

## **§2-1-9. Rules of Professional Conduct.**

### **9.1. Competence.**

9.1.1. 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 technical knowledge and skill which are ordinarily applied by registered architects of good standing, practicing in the same locality.

9.1.2. In designing a project, a registered architect shall take into account all applicable state, county, and municipal building laws and rules and ordinances. 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 these laws and rules and ordinances, once having obtained their advice, a registered architect shall not knowingly design a project in violation of those laws and rules and ordinances.

9.1.3. A registered architect shall undertake to perform professional services only when he or 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. The Practice of Architecture shall include 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 as defined in W. Va. Code §30-13-3 (e), but an architect may perform such engineering work as is incidental to the practice of architecture and for which the architect, through education, training, or experience, is competent to perform.

9.1.4. No individual shall be permitted to engage in the practice of architecture if, in the Board's judgment, the individual's professional competence is substantially impaired by physical or mental disabilities.

### **9.2. Conflict of Interest.**

9.2.1. A registered architect shall not accept compensation for his or her services from more than one party on a project unless the circumstances are fully disclosed to and agreed to by the architect and all interested parties. The disclosure and agreement shall be in writing.

9.2.2. If a registered architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the registered architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest. If the client or employer objects to the association or financial interest, the registered architect shall either terminate the association or interest or offer to give up the commission or employment.

9.2.3. A registered architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products. As used herein, 'compensation' shall not mean customary and reasonable business hospitality, entertainment, or product education.

9.2.4. 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.

### **9.3. Full Disclosure.**

9.3.1. A registered architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making the statements or when the architect has an economic interest in the issue.

9.3.2. If any representation is made by a registered architect to a prospective or existing client or employer with respect to his or her qualifications and the scope of his or her responsibility in connection with work for which he or she is claiming credit, such representations must be accurate. If any representation is made by a registered architect employing and/or directing other registered or non-registered individuals when representing their firm to a prospective client, any such representations concerning the title, position, qualification, and experiences of these individuals shall be accurate. This includes accurately representing the scope of these individuals' responsibilities in connection with work on projects by these individuals while employed at previous and current employers.

9.3.3. If, in the course of his or her work on a project, a registered architect becomes aware of a decision made by his or her employer or client, against his or her advice, which violates applicable state or municipal building laws and rules or ordinances 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:

9.3.3.a. Report the decision to the local building inspector or other public official charged with the enforcement of the applicable state, county, or municipal building laws and rules and ordinances;

9.3.3.b. Refuse to consent to the decision; and

9.3.3.c. In circumstances where the registered architect reasonably believes that other similar decisions will be made notwithstanding his or her objections, terminate his or her services with respect to the project unless the architect is able to cause the matter to be resolved by other means. If the registered architect terminates his or her services he or she has no liability to his or her client or employer on account of the termination.

9.3.4. 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 or her application for a registration or renewal thereof or otherwise lawfully requested by the Board.

9.3.5. 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.

9.3.6. A registered architect possessing knowledge of a violation of the provision set forth in subdivisions 9.1 through 9.7 of this rule by another registered architect shall report that knowledge to the Board.

#### **9.4. Compliance with Laws.**

9.4.1. A registered architect shall not, in the conduct of his or her practice, knowingly violate any state or federal criminal law.

9.4.2. 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. Political campaign contributions in accordance with state law are exempted from this requirement.

9.4.3. A registered architect shall comply with the registration laws and rules governing his or her professional practice in this state and other jurisdictions in which he or she practices. An architect may be subject to disciplinary action if he or she was disciplined in another jurisdiction in the United States where the grounds for discipline are substantially similar to those in West Virginia.

#### **9.5. Professional Practices.**

9.5.1. Each office in West Virginia maintained for the preparation of drawings, specifications, reports or other technical submissions shall have a registered architect regularly employed and residing in that office having responsible control of all work.

9.5.2. 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 with the impression of the seal and signature of the registered architect. The signature and seal shall mean that the registered architect was in responsible control over the content of such technical submission 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 or 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 or 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 integrated it into his or 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 registered 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 or her own technical submissions, and that such review and integration met the required professional standard of care.

9.5.3. 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.

9.5.4. A registered architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

9.5.5. An architect shall not make misleading, deceptive or false statements or claims.