

Chapter A-E 8

PROFESSIONAL CONDUCT

<p>A-E 8.01 Authority. A-E 8.02 Intent. A-E 8.03 Definitions. A-E 8.04 Offers to perform services shall be truthful. A-E 8.05 Conflicts of interest. A-E 8.06 Professional obligations.</p>	<p>A-E 8.07 Unauthorized practice. A-E 8.08 Maintenance of professional standards. A-E 8.09 Adherence to statutes and rules. A-E 8.10 Plan stamping. A-E 8.11 Suspension of registration; effect.</p>
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A-E 8.01 Authority. The rules of conduct in this chapter are adopted under authority of ss. 15.08 (5) (b), 227.11 and ch. 443, Stats.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87.

A-E 8.02 Intent. The intent of the examining board in adopting this chapter is to establish rules of professional conduct for the professions of architecture, landscape architecture, professional engineering, designing and land surveying. A violation of any standard specified in this chapter may result in disciplinary action under ss. 443.11 to 443.13, Stats.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. Register, June, 1995, No. 474, eff. 7-1-95; am. Register, February, 2000, No. 530, eff. 3-1-00.

A-E 8.03 Definitions. In ch. 443, Stats., and chs. A-E 1 to 9:

(1) "Gross negligence in the practice of architecture, landscape architecture, professional engineering, designing or land surveying" means the performance of professional services by an architect, landscape architect, professional engineer, designer or land surveyor which does not comply with an acceptable standard of practice that has a significant relationship to the protection of health, safety or public welfare and is performed in a manner indicating that the professional knew or should have known, but acted with indifference to or disregard of, the accepted standard of practice.

(2) "Incompetency in the practice of architecture, landscape architecture, professional engineering, designing or land surveying" means conduct which demonstrates any of the following:

(a) Lack of ability or fitness to discharge the duty owed by an architect, landscape architect, professional engineer, designer or land surveyor to a client or employer or to the public.

(b) Lack of knowledge of the fundamental principles of the profession or an inability to apply fundamental principles of the profession.

(c) Failure to maintain competency in the current practices and methods applicable to the profession.

(3) "Misconduct in the practice of architecture, landscape architecture, professional engineering, designing or land surveying" means an act performed by an architect, landscape architect, professional engineer, designer or land surveyor in the course of the profession which jeopardizes the interest of the public, including any of the following:

(a) Violation of federal or state laws, local ordinances or administrative rules relating to the practice of architecture, landscape architecture, professional engineering, designing or land surveying.

(b) Preparation of deficient plans, drawings, maps, specifications or reports.

(c) Engaging in conduct which evidences a lack of trustworthiness to transact the business required by the profession.

(d) Misrepresentation of qualifications such as education, specialized training or experience.

(4) "Responsible supervision of construction" is defined in s. 443.01 (8), Stats.

(5) (a) "Supervision," "direct supervision," "responsible charge," and "direction and control," mean direct, personal, active supervision and control of the preparation of plans, drawings, documents, specifications, reports, maps, plats and charts.

(b) The terms in par. (a) include the following:

1. Selection or development of standards, methods and materials to be used.

2. Selection of alternatives to be investigated and the comparison of alternatives for the professional work.

3. Testing to evaluate materials or completed works, either in new or existing projects.

4. Knowledge of applicable codes and professional standards.

5. Knowledge of the technical capabilities of the personnel they rely upon to perform the professional work.

(c) The terms in par. (a) do not include the following:

1. Indirect or casual supervision.

2. Delegation of any decision requiring professional judgment.

3. Casual review or inspection of prepared plans, drawings, specifications, maps, plats, charts, reports or other documents.

4. Mere assumption by an architect, landscape architect, professional engineer, designer or land surveyor of responsibility for work without having control of the work.

5. Assuming charge, control or direct supervision of work in which the architect, landscape architect, professional engineer, designer or land surveyor does not have technical proficiency.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (intro.), (1), (2) (intro.), (a), (3) (intro.), (a), (5) (d) and (e), Register, June, 1995, No. 474, eff. 7-1-95; am. (2) (intro.) to (b), (3) (intro.) to (c), (5) (intro.) to (d), Register, January, 1999, No. 517, eff. 2-1-99; am. (1), (2) (intro.) and (a), (3) (intro.), (a), (5) (d) and (e), Register, February, 2000, No. 530, eff. 3-1-00; correction in (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register December 2005 No. 600; CR 09-033: r. and recr. (5) Register December 2009 No. 648, eff. 1-1-10.

A-E 8.04 Offers to perform services shall be truthful. When offering to perform professional services, an architect, landscape architect, professional engineer, designer or land surveyor:

(1) Shall accurately and truthfully represent to a prospective client or employer the capabilities and qualifications which the registrant has to perform the services to be rendered.

(2) Shall represent the costs and completion times of a proposed project to a client or prospective client as accurately and truthfully as is reasonably possible.

(3) May not offer to perform, nor perform, services which the registrant is not qualified to perform by education or experience without retaining the services of another who is qualified.

(4) May not use advertising or publicity which is fraudulent or deceptive.

(5) May not represent that he or she is engaged in a partnership or association with another unless there exists in fact a partnership or association.

(6) May not collect a fee for recommending the services of another unless written notice is first given to all parties concerned.

(7) May not practice under a firm name that misrepresents the identity of those practicing in the firm or misrepresents the type of services which the individuals, firm or partnership is authorized and qualified to perform.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (intro.), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) to (6), Register, January, 1999, No. 517, eff. 2-1-99; am. (intro.), Register, February, 2000, No. 530, eff. 3-1-00.

A-E 8.05 Conflicts of interest. (1) An architect, landscape architect, professional engineer, designer or land surveyor:

(a) Shall avoid conflicts of interest. If an unavoidable conflict of interest arises, the registrant shall immediately inform the client or employer of all the circumstances which may interfere with or impair the registrant's obligation to provide professional services. Under these circumstances a registrant may not proceed to provide professional services without the full approval and consent of the client or employer.

(b) Shall notify the employer or client and withdraw from employment at any time if it becomes apparent that it is not possible to faithfully discharge the responsibilities and duties owed to the client or employer.

(c) May not agree to perform professional services for a client or employer if the registrant has a significant financial or other interest which would impair or interfere with the registrant's responsibility to faithfully discharge professional services on behalf of the client or employer.

(d) May not accept payment from any party other than a client or employer for a particular project or may not have any direct or indirect financial interest in a service or phase of a service to be provided as part of a project unless the employer or client approves.

(e) May not solicit or accept anything of value from material or equipment suppliers in return for specifying or endorsing a product.

(f) May not violate the confidences of a client or employer, except as otherwise required by rules in this chapter.

(g) May not perform services for a client or employer while a full-time employee of another employer without notifying all parties concerned.

(2) Nothing in these rules limits a registrant's professional responsibility to an owner of a project when the registrant is employed by a person or firm under contract to construct and furnish design services for that project.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (1) (intro.), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) (a) to (f), Register, January, 1999, No. 517, eff. 2-1-99; am. (1) (intro.), Register, February, 2000, No. 530, eff. 3-1-00.

A-E 8.06 Professional obligations. An architect, landscape architect, professional engineer, designer or land surveyor:

(1) Shall use reasonable care and competence in providing professional services.

(2) May not evade the professional or contractual responsibility which the registrant has to a client or employer.

(3) May not enter into an agreement which provides that a person not legally and actually qualified to perform professional services has control over the registrant's judgment as related to public health, safety or welfare.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (intro.), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) and (2), Register, January, 1999, No. 517, eff. 2-1-99; am. (intro.), Register, February, 2000, No. 530, eff. 3-1-00.

A-E 8.07 Unauthorized practice. An architect, landscape architect, professional engineer, designer, or land surveyor:

(1) Shall assist in enforcing laws which prohibit the unlicensed practice of architecture, landscape architecture, profes-

sional engineering, designing, and land surveying by reporting violations to the board.

(2) May not delegate professional responsibility to unlicensed persons and may not otherwise aid or abet the unlicensed practice of architecture, landscape architecture, professional engineering, designing, or land surveying.

Note: Sections 443.02 (2) and (3), Stats., were amended by 2009 Wis. Act 123 to include landscape architects within their scopes. Section A-E 8.07 (intro.) will be modified in future rule-making by the Board.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. Register, June, 1995, No. 474, eff. 7-1-95; am. (1), Register, January, 1999, No. 517, eff. 2-1-99; am. Register, February, 2000, No. 530, eff. 3-1-00; **CR 12-039: am. (intro.), (1), (2) Register June 2014 No. 702, eff. 7-1-14.**

A-E 8.08 Maintenance of professional standards.

An architect, landscape architect, professional engineer, designer or land surveyor:

(1) Shall furnish the board with information indicating that any person or firm has violated provisions in ch. 443, Stats., rules in this chapter or other legal standards applicable to the profession.

(2) May not discuss with any individual board member any disciplinary matter under investigation or in hearing.

(3) Shall respond in a timely manner to a request by the board, a section of the board or the department for information in conjunction with an investigation of a complaint filed against a registrant. There is a rebuttable presumption that a registrant who takes longer than 30 days to respond to a request for information has not acted in a timely manner.

(4) Shall notify the department in writing if the registrant has been disciplined for unprofessional conduct in other states where the registrant holds a credential or has violated federal or state laws, local ordinances or administrative rules, not otherwise reportable under s. SPS 4.09 (2), which are related to the practice of an architect, landscape architect, professional engineer, designer or land surveyor. The notification shall be submitted within 48 hours of the disciplinary finding or violation of law and shall include copies of the findings, judgments and orders so that the department may determine whether the circumstances are substantially related to the practice of the registrant.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (intro.), Register, June, 1995, No. 474, eff. 7-1-95; am. (1), Register, January, 1999, No. 517, eff. 2-1-99; am. (intro.), Register, February, 2000, No. 530, eff. 3-1-00; **CR 09-034: cr. (3) and (4) Register December 2009 No. 648, eff. 1-1-10; correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.**

A-E 8.09 Adherence to statutes and rules. An architect, landscape architect, professional engineer, designer or land surveyor:

(1) Shall comply with the requirements in ch. 443, Stats., rules in this chapter and all other federal, state and local codes which relate to the practice of architecture, landscape architecture, professional engineering, designing and land surveying.

(2) May not engage in conduct that may adversely affect his or her fitness to practice architecture, landscape architecture, professional engineering, designing or land surveying.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. Register, June, 1995, No. 474, eff. 7-1-95; am. (1), Register, January, 1999, No. 517, eff. 2-1-99; am. Register, February, 2000, No. 530, eff. 3-1-00.

A-E 8.10 Plan stamping. (1) No architect, landscape architect, professional engineer or designer may sign, seal or stamp any plans, drawings, documents, specifications or reports for architectural, landscape architectural, professional engineering or design practice which are not prepared by the registrant or under his or her personal direction and control.

(2) No land surveyor may sign, seal or stamp any maps, plats, charts, or reports for land surveying practice which are not prepared by the land surveyor or under his or her personal direction and control.

(3) No architect, landscape architect, professional engineer, designer or land surveyor shall allow work performed by him or her or under his or her personal direction and control to be signed,

sealed or stamped by another except that an architect, landscape architect, professional engineer, designer or land surveyor working under the personal direction and control of another registrant may allow that registrant to sign and seal or stamp the work.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (1) and (3), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) and (3), Register, February, 2000, No. 530, eff. 3-1-00.

A-E 8.11 Suspension of registration; effect. Any registrant whose registration has been suspended is prohibited during the term of the suspension from engaging in any of the following:

(1) Offering to perform any service which requires registration.

(2) Performing any professional service which requires registration.

(3) Signing or sealing plans, specifications, reports, maps, plats, or charts prepared for the practice of architecture, landscape architecture, professional engineering, designing or land surveying.

(4) Entering into contracts the performance of which require registration.

(5) Engaging in responsible supervision of construction as defined in s. 443.01 (8), Stats.

History: Cr. Register, February, 1987, No. 374, eff. 3-1-87; am. (3), Register, June, 1995, No. 474, eff. 7-1-95; am. (intro.) to (4), Register, January, 1999, No. 517, eff. 2-1-99; am. (3), Register, February, 2000, No. 530, eff. 3-1-00.