of the required experience received under the supervision of an architect or engineer is not complete. The commenter asserted that experience received under the supervision of a landscape architect is incredibly important.

RESPONSE 2: The board appreciates all comments received in the rulemaking process and agrees that experience under a landscape architect's supervision is very important. The board is not changing the requirement that two-thirds of the experience must be obtained under the direct supervision of a licensed landscape architect. Deleting the reference to "licensed landscape" design professional in ARM 24.114.1402 clarifies that the remaining one-third of the experience may be obtained under the direct supervision of an engineer, an architect, a landscape architect, or a city planner. City planners can be certified by a nationally recognized certifying body, but they are not licensed.

COMMENT 3: One commenter expressed concern that the board is weakening the landscape architect experience requirements by allowing other design professionals to directly supervise experience and by allowing remote internships.

RESPONSE 3: The board appreciates all comments received in the rulemaking process, but the comment relates to sections of rules that are outside the proposed notice. Current regulations allow for remote communication with the direct supervisor and allow for one-third of the experience to be obtained under the direct supervision of a design professional other than a landscape architect.

COMMENT 4: One commenter noted that ARM 24.114.2105(3)(c)(iii) indicates a CE subject is "site section" and asked if it should be "site selection" instead.

RESPONSE 4: The board agrees that the intended CE subject is "site selection" and is amending the rule accordingly.

COMMENT 5: A commenter was concerned about the realignment of CE subjects and opined that the current rule is easier to understand than the proposed amendments.

RESPONSE 5: The board appreciates all comments received in the rulemaking process. The education standards for CE have been amended in the model rules to mirror the AXP subjects so both current and future licensees have the same foundation. The board is amending the rule to align subjects and assist in reciprocal licensure throughout the country.

COMMENT 6: A commenter was concerned that the amendment to ARM 24.114.2301(1)(c) is not specific as to who would determine violations or how the licensee would be notified.

RESPONSE 6: Determination of unprofessional conduct violations and notification to licensees of those findings are dictated by the Montana Code Annotated and the Administrative Rules of Montana.

COMMENT 7: One commenter asserted that the amendment to ARM 24.114.2301(1)(c) is too broad, as building laws and regulations are complex and constantly changing. The commenter suggested the board narrow the provision to require "knowingly and willfully" when failing to comply with applicable federal, state, and local building laws and regulations.

RESPONSE 7: The board appreciates all comments received in the rulemaking process. When evaluating whether a licensee has committed unprofessional conduct, the screening panel determines whether there is reasonable cause to believe a licensee has violated a statute or rule that justifies disciplinary proceedings. The screening panel reviews and evaluates each case individually using that standard and the panel has discretion whether to discipline a licensee depending on the facts of the case.

4. The board has amended ARM 24.114.501, 24.114.502, 24.114.1402, and 24.114.2301 exactly as proposed.

5. The board has amended ARM 24.114.2105 with the following changes, stricken matter interlined, new matter underlined:

24.114.2105 ARCHITECT CONTINUING EDUCATION REQUIREMENTS

(1) through (3)(c)(ii) remain as proposed.

(iii) Program & Analysis focuses on areas related to the evaluation of project requirements, constraints, and opportunities. Examples include land-use analysis, programming, site ~~section~~ selection, historic preservation, adaptive reuse, codes, regulations, standards, natural resources, environmental impact and ecosystem risk assessment, hazardous materials, resilience to natural and human impacts, life safety, and feasibility.

(iv) through (6) remain as proposed.

BOARD OF ARCHITECTS AND  
LANDSCAPE ARCHITECTS  
DALE NELSON, PRESIDENT

/s/ DARCEE L. MOE

Darcee L. Moe  
Rule Reviewer

/s/ GALEN HOLLENBAUGH

Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 16, 2019.