

Clearinghouse Rule 24-044

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS, PROFESSIONAL LAND
SURVEYORS AND REGISTERED INTERIOR DESIGNERS

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|--------------------------------|---|---------------------------|
| IN THE MATTER OF RULEMAKING | : | PROPOSED ORDER OF THE |
| PROCEEDINGS BEFORE THE | : | EXAMINING BOARD OF |
| EXAMINING BOARD OF ARCHITECTS, | : | ARCHITECTS, LANDSCAPE |
| LANDSCAPE ARCHITECTS, | : | ARCHITECTS, PROFESSIONAL |
| PROFESSIONAL ENGINEERS, | : | ENGINEERS, DESIGNERS, |
| DESIGNERS, PROFESSIONAL | : | PROFESSIONAL LAND |
| SURVEYORS, AND REGISTERED | : | SURVEYORS, AND REGISTERED |
| INTERIOR DESIGNERS | : | INTERIOR DESIGNERS |
| DESIGNERS | : | ADOPTING RULES |
| | : | (CLEARINGHOUSE RULE) |

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, Professional Land Surveyors, and Registered Interior Designers to **amend** A-E 8.03 (5) (b); and to **create** A-E 8.03 (5) (b) 6. and 8.06 (4) relating to direct supervision.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 443.015 (2), Stats.

Statutory authority:

Sections 15.08 (5) (b), and 227.11 (2) (a), and 443.015 (2), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2) (a), Stats., provides that “Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 443.015 (2), Stats.: “Each section of the examining board may promulgate rules governing the professional conduct of individuals, firms, partnerships, and corporations registered, permitted, certified, or granted a certificate of authorization by that section.”

Related statute or rule:

None.

Plain language analysis:

The Board reviewed chapter A-E 8 to ensure that rules are consistent with standards of current professional practice. The rule updates the definition of supervision to clarify that remote supervision is allowed. And, the rule specifies that the same standards of practice and professional conduct apply when working remotely and in person.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation provide standards of professional conduct for architects [68 Ill. Adm. Code 1150.90], professional engineers [68 Ill. Adm. Code 1380.300], and professional land surveyors [68 Ill. Adm. Code 1270.57]. None of these rules address direct supervision of subordinate employees.

Iowa:

Rules of professional conduct for architects, engineers, professional land surveyors, and landscape architects are specified by the Iowa Architectural Examining Board [193B IAC 4.1], the Iowa Engineering and Land Surveying Examining Board [193C IAC 8.1 to 8.5], the Iowa Landscape Architectural Examining Board [193D IAC 4.1 to 4.5] and the Iowa Interior Design Board [193G IAC 4.1]. None of these rules address direct supervision of subordinate employees.

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs provide standards of professional conduct for architects [Mich Admin Code, R 339.15401], professional engineers [Mich Admin Code, R 339.16031 to R 339.16034], professional land surveyors [Mich Admin Code, R 339.17401 to R 339.17404], and landscape architects [Mich Admin Code, R 339.19001 to R 339.19049]. None of these rules address direct supervision of subordinate employees.

Minnesota:

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design provide rules of professional conduct for architects, engineers, land surveyors, and landscape architects [Minnesota Rules, parts 1805.0100 to 1805.1600]. The Minnesota rules define a direct supervisor as an individual who “directs the work of other licensees, unlicensed professionals, technicians, and clerical persons assigned to that work and is in responsible charge of the project comprising the work being supervised.”

Summary of factual data and analytical methodologies:

The proposed rule was developed by conducting a comprehensive review of the provisions of ch. A-E 8, reviewing professional supervision standards from other states, and obtaining input and feedback from the A-E Board.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rule was posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rule may affect businesses, local government units, and individuals. No comments were received.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted at Jennifer.Garrett@wisconsin.gov or (608) 266-2112.

Agency contact person:

Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-267-0989; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, scheduled for June 20, 2024, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. A-E 8.03 (5) (b) is amended to read:

A-E 8.03 (5) (b) ~~The terms in par. (a) include~~ Any of the activities in par. (a) may be accomplished using any of the following:

SECTION 2. A-E 8.03 (5) (b) 6. is created to read:

6. Use of appropriate technology that is functionally equivalent to in-person supervision to provide oversight remotely.

SECTION 3. A-E 8.06 (4) is created to read:

A-E 8.06 (4) Shall be held to the same standards of practice and conduct regardless of whether their professional duties under this chapter are performed in-person or by utilizing remote technology.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, Professional Land Surveyors, and Registered Interior Designers is approved for submission to the Governor and Legislature.

Dated _____ Agency _____
Chair _____