

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

In the matter of the amendment of )  
ARM 24.114.101 board organization, )  
24.114.202 public participation, )  
24.114.301 definitions, 24.114.401 fee )  
schedule, 24.114.402 architect seal, )  
24.114.408 fee abatement, 24.114.411 )  
military training or experience, )  
24.114.501 architect examination, )  
24.114.502 architect licensure by )  
examination, 24.114.503 licensure of )  
applicants registered in another state, )  
24.114.515 architect emeritus status, )  
24.114.1401 landscape architect )  
licensure by examination, 24.114.1402 )  
education and experience required for )  
landscape architect licensure, )  
24.114.1403 landscape architect )  
examinations, 24.114.1404 landscape )  
architect licensure by endorsement, )  
24.114.1410 landscape architect seal, )  
24.114.2105 architect continuing )  
education requirements, 24.114.2301 )  
unprofessional conduct, 24.114.2402 )  
screening and adjudication panels; and )  
the repeal of ARM 24.114.406 )  
solicitation of business by nonresident )  
architects, 24.114.510 architects-in- )  
training, 24.114.2101 renewals, and )  
24.114.2103 replacement licenses )

NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT AND  
REPEAL

TO: All Concerned Persons

1. On August 1, 2017, at 10:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Architects and Landscape Architects (board) no later than 5:00 p.m., on July 25, 2017, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena,

Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdark@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: In compliance with 2-4-314, MCA, the Board of Architects and Landscape Architects (board) conducted a biennial review of their administrative rules to determine if any new rules should be adopted, or any existing rules should be amended or repealed. The board is proposing these rule amendments as a result of that biennial review and an accumulation of the board's review efforts. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

4. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.114.101 BOARD ORGANIZATION ~~(1) The Board of Architects and Landscape Architects consists of six members, including three licensed architects, two licensed landscape architects, and one public member.~~

(2) remains the same but is renumbered (1).

AUTH: 2-4-201, ~~37-65-204~~, MCA

IMP: 2-4-201, MCA

REASON: The board is amending this rule to eliminate language that is duplicated in 2-15-1761, MCA, which establishes the board and board composition. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.114.202 PUBLIC PARTICIPATION (1) The Board of Architects and Landscape Architects hereby adopts and incorporates by this reference the public participation rules of the Department of Commerce as listed in ARM Title 8, chapter 2, of this title except that the board does not adopt ARM 8.2.202(1)(b), which allows for public participation in the granting or denying of a license for which a hearing is required. The public is entitled to observe, but not participate in the licensing decisions and other contested cases as allowed by law.

AUTH: 2-4-201, MCA

IMP: 2-4-201, MCA

REASON: The board is amending this rule to correct the board name following the 2007 combination of the two boards. The board is also clarifying that while referencing the Department of Commerce public participation rules, the public is not entitled to participate in granting or denying licenses when the opportunity for a contested case hearing is required. Due process procedures involving board licensure decisions are addressed in Title 2, chapter 4, and Title 37, chapters 1, 65, and 66, MCA.

24.114.301 DEFINITIONS (1) "AIA" means the American Institute of Architects.

(2) "ARE" means the Architect Registration Examination, a proprietary exam developed and administered by NCARB.

(3) "AXP" means the Architectural Experience Program comprehensive experience requirement program formerly referenced as the IDP administered by NCARB.

(4) "CACB/CCCA" means the Canadian Architectural Certification Board/Conseil canadien de certification en architecture.

(1) remains the same but is renumbered (5).

(6) "CLARB record" means the CLARB verification of education, experience, examination, licensure history, and professional references.

(2) remains the same but is renumbered (7).

(8) "HSW" means health, safety, and welfare continuing education as designated by the American Institute of Architects, American Society of Landscape Architects, Interior Design Continuing Education Council registries, or NCARB.

(3) remains the same but is renumbered (9).

(10) "LARE" means Landscape Architect Registration Exam, a proprietary exam developed and administered by CLARB.

(11) "NAAB" means National Architectural Accrediting Board.

(4) remains the same but is renumbered (12).

(13) "NCARB certificate" means evidence of meeting the NCARB requirements for character, education, training, examination, and registration by an NCARB member board.

(14) "NCARB record" means the NCARB verification and maintenance of a compilation of an applicant's education, experience, examination, and registrations.

(5) (15) "Responsible control" means the amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects and landscape architects 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. Any licensed architect signing or sealing technical submissions not prepared by that architect but prepared under that architect's responsible control by someone not regularly employed in the office of the architect 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.

(6) remains the same but is renumbered (16).

AUTH: 37-1-131, 37-1-319, 37-65-204, MCA

IMP: 37-1-131, 37-1-319, 37-65-103, 37-65-303, 37-66-304, MCA

REASON: The board is amending this rule to add clarifying definitions and acronyms of terms used throughout the administrative rules. The board is relocating and consolidating terminology from other rules, and initially defining others that are used throughout the chapter.

The board is amending (15) after concluding that the definition of responsible control required clarification and updating to address the types of activity that may result in a board determination of unprofessional conduct. The amended definition reiterates the standard of practice of maintaining documentation to support accepting technical submissions from someone other than an employee.

24.114.401 FEE SCHEDULE (1) through (1)(b) remain the same.

(c) Annual License renewal

55

(d) through (3) remain the same.

~~(4) Fee abatement for renewal fees is specified by ARM 24.101.301.~~

(5) remains the same but is renumbered (4).

AUTH: 37-1-131, 37-1-134, 37-65-204, MCA

IMP: 37-1-134, 37-1-141, 37-65-307, 37-66-309, MCA

REASON: The board is amending (1)(c) for consistency among terms used in the fee schedule. Additionally, the board is striking (4) as unnecessary, since ARM 24.114.408 adequately addresses fee abatement.

24.114.402 ARCHITECT SEAL ~~(1) Every licensed architect shall have a seal that contains the name of the architect, the city and state of the architect's place of business, the architect's Montana license number and the words "LICENSED ARCHITECT, STATE OF MONTANA".~~

~~(2) (1)~~ All technical submissions prepared by an architect must be stamped and signed with the architect's seal ~~or the seal of the firm~~. The permit set must bear the architect's original signature. Electronically generated seals and signatures are acceptable under this rule.

~~(3) When there is a partnership or other business entity of architects, the individual names and license numbers of members may appear on one seal.~~

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-65-308, MCA

REASON: The board determined it is reasonably necessary to strike (1) since the composition of architects' seals is found in statute at 37-65-308, MCA. The board is deleting (3) as the board has no jurisdiction over partnerships or other business entities of architects. An architect seal is a requirement for the individual licensee.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.114.408 FEE ABATEMENT (1) The Board of Architects and Landscape Architects adopts and incorporates by reference the ~~September 24, 2004~~, fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

(2) A copy of ARM 24.101.301 is available by contacting the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, MT 59620-0513.

AUTH: 37-1-131, MCA

IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: The board is amending this rule to correct the board name and remove the unnecessary, past adoption date of the referenced rule.

24.114.411 MILITARY TRAINING OR EXPERIENCE (1) and (2) remain the same.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as an architect or landscape architect. ~~At a minimum, satisfactory~~ Satisfactory evidence shall include:

(a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);

(b) through (4) remain the same.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: It has come to the department's attention that certain military personnel (reservists and National Guardsmen who have never been activated) do not receive a DD 214 upon discharge. Therefore, the board is amending this rule to allow submission of any discharge documentation that would outline military training, service, or education that could be considered equivalent to licensing requirements.

24.114.501 ARCHITECT EXAMINATION (1) Eligibility for admission to the ~~Architectural Registration Examination (ARE)~~ must be verified by the NCARB record and satisfied in accordance with the NCARB requirements. The requirements are available at [www.ncarb.org](http://www.ncarb.org).

(2) Applicants for the ARE must establish an NCARB record and:

~~(a) be enrolled in the Intern Development Program (IDP) by establishing a NCARB record or have completed the IDP and obtained a NCARB record; and~~

~~(b) hold a degree in architecture from a school of architecture, the degree curriculum of which was accredited by the National Architectural Accrediting Board (NAAB) not later than two years after graduation, or meet the alternate education criteria available on the NCARB web site; and~~

~~(c) submit an application for examination on the form prescribed by the department.~~

(a) submit an application for examination through the NCARB direct registration program;

- (b) meet the education standards requirements of NCARB either:
  - (i) by holding a degree in architecture from a school of architecture, the degree curriculum of which was accredited by the NAAB or CACB/CCCA not later than two years after graduation or retained its accreditation without revocation for two years or less before graduation; or
  - (ii) by actively participating in a NAAB-accepted integrated path to architectural licensure option within a NAAB-accredited degree program; and
  - (c) either be enrolled in the AXP or have completed the AXP.
- ~~(3) Prior to application for licensure applicants shall:~~
  - ~~(a) pass all sections of the ARE and request submittal to the board of all exam scores for every section of the exam passed. Applicants may retake any section of the examination that the applicant failed to pass in accordance with the NCARB requirements; and~~
  - ~~(b) complete all IDP requirements and obtain a complete NCARB record.~~
- (4) Examination records are confidential and not considered public records. The board may report applicants' examination scores to architectural registration boards in other jurisdictions or to NCARB.
- (5) The ARE is a proprietary examination developed and administered by NCARB. ~~Applicants who fail the examination are provided commentary on areas of weakness, along with notice of the failed examination. Neither the~~ The board ~~nor NCARB provides additional~~ does not provide examination review of any type.

AUTH: 37-1-131, 37-65-204, MCA  
IMP: 37-1-131, 37-65-303, MCA

REASON: Following the rule review, the board is amending and reorganizing this rule to clearly set forth the current qualifications to apply for the exam and the process for doing so. The board concluded that the amendments will address confusion and questions from both licensing bureau staff and applicants, and provide a more user friendly format.

The board is amending (2) to reflect the name change of the experience program from IDP to AXP, as NCARB changed the name in 2016. Although the changes to (2) seem to add a new requirement to establish an NCARB record, the board notes that just being enrolled in the AXP or meeting NCARB education standards initially establishes that record.

The board is simplifying the exam registration process by transferring to the NCARB direct registration program. Staff informed the board the program is part of the NCARB record and free to exam applicants. Following this change, the board will no longer process exam applications or fees.

Additionally, the board is relocating specific licensure provisions to ARM 24.114.502.

24.114.502 ARCHITECT LICENSURE BY EXAMINATION (1) through (1)(b) remain the same.

- (c) submit the ARE scores from the applicant's designated state; ~~and~~
- (d) ~~meet all the requirements set forth in ARM 24.114.501~~ complete the AXP requirements; and

(e) obtain a complete NCARB record.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-65-301, 37-65-303, MCA

**REASON:** The board is amending this rule to clearly outline the requirements for architect licensure by examination. The board is removing the reference to ARM 24.114.501 as it relates to qualifying for the exam and will be addressed by the time an applicant reaches the licensing process. The addition of (1)(e) is not a new requirement as an established NCARB record simply outlines that the individual has met the AXP, passed the exam, and meets the education requirements. A complete NCARB record is not an additional burden but a single location where these completed requirement records are maintained.

24.114.503 LICENSURE OF APPLICANTS REGISTERED IN ANOTHER STATE (1) and (1)(a) remain the same.

(b) present proof the applicant is the holder of ~~a blue cover~~ an NCARB certificate issued by NCARB. ~~Applications for the certificate shall be sent to NCARB for processing;~~ and

(c) submit verification of ~~previous~~ licensure from the licensing entities in all states where the applicant is currently or has ever been licensed.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-304, 37-65-301, MCA

**REASON:** The board is amending (1)(b) to reference the current required NCARB certificate. A blue cover certificate is an antiquated, internal reference that is no longer commonly used.

It is the intent of the board, and is the current requirement, that applicants provide license verification from any jurisdiction where they currently hold, or have ever held a license. The board is amending (1)(c) to specify that and align with standardized department application procedure.

24.114.515 ARCHITECT EMERITUS STATUS (1) and (2) remain the same.

(3) An emeritus licensee who wants to hold an active license must:

(a) file a new license application, indicating they hold a current emeritus license;

(b) hold a complete NCARB record;

(c) provide evidence of 24 hours of CE; and

(d) pay all application fees.

AUTH: ~~37-1-131~~, 37-65-204, MCA

IMP: 37-65-311, MCA

**REASON:** The board is adding (3) to implement 37-65-311(4), MCA, by establishing the process to shift an emeritus license to active status. The statute allows emeritus licenses to be reissued to active, but does not yet state the necessary process.

Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.114.1401 LANDSCAPE ARCHITECT APPLICATIONS LICENSURE BY EXAMINATION ~~(1) An application for original licensure, license reinstatement, or licensure by endorsement must be made on a form provided by the department.~~

~~The application may be submitted online or by mail accompanied by the nonrefundable fee(s), and contain sufficient evidence that the applicant possesses the qualifications as set forth in Title 37, chapter 66, MCA, and these rules.~~

~~(2) (1) Applicants must submit a complete application form, the application fee, and the following information:~~

~~(a) remains the same.~~

~~(b) proof of education and professional experience established in ARM 24.114.1402, which must include:~~

~~(i) verification of completion of a post-secondary degree program education submitted directly from the source;~~

~~(ii) verification of previous licensure submitted directly from the licensing entities in all states where the applicant has been licensed;~~

~~(iii) (ii) experience detail sheets verified by the licensed design professionals as defined in ARM 24.114.1402, supervisor under whose direct supervision the applicant has worked; and~~

~~(iv) (iii) verification of successful completion of the landscape architect registration examination LARE.~~

~~(3) The board or its designee reviews complete applications for compliance with board law and rules. The board may request additional information or clarification of information provided in the application as it deems reasonably necessary. Incomplete applications are returned to the applicant with a statement regarding incomplete portions.~~

~~(4) The applicant must correct any deficiencies and resubmit the application within 60 days or the application will be treated as voluntarily withdrawn. After a voluntary withdrawal, an applicant must submit an entirely new application and nonrefundable fee(s) to begin the process again.~~

~~(5) The department shall notify an applicant in writing of the results of the evaluation of the application within ten days of receipt of a complete application.~~

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-66-301, 37-66-304, MCA

REASON: The board determined it is reasonably necessary to amend this rule to simplify, reorganize, eliminate redundant language, and clearly set forth the requirements for landscape architect licensure by examination.

The board is amending (1)(a)(i) as the board does not require postsecondary education if appropriate experience is obtained, per ARM 24.114.1402. The board is further amending the rule to eliminate unnecessary provisions that are adequately addressed through department rule and standardized application procedures.



24.114.1402 EDUCATION AND EXPERIENCE REQUIRED FOR LANDSCAPE ARCHITECT LICENSURE (1) through (1)(b) remain the same.

(c) an applicant with a bachelor's degree other than in landscape architecture must have four years of practical experience in landscape architecture;

(d) and (e) remain the same.

(2) ~~Practical~~ At least two-thirds of the applicable practical experience must be gained under the direct supervision of a licensed ~~design professional as defined in (2)(d), and is subject to review and approval by the board~~ landscape architect. The remaining one-third of the applicable practical experience can be gained under the direct supervision of a licensed civil engineer, licensed architect, or a city planner certified by a nationally recognized certifying body (e.g., American Institute of Certified Planners).

(a) remains the same.

(b) "Direct supervision" means working conditions where a licensed landscape design professional, ~~regularly employed in the same physical location as supervises~~ the applicant through personal contact and/or remote communication (e-mail, online markups, Internet), and is directly responsible for all tactical and technical decisions on the applicant's work.

(c) "Year" means a total of 2,000 hours ~~comprised of:~~

~~(i) at least 35 hours per week for at least two continuous months; or~~

~~(ii) at least 20 hours per week for at least four continuous months.~~

~~(d) "Licensed design professional" means a licensed landscape architect for at least two-thirds of the applicable experience requirement. The remaining experience may be obtained under the direct supervision of a licensed civil engineer, licensed architect, or a city planner certified by a nationally recognized certifying body (e.g. American Institute of Certified Planners).~~

~~(3) All applicants for licensure must successfully pass the landscape architect registration exam.~~

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-66-304, MCA

REASON: The board is simplifying and streamlining this rule for better organization and ease of use. The provisions of (2)(d) regarding acceptable practical experience are being incorporated into (2) for clarity.

The board is amending (1)(c) to provide the same level of detail regarding a bachelor's degree as in the other combinations of education and experience in this rule. This clarification will assist licensing staff in processing applications.

The board determined it is reasonably necessary to amend the definition of direct supervision to adapt to current landscape architecture practice. Noting that the changes are drawn from CLARB model language, the board concluded that it is no longer necessary to restrict the physical location of a supervisor because remote supervision will adequately protect the public.

The board is striking (2)(c)(i) and (ii) to remove archaic and unnecessary language that limits how LAR applicants obtain the necessary experience. The board notes that it has been difficult for applicants to meet such restrictive

requirements and to document such specific time periods. The board determined that allowing for more flexibility in gaining experience sufficiently protects the public.

The board is striking (3) as licensure by examination is adequately addressed in ARM 24.114.1401.

24.114.1403 LANDSCAPE ARCHITECT EXAMINATIONS (1) The LARE is the recognized and acceptable qualifying examination.

~~(1) (2) All candidates must schedule and sit for the landscape architect registration examination to be held at such time and place as the testing entity may designate. The location of the exam testing site and scheduled testing date will be established by the testing entity and may be found at [www.clarb.org](http://www.clarb.org) LARE through CLARB. The board has established no education or experiential prerequisites to examination, but applicants for licensure must meet the requirements of ARM 24.114.1402 prior to licensure.~~

~~(2) remains the same but is renumbered (3).~~

~~(3) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, at 42 U.S.C. 12101, et seq., must be submitted to the testing entity prior to testing.~~

~~(4) Candidates must provide a picture form of identification before being admitted to the examination.~~

~~(5) The testing entity shall notify candidates in writing of the results of the examination.~~

~~(6) Candidates who fail the examination and wish to review their examination must contact the testing entity directly.~~

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-66-304, MCA

REASON: The board is amending this rule to clearly identify the examination recognized and required for landscape architect licensure. Because the LARE is a nationally recognized exam, the board has no control over its administration and exam candidates must register directly with the exam provider. Further, it is the testing entity rather than the board who provides reasonable accommodations to exam candidates and notifies candidates of the outcome. The board is amending this rule accordingly.

24.114.1404 LANDSCAPE ARCHITECT LICENSURE BY ENDORSEMENT

(1) Applicants for a landscape architect license by endorsement must submit an application to the board and provide written verification of ~~prior licensure in~~ another state or jurisdiction from the licensing entities in all jurisdictions where the applicant currently holds or has ever been licensed. The verification must include:

~~(a) Verification of prior licensure must disclose the date of licensure and the specific current educational and experiential experience requirements for licensure in the jurisdiction.; and~~ The applicant must submit copies of pertinent statutes and rules of licensure from the jurisdiction of original licensure to the board.

~~(b) Verification of prior licensure must disclose whether the licensee has pending or completed discipline in any jurisdiction of licensure.~~

(2) remains the same.

(3) The board ~~shall~~ will evaluate the current licensing requirements of the jurisdiction where the applicant currently holds a license and determine whether the education and experience qualifications for original licensure are substantially equivalent to the Montana qualifications.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-1-304, 37-66-304, MCA

REASON: The board determined it is reasonably necessary to amend this rule to align with and clarify the provisions of 37-1-304(1), MCA, regarding licensure of individuals who hold current licenses elsewhere. The amendments correctly provide that applicants must provide license verification from every state where they currently hold or have ever held a license. The amendments to (3) clarify that the board will evaluate the current licensing requirements of the jurisdiction where an applicant is licensed to determine substantial equivalency with Montana's present standards.

24.114.1410 LANDSCAPE ARCHITECT SEAL (1) Every licensed landscape architect must have a seal that contains the name of the landscape architect, the landscape architect's Montana license number, the signature of the licensed landscape architect ~~who applied the seal~~, and the words "LICENSED LANDSCAPE ARCHITECT, STATE OF MONTANA."

(2) through (4) remain the same.

AUTH: 37-65-204, MCA

IMP: 37-66-308, MCA

REASON: The board is amending this rule to eliminate unnecessary language relating to the landscape architect seal design as it adds nothing to the rule.

24.114.2105 ARCHITECT CONTINUING EDUCATION REQUIREMENTS

(1) ~~Beginning January 1, 2015, in addition to all other requirements for renewal, each Active licensed architect architects shall obtain at least 12 hours of HSW continuing education (CE) annually to renew the license every calendar year by December 31.~~

(a) Licensees who have been granted emeritus ~~or other similar honorific~~ status are exempt from the CE requirements.

(b) remains the same.

(2) ~~Continuing education hours shall be reported as follows:~~

(a) ~~Licensees shall complete and submit renewal forms certifying that licensees completed will be required to affirm their understanding of the basic requirement of 12 hours of continuing education completed during the calendar year immediately preceding the calendar year in which licensees are renewing annual renewal. The CE requirement is based on a calendar year, beginning on January 1 and ending December 31 of each year.~~

~~(b) Failure to comply with continuing education requirements may result in disciplinary action.~~

(3) Qualified CE courses must be formal group or self-study courses designed to increase or update the knowledge and professional competence of architects in technical and professional subjects related to the practice of architecture that safeguard the public's health, safety, and welfare, as follows:

(a) remains the same.

~~(b) at least 75 percent of any given course's content and instructional time must be devoted to health, safety, and welfare subjects related to the practice of architecture;~~

~~(c) (b) provided by qualified individuals or organizations approved by the American Institute of Architects Continuing Education System, Landscape Architect Continuing Education System, or Interior Design Continuing Education Council; and~~

~~(d) (c) included health, safety, and welfare at least 75 percent of the course content and instruction time must be devoted to HSW subjects such as technical and professional subjects necessary for proper evaluation, design, construction, and utilization of buildings and the built environment that are within the following enumerated areas:~~

~~(i) through (x) remain the same.~~

~~(4) Continuing education may be acquired at any location, whether direct contact or distance learning through qualified course sponsors. The department will not pre-approve CE courses.~~

(5) All licensees shall retain course completion certificates or AIA CE transcripts for a minimum of six two years, for auditing purposes. Course completion certificates must contain all of the following:

(a) through (d) remain the same.

~~(e) state-assigned approval organization's course approval number, if applicable; and~~

~~(f) remains the same.~~

~~(6) Continuing education hours may not be carried over to a future calendar year.~~

~~(7) For quality assurance and evaluation purposes, department or board representatives may audit CE courses for content without cost. Such representatives are not eligible for and may not receive certificates of completion.~~

~~(8) Beginning in 2016, the department may conduct an annual random audit of all licensees for CE compliance following the licensee renewal process indicated in (2).~~

~~(a) (6) Audited licensees must furnish to the department certificates of completion or other documentation~~ AIA CE transcripts to verify completion of the 12-hour CE requirement.

~~(b) Failure to provide certificates of completion when audited constitutes unprofessional conduct and may result in disciplinary proceedings against the licensee.~~

~~(c) Licensees shall retain course completion certificates for a minimum of six years for auditing purposes.~~

~~(9) All licensees reactivating expired licenses must submit documentary proof of meeting CE requirements required to become active.~~

~~(10) If a licensee does not file a timely renewal application and thereafter files a late renewal application, the late renewal application must contain documentary proof the licensee met the CE requirements incorporating the year prior to the renewal application year.~~

AUTH: 37-1-131, 37-1-319, ~~37-65-204~~, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, MCA

REASON: The board is amending this rule throughout to eliminate a past enactment date, simplify and streamline for clarity and ease of use, delete duplicate provisions, and eliminate unnecessary or confusing language.

Because the board does not recognize other honorific statuses, the board is amending (1)(a) to address confusion and clearly identify emeritus as the only CE-exempt architect license status.

Following a recommendation by department legal staff, the board is amending (2) to align the affirmation of CE required at renewal with the provisions of 37-1-306, MCA. The amendments align with a standardized department procedure by having licensees with mandatory CE affirm an understanding of the requirement and the potential of being audited for compliance.

The board is amending (3) to clearly delineate the qualified individuals or organizations approved to provide CE. These amendments address questions and confusion from providers, licensees, and the department audit unit.

The board is amending (5) to reduce the retention time for CE certificates from six to two years. Because CE audits only encompass CE one year back, it is unnecessary to require retention longer than two years.

The board is striking (6) as unnecessary since the rules require 12 hours each year of qualified CE. It is reasonably necessary to strike the CE audit provisions from this rule as auditing is a department function and not individual to this board. The board notes that audit processes and reactivation of expired licenses are adequately addressed in statute and standardized department procedure.

Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.114.2301 UNPROFESSIONAL CONDUCT (1) through (1)(o) remain the same.

(p) failure to comply with the deadline and documentation reporting requirement of a CE audit;

(p) and (q) remain the same but are renumbered (q) and (r).

AUTH: 37-1-131, 37-1-319, ~~37-65-204~~, MCA

IMP: 37-1-131, 37-1-316, MCA

REASON: The board is amending this rule by adding failure to comply with CE audit requirements as unprofessional conduct and grounds for license discipline. This has long been the intent of the board; the board is proposing this amendment to provide

clear notice to all licensees. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.114.2402 SCREENING AND ADJUDICATION PANELS (1) remains the same.

~~(2) The screening panel reviews all complaints related to unprofessional conduct to determine whether appropriate investigative or disciplinary action may be pursued, or whether the matter may be dismissed for lack of sufficient information.~~

(3) remains the same but is renumbered (2).

~~(4) The adjudication panel issues all final orders in disciplinary proceedings involving licensees.~~

AUTH: 37-1-131, ~~37-65-204~~, MCA

IMP: 37-1-131, 37-1-307, MCA

REASON: The board is amending this rule to eliminate unnecessary language that is already in statute. The duties and responsibilities of the screening panel and adjudication panel are specified under 37-1-307, MCA. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

5. The board proposes to repeal the following rules:

24.114.406 SOLICITATION OF BUSINESS BY NONRESIDENT ARCHITECTS

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-65-301, MCA

REASON: The board is repealing this rule after determining that it is a violation of board statute to allow an unlicensed person to solicit business without a license. It is confusing to the public and can jeopardize the health, safety, and welfare of Montana consumers to have unlicensed individuals soliciting business prior to obtaining a license. Without a license, the board can't determine if the individual holds the proper education and experience to protect the public's health, safety, and welfare. Additionally, the board is not aware of anyone who has attempted to offer services under this section.

24.114.510 ARCHITECTS-IN-TRAINING

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-65-301, MCA

REASON: The board determined it is a violation of board statute to allow an unlicensed person to use the term "architect" or any similar term, when not holding a license, and is repealing this rule. It is confusing to the public and may jeopardize

the health, safety, and welfare of Montana consumers when unlicensed individuals use a restricted title prior to licensure.

24.114.2101 RENEWALS

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-1-141, MCA

REASON: The board is repealing this rule as it does not add any additional clarity to the renewal requirement. All of the information and requirements for renewal are found elsewhere in rule and standardized department procedure.

24.114.2103 REPLACEMENT LICENSES

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, MCA

REASON: The board is repealing this rule as outdated as license replacements are issued within a standardized department process for all licensing boards.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdark@mt.gov](mailto:dlibsdark@mt.gov), and must be received no later than 5:00 p.m., August 4, 2017.

7. An electronic copy of this notice of public hearing is available at [architect.mt.gov](http://architect.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

8. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Architects and Landscape Architects, 301 South Park

Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdark@mt.gov](mailto:dlibsdark@mt.gov); or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.114.101, 24.114.202, 24.114.301, 24.114.401, 24.114.402, 24.114.408, 24.114.411, 24.114.501, 24.114.502, 24.114.503, 24.114.515, 24.114.1401, 24.114.1402, 24.114.1403, 24.114.1404, 24.114.1410, 24.114.2105, 24.114.2301, and 24.114.2402 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.114.406, 24.114.510, 24.114.2101, and 24.114.2103 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; facsimile (406) 841-2305; or to [dlibsdark@mt.gov](mailto:dlibsdark@mt.gov).

11. Grace Berger, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF ARCHITECTS AND  
LANDSCAPE ARCHITECTS  
BAYLISS WARD, PRESIDENT

/s/ DARCEE L. MOE

Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 26, 2017.