

A LOUISIANA ARCHITECTURAL NEWS

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“TEENY’S TALK”

Yes, a brand new look to our newsletter. We had many compliments on prior issues, but the Board suggested a “face lift”, so here it is and we hope you enjoy it. We have so much news and not enough room. You will find many interesting articles in this issue. I would like to draw your attention to Mr. Fabian Patin’s article on his view of the changes the Board has made during his twelve (12) years of service. I appreciate his time involved in preparing the article; however, because of space we will have to publish it in parts. Mr. Patin’s term expired December 31, 1998, and Mr. Edwin Wallace Elberson was appointed early this year to fill that vacancy. Mr. Paul Spaht, Board Attorney has an article addressing several rule changes. Many of these changes affect your every day practice, so please read them carefully. We have completed our first continuing education random audit and I will let you know what we found in the next issue. I need to conserve space, so until next time...

*Teeny Simmons,
Executive Director*

HAVE YOU HEARD?

Ron, son of J. Buchanan Blich, has made quite a name for himself. He has at a young age, achieved the status of FAIA. We have always known that this was a prestigious honor, so we decided to find out just what it means to be FAIA. “The AIA Fellowship was developed to elevate those architects who have made a significant contribution to architecture and society and who have achieved a standard of excellence in the profession. Election to fellowship not only recognizes the achievements of the architect as an individual, but also honors before the public and the profession a model architect who has made a significant contribution to architecture and society on a national level.”

Ron’s accomplishments are many and he has received awards on national, regional, civic and educational levels. He has authored several articles and has been the subject of a “Southern Living” article as well as “Homes by Design” and “Outstanding Residences by Architects”. He presently serves as Secretary of the Louisiana State Board of Architectural Examiners. His knowledge and expertise in the architectural profession has brought much intelligence and sound judgement in the handling of the business of the Board. The Board and its staff are so very proud of Ron and wish him continued success in all that he does. One further remark, “Ron, you’ve done your father, family, friends, and colleagues proud and continue to bring merit and achievement to your good name.”

CONGRATULATIONS!

Since our last Newsletter, congratulations go to **JOSEPH SCOTT LEWIS** and **KYLE MATTHEW KRAMER**, both of whom have received their license as a result of successfully completing the A.R.E.

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A MESSAGE FROM THE BOARD ATTORNEY

EMERITUS ARCHITECTS:

At its December, 1998 meeting the Board adopted an amendment to rule §905.E pertaining to emeritus architects. This amendment allows registrants below age 65 who have retired from active practice to request emeritus status, provided the registrant has practiced architecture for thirty years or more. This amendment is set forth in its entirety on page 3 in this newsletter.

PROTOTYPICAL DESIGN:

An earlier newsletter mentioned that the Board was considering amending its rules to allow the use of prototypical documents, provided certain safeguards were met. At its December 1998 meeting the Board adopted rule §1115 to set forth those situations where the use of prototypical documents was permissible. This amendment is set forth in its entirety on page 3 in this newsletter. Note that this rule defines “prototypical documents”. Note also that the rule sets forth in detail the safeguards which must be met before prototypical documents may be used.

RULES OF CONDUCT:

The Board is beginning the process for amending the Rules of Conduct for architects practicing in this state. The present rules (Chapter 17 of the existing rules) were originally adopted circa 1965. In recent years, NCARB’s Professional Conduct Committee reviewed the rules of conduct of the various states, updated some to reflect present architectural practices, and provided explanatory commentaries. The Board intends to replace its existing rules of conduct with the rules and commentaries published by this committee. In addition, the Board intends to adopt one of the rules of conduct contained in the Mississippi Code of conduct not published by NCARB.

The proposed rules make a number of changes. Included are new rules providing that an architect shall take into

account all applicable state and municipal building laws and regulations (proposed 1701.A.2); providing that no person shall be permitted to practice architecture if, in the Board’s judgement, such person’s professional competence is substantially impaired by physical or mental disabilities (proposed 1701.A.4); providing that an architect shall not falsify or permit misrepresentation of his or her associates’ responsibility in or for the subject matter or prior assignments (proposed 1701.C.3); providing that an architect possessing knowledge of a violation of these rules by another architect shall report such knowledge to the Board (proposed 1701.C.7); providing that an office offering architectural services shall have an architect resident and regularly employed in that office (proposed 1701.E.1); and providing that an 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 judgement of an existing or prospective client in connection with a project in which the architect is interested (proposed 1701.E.3).

In addition, the Board intends modifying some of the existing rules. For example, existing Rule 1701.C will be amended to require the disclosure and the agreement that an architect shall not accept compensation for services from more than one party unless the circumstances are fully disclosed and agreed to in writing (proposed 1701.B.1); existing 1701.G will be amended to require an architect making public statements on architectural questions to disclose when he or she has an economic interest in the issue (proposed 1701.C.1); and existing 1701.I and 1701.O have been changed slightly (proposed 1701.C.4 and 1701.E.2).

Finally, the Board intends to publish the commentaries of the NCARB Professional Conducts Committee. The Board believes that these commentaries

will help architects understand the intent and purpose of the rules. The proposed rules (Chapter 17) are published on page 5 in this newsletter.

CARRY OVER OF CEH

The existing MCE rule provides that no carry over of CEH’s from prior years is permitted. The Board is in the process of amending this rule to allow an architect who exceeds continuing education requirements in any renewal period (January 1-December 31) to carry over 12 qualifying CEH’s to the subsequent renewal period. This proposed rule (1117.F.3) is published on page 5 in this newsletter.

ASSOCIATION BETWEEN IN-STATE AND OUT-OF-STATE ARCHITECTS:

La R.S. .37:155(A)(3) exempts from the provisions of the Architects’ Licensing Law, which requires persons to be registered and licensed and forbids the practice of architecture by unlicensed persons, registered architects of other states when associated with any registered architect of this state who will seal or stamp and bear professional responsibility for all specifications and other construction documents pertaining to work in this state. This raises the question: When is a registered architect of another state “associated” with a registered architect of this state? To answer that question, the Board intends to adopt a new rule, §1119. This rule sets forth certain elements which must be satisfied before an association within the meaning of R.S. 37:155(A)(3) exists. The elements are believed to be self-explanatory, and the proposed rule §1119 is set forth on page 5 in this newsletter.

Any comments concerning any of these proposed rules may be addressed to the Executive Director. Please remember that the complete rules are contained on the Board’s website at www.lastbdarch.com.

RULE CHANGES

CHAPTER 9. REGISTRATION PROCEDURE

§905. CERTIFICATES

E. Registrants retired from active practice who have either practiced architecture for thirty (30) years or more or who are 65 years of age or older may request emeritus status. The annual renewal fee for approved emeritus registrants will be \$5. Revocation and reinstatement rules will otherwise apply to emeritus registrants, just as they do to all other registrants.

CHAPTER 11. ADMINISTRATION

§1115. INTERPRETATION OF LA. R.S.37:152(B)

A.1. Specifications, drawings, or other related documents will be deemed to have been prepared either by the architect or under the architect's responsible supervision only when

- a.** the client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the architect, or the architect's employee as long as the employee works in the architect's office.
- b.** the architect personally controls the preparation of the plans, specifications, drawings, reports or other documents and has input into their preparation prior to their completion,
- c.** if the plans, specifications, drawings, reports, or other such documents are prepared outside the architect's office, the architect shall maintain evidence of the architect's responsible control including correspondence, time records, check prints, telephone logs, site visit logs, research done for the project, calculations, changes, and written agreements with any persons preparing the documents outside of the architect's offices accepting professional responsibility for such work,
- d.** the architect reviews the final plans, specifications, drawings, reports or other documents, and
- e.** the architect has the authority to, and does, make necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents.

2. If an architect fails to maintain written documentation of the items set forth above, when such are applicable,

then the architect shall be considered to be in violation of R.S. 37:152, and the architect shall be subject to the disciplinary penalties provided in R.S. 37:153. This written documentation should be maintained for the prescriptive period applicable to claims against the architect which may arise from his or her involvement in the project.

B.1. Nothing precludes the use of prototypical documents provided the architect:

- a.** has written permission to revise and adapt the prototypical documents from the person who either sealed the prototypical documents or is the legal owner of the prototypical documents,
- b.** Reviewed the prototypical documents and made necessary revisions to bring the design documents into compliance with applicable codes, regulations, and job specific requirements,
- c.** independently performed and maintains on file necessary calculations,
- d.** after reviewing, analyzing, and making revisions and/or additions, issued the documents with his/her title block and seal (by applying his/her seal, the architect assumes professional responsibility as the architect of record), and
- e.** maintained design control over the use of site adapted documents just as if they were his/her original design.

2. The term "prototypical documents" shall mean model documents of buildings that are intended to be built in several locations with substantially few changes and/or additions except those required to adapt the documents to each particular site; that are generic in nature, that are not designed or premised upon the laws, rules or regulations of any particular state, parish, or municipal building code, that do not account for localized weather, topography, soil, subsistence, local building codes or other such conditions or requirements, and that are not intended to be used in the actual documents to be employed in the construction of a building, but rather as a sample or a model to provide instruction or guidance. The term "legal owner" shall mean the person who provides the architect with a letter that he or she is the owner of the documents and has the written permission to allow the use thereof.

STATISTICS FOR PERCENTAGE OF PASSING THE A.R.E. FOR 1998 INDICATING COMPARISON OF LOUISIANA, THE SOUTHERN CONFERENCE AND ALL BOARDS

	DIVISION	NO. TAKING	NO. PASSING	% PASSING
Louisiana	Pre-Design	38	29	76
Southern				
Conference				
All Boards		635	393	62
All Boards		3005	1883	63
Louisiana	Site Planning	25	17	68
Southern				
Conference				
All Boards		454	312	69
All Boards		2241	1596	71
Louisiana	Building Planning	40	30	75
Southern				
Conference				
All Boards		566	401	71
All Boards		2803	1957	70
Louisiana	Building Technology	32	26	81
Southern				
Conference				
All Boards		518	387	75
All Boards		2768	2001	72
Louisiana	General Structures	21	15	71
Southern				
Conference				
All Boards		433	283	65
All Boards		1947	1378	71
Louisiana	Lateral Forces	20	14	70
Southern				
Conference				
All Boards		392	307	78
All Boards		1772	1428	81
Louisiana	Mechanical & Electrical	27	22	81
Southern				
Conference				
All Boards		460	363	79
All Boards		2228	1781	80
Louisiana	Materials & Methods	25	25	100
Southern				
Conference				
All Boards		503	440	87
All Boards		2410	2122	88
Louisiana	Construction Docs. & Services	30	27	90
Southern				
Conference				
All Boards		502	421	84
All Boards		2328	1920	82

NEW CONTINUING EDUCATION REQUIREMENTS IN THREE STATES THIS YEAR

This year, Louisiana, North Carolina, and Oklahoma joined nine other states in their requirement that architects complete professional training in order to renew their architect licenses. In 2001, Vermont will also require continuing education. **This brings the total number of states with continuing education requirements to thirteen, with eleven additional states considering legislation for requiring continuing education.** Here is a summary of states requiring continuing education for architects, along with contact hours required and frequency of license renewal:

STATE	HOURS	RENEWAL
Alabama	12 contact hours	annual
Arkansas	12 contact hours	annual
Florida	20 contact hours	biennial
Kansas	30 contact hours	biennial
Iowa	24 contact hours	biennial
Kentucky	12 contact hours	annual
Louisiana	12 contact hours	annual
North Carolina	12 contact hours	annual
Oklahoma	24 contact hours	biennial
South Dakota	30 contact hours	biennial
Tennessee	24 contact hours	biennial
Vermont (2001)	24 contact hours	biennial
West Virginia	12 contact hours	annual

The state boards with pending legislation for continuing education include Delaware, District of Columbia, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, Texas, Utah, and Wyoming.

ARCHITECTS SELECTION BOARD

Nominees have been accepted for a one year term beginning July 1, 1999. Ballots will be mailed to you in mid-May. Please be sure and follow the required procedures for the return of your ballot or it will not be counted. During the last election, some ballots were returned without the signature and/or registration number on the left hand corner of the return envelope; these ballots had to be voided. **REMEMBER, IF YOU WANT YOUR VOTE TO COUNT, PLEASE CAREFULLY FOLLOW THE INSTRUCTIONS.**

PROPOSED RULES

CHAPTER 11. ADMINISTRATION

§1119. Interpretation of La R.S. 37:155(A)(3)

Registered architects of other states will be deemed to be associated with a registered architect of this state on a specific project within the meaning of R.S. 37:155(A)(3) only when:

1. a written agreement is signed by both the out-of-state and the in-state architects describing the association prior to executing the work;
2. the in-state architect reviews all documents prepared by the out-of-state architect and makes necessary revisions to bring the design documents into compliance with applicable codes, regulations, and requirements;
3. the in-state architect independently performs or contracts with an engineer or engineers licensed in Louisiana to perform necessary calculations, and maintains such calculations on file;
4. after reviewing, analyzing and making revisions and/or additions, the in-state architect issues the documents with his/her title block and seal (by applying his/her seal the architect assumes professional responsibility as the architect of record); and
5. the in-state architect maintains control over the use of the design documents just as if they were his/her original design.

CHAPTER 11. ADMINISTRATION

§1117. Continuing Education

F. Number of Continuing Education Hours Earned

1. Continuing education credits shall be measured in CEH and shall be computed as follows:
 - a. attending seminars, lectures, presentations, workshops, or courses shall constitute one CEH for each contact hour of attendance;
 - b. successfully completing tutorials, short courses, correspondence courses, televised or video-taped courses, monographs and other self-study courses shall constitute the CEH recommended by the program sponsor;
 - c. teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two CEH for each contact hour spent in the actual presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. Teaching credit shall not apply to full-time faculty at a college, university or other educational institution;
 - d. authoring a published paper, article or book shall be equivalent of 8 CEH;
 - e. successfully completing one or more college or university semester or quarter hours shall satisfy the continuing education hours for the year in which the course was completed.
2. Any program in HSW contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules. The board approves the AIA as a professional registry, and contact hours listed in HSW in the AIA/CES Transcript of Continuing Education Activities will be accepted by the board for both resident and non-resident architects.
3. If the architect exceeds the continuing education requirements in any renewal period (January 1 through December 31), the architect may carry over a maximum of 12 qualifying CEH to the subsequent renewal period.

CHAPTER 17. RULES OF CONDUCT; VIOLATIONS

§1701. Rules of Conduct

(NOTE: Commentaries provided by the NCARB Professional Conduct Committee, except the numbering has been changed to conform to the format required by the Louisiana Register.)

A. Competence

1. In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

Commentary—Although many of the existing state board rules of conduct fail to mention standards of competence, it is clear that the public expects that incompetence will be disciplined and, where appropriate, will result in revocation of the license. Section 1701.A. I sets forth the common law standard which has existed in this country for a hundred years or more in judging the performance of architects. While some few courts have stated that an architect, like the manufacturer of goods, impliedly warrants that his design is fit for its intended use, this rule specifically rejects the minority standard in favor of the standard applied in the vast majority of jurisdictions that the architect need be careful but need not always be right. In an age of national television, national universities, a national registration exam, and the like, the reference to the skill and knowledge applied in the same locality may be less significant than it was in the past when there was a wide disparity across the face of the United States in the degree of skill and knowledge which an architect was expected to bring to his or her work. Nonetheless, the courts have still recognized this portion of the standard, and it is true that what may be expected of an architect in a complex urban setting may vary from what is expected in a more simple, rural situation.

2. In designing a project, an architect shall take into account all applicable state and

municipal building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of such laws and regulations.

Commentary—It should be noted that the rule is limited to applicable state and municipal building laws and regulations. Every major project being built in the United States is subject to a multitude of laws in addition to the applicable building laws and regulations. As to these other laws, it may be negligent of the architect to have failed to take them into account, but the rule does not make the architect specifically responsible for such other laws. Even the building laws and regulations are of sufficient complexity that the architect may be required to seek the interpretation of other professionals. The rule permits the architect to rely on the advice of such other professionals.

3. An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.

Commentary—While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations of his or her own capacity and knowledge. Where an architect lacks experience, the rule supposes that he or she will retain consultants who can appropriately supplement his or her own capacity. If an architect undertakes to do a project where he or she lacks knowledge and where he or she does not seek such supplementing consultants, the architect has violated the rule.

4. No person shall be permitted to practice architecture if, in the board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.

Commentary—Here the state registration board is given the opportunity to revoke or suspend a license when the board has suitable evidence that the license holder's professional competence is impaired by physical or mental disabilities. Thus, the board need not wait until a building fails in order to revoke the license of an architect whose addiction to alcohol, for example, makes it impossible for that person to perform professional services with necessary care.

B. Conflict of Interest

1. An architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all interested parties.

Commentary—This rule recognizes that in some circumstances an architect may receive compensation from more than one party involved in a project but that such bifurcated loyalty is unacceptable unless all parties have understood it and accepted it.

2. If an 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 architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

Commentary—Like §1701.B.1, This rule is directed at conflicts of interest. It requires disclosure by the architect of any interest which would affect the architect's performance.

3. An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

Commentary—This rule appears in most of the existing state standards. It is absolute and does not provide for waiver by agreement.

4. When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

Commentary—This rule applies only when the architect is acting as the interpreter of building contract documents and the judge of contract performance. The rule recognizes that that is not an inevitable role and that there may be circumstances (for example, where the architect has an interest in the owning entity) in which the architect may appropriately decline to act in those two roles. In general, however, the rule governs the customary construction industry relationship where the architect, though paid by the owner and owing the owner his or her loyalty, is nonetheless required, in fulfilling his or her role in the typical construction industry documents, to act with impartiality.

C. Full Disclosure

1. An architect, making public statements on architectural questions, shall disclose when he or she is being compensated for making such statement or when he or she has an economic interest in the issue.

Commentary—Architects frequently and appropriately make statements on questions affecting the environment in the architect's community. As citizens and as members of a profession acutely concerned with environmental change, they doubtless have an obligation to be heard on such questions. Many architects may, however, be representing the interests of potential developers when making statements on such issues. It is consistent with the probability which the public expects from members of the architectural profession that they not be allowed under the circumstances described in the rule to disguise the fact that they are not speaking on the particular issue as an independent professional but as a professional engaged to act on behalf of a client.

2. An architect shall accurately represent to a prospective or existing client or employer his or her qualifications, capabilities, experience, and the scope of his or her responsibility in connection with work for which he or she is claiming credit.

Commentary—Many important projects require a team of architects to do the work. Regrettably, there has been some conflict in recent years when individual members of that team have claimed greater credit for the project than was appropriate to their work done. It should be noted that a young architect who develops his or her experience working under a more senior architect has every right to claim credit for the work which he or she did. On the other hand, the public must be protected from believing that the younger architect's role was greater than was the fact.

3. The architect shall not falsify or permit misrepresentation of his or her associate's academic or professional qualifications. The architect shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter or prior assignments. Brochures or other presentations incidental to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications of his/her work.

4.a. If in the course of his or her work on a project, an architect becomes aware of a decision taken by his or her employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially affect adversely the safety to the public of the finished project, the architect shall,

i. report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations,
ii. refuse to consent to the decision, and
iii. in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding his objection, terminate his services with reference to the project unless the architect is able to cause the matter to be resolved by other means.

b. In the case of a termination in accordance with § 1701.C.4.a.iii, the architect shall have no liability to his or her client or employer on account of such termination.

Commentary—This rule holds the architect to the same standard of independence which has been applied to lawyers and accountants. In the circumstances described, the architect is compelled to report the matter to a public official even though to do so may substantially harm the architect's client. Note that the circumstances are a violation of building laws which adversely affect the safety to the public of the finished project. While a proposed technical violation of building laws (e.g., a violation which does not affect the public safety) will cause a responsible architect to take action to oppose its implementation, the Committee specifically does not make such a proposed violation trigger the provisions of this rule. The rule specifically intends to exclude safety problems during the course of construction which are traditionally the obligation of the contractor. There is no intent here to create a liability for the architect in this area. Section 1701.C.4.a.iii gives the architect the obligation to terminate his or her services if he or she has clearly lost professional control. The standard is that the architect reasonably believes that other such decisions will be taken notwithstanding his or her objection. The rule goes on to provide that the architect shall not be liable for a termination made pursuant to §1701.C.4.e. Such an exemption from contract liability is necessary if the architect is to be free to refuse to participate on a project in which such decisions are being made.

5. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his or her application for registration or renewal.

Commentary—The registration board which grants registration or renews registration on the basis of a misrepresentation by the applicant must have the power to revoke that registration.

6. An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience, or character.

7. An architect possessing knowledge of a violation of these rules by another architect shall report such knowledge to the board.

Commentary—This rule has its analogue in the Code of Professional Responsibility for lawyers. Its thrust is consistent with the special responsibility which the public expects from architects.

D. Compliance with Laws

1. An architect shall not, in the conduct of his or her architectural practice, knowingly violate any state or federal criminal law.

Commentary—This rule is concerned with the violation of a state or federal criminal law while in the conduct of the registrant's professional practice. Thus, it does not cover criminal conduct entirely unrelated to the registrant's architectural practice. It is intended, however, that rule §1701.E.4 will cover reprehensible conduct on the part of the architect not embraced by rule § 1701.D. I. At present, there are several ways in which member boards have dealt with this sort of rule. Some have disregarded the requirement that the conduct be related to professional practice and have provided for discipline whenever the architect engages in a crime involved "moral turpitude."

The Committee declined the use of that phrase as its meaning is by no means clear or uniformly understood. Some member boards discipline for felony crimes and not for misdemeanor crimes. While the distinction between the two was once the distinction between serious crimes and technical crimes, that distinction has been blurred in recent years. Accordingly, the committee specifies crimes in the course of the architect's professional practice, and, under §1701.E.4, gives to the member board discretion to deal with other reprehensible conduct. Note that the rule is concerned only with violations of state or federal criminal law. The Committee specifically decided against the inclusion of violations of the laws of other nations. Not only is it extremely difficult for a member board to obtain suit-

able evidence of the interpretation of foreign laws, it is not unusual for such laws to be at odds with the laws, or, at least, the policy of the United States of America. For example, the failure to follow the dictates of the "anti-Israel boycott" laws found in most Arab jurisdictions is a crime under the laws of most of those jurisdictions; while the anti-Israel boycott is contrary to the policy of the government of the United States and following its dictates is illegal under the laws of the United States.

2. An 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 architect is interested.

Commentary—Section 1701.D.2 tracks a typical bribe statute. It is covered by the general language of § 1701.D. I, but it was the Committee's view that §1701.D.2 should be explicitly set out in the rules of conduct. Note that all of the rules under this section look to the conduct of the architect and not to whether or not the architect has actually been convicted under a criminal law. An architect who bribes a public official is subject to discipline by the state registration board, whether or not the architect has been convicted under the state criminal procedure.

3. An architect shall comply with the registration laws and regulations governing his or her professional practice in any United States jurisdiction.

Commentary—Here, again, for the reasons set out under §1701.D.I, the Committee chose to limit this rule to United States jurisdictions.

E. Professional Conduct

1. Any office offering architectural services shall have an architect resident and regularly employed in that office.

2. a. An architect shall not sign or seal drawings, specifications, reports or other professional work which was not prepared by or under the responsible supervision of the architect; except that:

i. he or she may sign or seal those portions of the professional work that were prepared by or under the responsible supervision of persons who are registered under the architecture registration laws of this jurisdiction if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work, and

ii. he or she may sign or seal portions of the professional work that are not required by the architect's registration law to be prepared by or under the responsible supervision of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.

b. Responsible supervision shall be that amount of supervision over and detailed professional knowledge of the content of technical submissions during their preparation as is ordinarily exercised by architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible supervision because the reviewer has neither supervision over nor detailed knowledge of the content of such submissions throughout their preparation. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible supervision by persons not regularly employed in the office where the architect is resident shall maintain and make available to the board upon request for the prescriptive period applicable to claims against the architect which may arise from his or her involvement in the project adequate and complete records demonstrating the nature and extent of the architect's supervision over and detailed knowledge of such technical submissions throughout their preparation.

Commentary—This provision reflects current practice by which the architect's final construction documents may comprise the work of other architects as well as that of the architect who signs and seals professional submissions. The architect is permitted to apply his or her seal to work over which the architect has both control and detailed professional knowledge, and also to work prepared under the direct supervision of another architect whom he or she employs when the architect has both coordinated and reviewed the work.

3. An 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 architect is interested.

Commentary—This provision refers to "private bribes" (which are ordinarily not criminal in nature) and the unseemly conduct of using gifts to obtain work. Note that the rule realistically excludes reasonable entertainment and hospitality and other gifts of nominal value.

4. An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

Commentary—Violations of this rule may involve criminal conduct not covered by §1701.D. I (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that a state board must, in any disciplinary matter, be able to point to a specific rule which has been violated. An architect who is continuously involved in nighttime burglaries (no connection to his daytime professional practice) is not recovered by §1701.D.I (crimes committed "in the conduct of his or her architectural practice"). The Committee believes that serious misconduct, even though not related to professional practice, may well be grounds for discipline. To that end, the Committee recommends §1701.E.4. Many persons who have reviewed and commented on the draft rules were troubled by the sententious character of §1701.E.4. The Committee has, however, found that lawyers commenting on the rules had little trouble with the standard set in §1701.E.4; it applies to conduct which would be characterized as wicked, as opposed to minor breaches of the law. While each board must "flesh out" the rule, the Committee assumes that murder, rape, arson, burglary, extortion, grand larceny, and the like, would be conduct subject to the rule, while disorderly conduct, traffic violations, tax violations, and the like, would not be considered subject to this rule.

INTERN ARCHITECT DEVELOPMENT PROGRAM NEWS

from J. David Brinson

One of the basic objectives of IDP is to “define areas of architectural practice in which interns should acquire basic knowledge and skills.” Those “defined” areas are the major categories of training as listed in the **IDP GUIDELINES**. The training areas are composed of virtually all facets of architectural practice including professional and community service aspects.

Training units can only be earned in office or firm settings which are recognized by the State Board of Architectural Examiners. In Louisiana that means as recognized by NCARB. The IDP GUIDELINES (pg. 41) has a table of specific training settings that are recognized as appropriate for earning training units. In some settings, such as working outside the United States and Canada, there is a limit on the number of allowable training units.

To earn training units as an employee of an architectural firm, an intern must work under the direct supervision of a registered architect. They must work at least 35 hours per week for a minimum of ten consecutive weeks, or at least twenty consecutive weeks for a minimum period of six consecutive months. NCARB may require substantiation by the intern’s employer of all training units reported by the intern.

While a great deal of information and direction for IDP can be acquired through the GUIDELINES, interns should be encouraged to interact with other interns, not only in the firms where they work (where they are usually a minority), but with those in other firms. They should also be encouraged to participate in professional and community service organizations to broaden their training and build professional relationships.

A MESSAGE FROM THE STATE FIRE MARSHAL’S OFFICE

By: Jean Carter, Henry Reed & Don Zeringue

1. HIGHLIGHTS OF THE 1/27/99 JOINT LIAISON MEETING OF THE LA ARCHITECTS ASSOCIATION, THE LA ENGINEERING SOCIETY AND THE STATE FIRE MARSHAL’S OFFICE:

A. Not-in-Compliance Letters

As you are aware, not-in-compliance review letters are being copied to the Architectural and Engineering Registration Boards, as a standard office policy. This policy was established to help stop fraudulent and unlawful practices, such as plan stamping, gross non-conformances in code compliance, etc. This office has honored a request from both Boards, to copy them with ALL not-in-compliance letters. However, there has been concern from the design professionals, with respect to questioning their “professional competency”, when these letters reach the Boards, as well as the building owners. Owners have been questioning the design professionals, as to why the licensing Boards are getting copies of these letters.

Our intention for copying the Boards is not to make spectacle of the design industry, but to inform the licensing agencies of reviews that we have determined unacceptable to this office. Our intention for copying the building owners is that ultimately, the owner is responsible to provide a safe building. Some reasons for not-in-compliance reviews are not so much the fraudulent practices noted above, but perhaps a designer’s misinterpretation of important life-safety code issues, or the failure to adhere to the policy requirements of the Fire Marshal’s Office (such as items rendering a mandatory rejection of shop drawing submittals). The registration Boards review all not-in-compliance letters and pursue potential fraudulent practices. The Boards also monitor statistical data to detect habitual repetition of not-in-compliance letters. Of all the not-in-compliance letters received by the Boards, only fraudulent and repetitive problems are continued to be pursued. Occasional not-in-compliance letters from the same design professional are compiled by the Boards, but are eventually discarded, with no further action taken.

This office will continue to copy the registration boards and building owners, with ALL not-in-compliance reviews. However, we have “encrypted” the cc name to the registration boards. As of January 28, 1999, all review letters copied to the LA State Board of Architectural Examiners will appear as “LSBAE” on the cc list. All review letters copied to the LA State Board of Registration for Professional Engineers and Land Surveyors will appear as “LAPELS” on the cc list.

Remember: Preliminary reviews for complex projects are an available service, from this office. Contact us, for a Preliminary Review application if needed, the application is also on our website: www.dps.state.la.us/sfm/. Point of reference: During 1998, 382 (6.3%) of the 6,090 projects submitted by architects, were found not-in-compliance.

B. Review Letter Format

This office is currently revising the format of all our review letters to make them more “user friendly”. The first portion of each letter will contain specific citations of code deficiencies, specific to the review at hand. These listed deficiencies may require correction and documentation back to the Fire Marshal plan reviewer. The second portion of the letter will contain review qualifications and code compliance concerns. These comments will be listed, when specific information is not easily detected in the submittal documents, or the information appears to be missing. These items will be listed for review and inspection purposes, and will not require further documentation to this office. Although compliance for all items cited in the review letter will continue to be required, the format change will convey a clearer direction from this office, as to which items are detected deficiencies, rather than general requirements which can be field verified via final inspection.

C. Mandate in Effect for Energy Code Compliance

As of January 1, 1999, mandatory compliance with the Commercial Building Energy Conservation Code (CBECC), for all buildings requiring a design professional, has been initiated. In order to verify compliance, submission to the State Fire Marshal's Office is required. To date, of all the projects received by this office requiring CBECC compliance, only a handful of these projects have actually contained an energy submittal with their package. Be advised that this office will enforce the requirement of the CBECC portion of project submittals.

Through the combined efforts of this office and the Department of Natural Resources, DNR made a statewide mailout (in late December, 1999) to all licensed architects and civil engineers (who have submitted projects to this office for review, in the past four years). This mail out included the CBECC rules, revised statutes, and State Fire Marshal Energy Conservation Review checklist. These documents explain what forms are required for submission (the SFM Energy Conservation Checklist is required to be submitted for all architectural submittals by design professionals), and also denote project exemptions, required documentation and the DNR energy code assistance hotline: 1-800-836-9589.

The Office of State Fire Marshal, Code Enforcement, and Building Safety will stand firm to enforce compliance with the CBECC. If you are still in need of the previously mailed package from DNR or have technical questions regarding energy code compliance, please contact them at the telephone number above.

2. SHOP DRAWING SUBMITTALS

This office requires all **applicable** shop drawings to be reviewed and imprinted with the professional of record's shop drawing review stamp, prior to submission to this office. **Applicable** shop drawings include all fire alarm and fire protection system shop drawings (sprinkler, kitchen hood, wet/dry chemical, etc.) affiliated with a building project. If a professional of record is required to submit a building project, as per LA R.S. 37, then a shop drawing review shall be performed by the professional of record or his/her consulting engineer, prior to submission to this office. If the professional of record shop drawing review is not executed, and the review stamp is not imprinted on the shop drawings, this office has and will continue to find these projects not-in-compliance, and they will be returned without benefit of a review.

3. TERMINATION OF FIRE BARRIERS AND SMOKE BARRIERS

Concerning termination of fire barriers, please refer to NFPA 221:3.2 Termination Points. The code states that "Any voids or gaps created by the meeting of the wall and floor below, and the underside of the roof or floor deck above, be filled with an approved material with a fire resistance rating at least equal to that of the fire wall". "Approved", in this case, is defined by NFPA 221:1-3 to mean: "Acceptable to the authority having jurisdiction". Termination points require approved fire resistance ratings, comparable to the abutting conditions (metal to concrete, metal to metal, etc.). Fire resistance ratings are deter-

mined by listing agencies (Underwriters Laboratories, Warnock Hersey, etc.). This office requires all termination points to be filled with listed materials (see "listed" definition at NFPA 221:1-3). Therefore, no matter what type of fire barrier termination is being considered, the termination is required to be documented to this office, denoting its compatible listing, with abutting conditions.

With respect to smoke barriers, NFPA 101:A-6-3.2 states, "To ensure that a smoke barrier is continuous, it is necessary to seal completely, all openings where the smoke barrier abuts other smoke barriers, fire barriers, exterior walls, the floor below, and the floor or ceiling above". NFPA 101:6-3.6.1 further requires, "The space between the penetrating item and the smoke barrier shall: 1. Be filled with a material capable of maintaining the smoke resistance of the smoke barrier...". This performance type of requirement for closure is currently all that NFPA asks for (smoke barriers and smoke barrier sealants are not required to be listed materials, unless a fire barrier is a combination smoke/fire barrier, as discussed in NFPA 101:A-6-3.2, and where specifically required in occupancy chapters 8 through 31.).

In closing, fire barriers, smoke barriers and the applicable closure and sealing of both, continue to be of high importance to this office, both during plan review and field inspection. We require listing documentation of all fire barriers and fire barrier sealants. We require denotation of all smoke barriers and smoke barrier sealants. Our inspectors "go the extra mile", to insure that field conditions exemplify our "stamped" review documents.

4. ADVISORY FROM PAT SLAUGHTER, DEPUTY FIRE MARSHAL ADMINISTRATOR/INSPECTIONS

A. Please remember to give at least a two (2) week notice of request for inspection. Requests at the last minute are difficult to facilitate, and are often unable to be scheduled, due to the heavy construction activity presently in this state.

B. Required documents to have on site, prior to calling inspections:

- a.** All SFM review letters and associated review stamped drawings, specifications shop drawings, subsequent pertinent correspondence.
- b.** Certificate of Completion.
- c.** All material and test certificates for building systems (fire alarm, sprinkler, hood suppression, underground fire main, etc.).

C. It is a policy of this office, that for all projects incorporating a professional of record, the p.o.r. should be the contact to the inspection office, not a contractor. When we discover that a contractor is requesting an inspection, we refer the contractor back to the p.o.r. for scheduling with this office. Having the professional of record contact this office, helps to insure that the facility is ready for final inspection, and that all required documents are on site.

LAST 13 YEARS – PART I

BY FABIAN PATIN, AIA, NCARB

In 1985, Dick Thevenot called to say the LAA Board of Directors wanted to nominate me to the Governor for a seat on the Licensing Board. I had very little understanding of what the board or its members did, and even less understanding of NCARB and its responsibilities, and the relationship between them.

By law, the AIA/LA nominates three architects for each vacancy and the Governor appoints one for a six-year term. There are five board members usually distributed throughout the state. The unwritten rule is a board member may serve only two six-year terms, I consider myself fortunate to have served you for 13 years.

It has been my pleasure to serve on the Louisiana Licensing Board with such knowledgeable and dedicated members as Chuck Schwing, Wallace Elberson, E. P. Dobson, Stewart Farnet, Joe Brocato, Ron Blitch, Kim Mitchell, Skipper Post, Glenn Angelle, & Lory Smith.

In June, I was elected to the NCARB Board of Directors representing the Southern Conference of NCARB. In that capacity, I will continue to serve you through Region III and NCARB. It has been a pleasure. Thanks.

THE LICENSING BOARD VS. AIA/LA

By its very nature, the AIA/LA is an organization that is intended to serve the architectural profession. The law established the Licensing Board to protect the public health, safety, & welfare as the regulatory body. Occasionally it is difficult for all board members to keep a clear focus on protecting the public, particularly when an action may not be in the best interest of architects. By our very nature architects want to serve architects. By protecting the public, we both serve our profession and enhance our public image as a responsible profession, concerned with the communities' welfare. Therefore, by protecting the public, the architects' interests are also served.

The Louisiana Licensing Board is one of 55 jurisdictions that make up NCARB. NCARB authors the ARE, model law and model rules including professional conduct. The committees research topics that focus on the regulation of architects for the protection of the public health, safety and welfare throughout the world. However, each jurisdiction is free to adopt their laws and rules as they see fit.

FUN VS. WORK

I have thoroughly enjoyed all (well almost all) of the work during the past 13 years. It has been a bigger time and financial commitment than I had imagined. However I got so involved because I wanted to and I found the work so interesting and personally rewarding, so I have no one to blame but myself. Last time I looked at my time sheet totals, they came to over \$200,000 of non-chargeable time spent. My time seems to have been evenly split between the Louisiana Licensing Board, NCARB and Region III efforts. On the plus side, my involvement has enabled me to travel a lot and meet many wonderful architects, staff, and consultants. Many of those I met, I now consider family.

You will not see any board members serving for personal financial gain and that is the way it should be. When I got on the board, we got \$100 a day per diem. A legislator thought we were paid too much. Now board members get \$75 per day when on official state business. We occasionally stopped working during a conference and just had fun. I even have a photograph of all five of the board members skiing the slopes in Colorado in 1987. Sorry we could not get Teeny to go with us. The next year we hosted the Region III Spring Conference in Lafayette. I still get comments

attesting the Lafayette conference was the best ever. We took them down the Vermilion Bayou on a tour boat listening and dancing to Zydeco music.

LICENSED ARCHITECTS

The board annually registers resident architects, non-resident architects, architectural corporations, and A/E corporations.

The number of architects registered during the past 13 years has been increasing slightly from about 2,250 to 2,550. The number of non-residents outnumbers the resident architects. The number of non-resident architects has been increasing from just over 50% to now about 56% of the total.

WEB SITES

If you have not visited the Licensing Board web site at (www.lastbdarchs.com), please do so. You will find our laws, rules, and roster on it. We also have our rules and laws on the Southern Conference of NCARB Web Site (www.scnarb.org). There you can search for any word or group of words concurrent. At this time, the Southern Conference web site is more advanced than the NCARB web site. The NCARB site (www.ncarb.org) has a tremendous amount of information, but since the information is in a text format, it is not searchable.

IDP

Dave Brinson is a consultant to the Board to handle the Intern Development Program. Louisiana was one of the first to adopt IDP as a requirement for licensure, now most of the other states have followed our lead.

Chuck Schwing was chairman of NCARB's IDP committee and created a Louisiana IDP poster for distribution to encourage earlier participation in IDP.

ENGINEERS

We have had a joint Architects and Engineers Board Liaison Committee for a number of years, and we have a cooperative agreement. Through these efforts, we have made a number of advances in resolving our differences. However, there are innate differences in the complexion of the boards and their administrations. Much healthy discussion has ensued.

About eight years ago the Licensing Board was able to get the law changed to allow the board to have hearings and fine non-architects (engineers or unlicensed designers). After that change, we had a hearing on an engineer and found him incompetent to practice architecture. After that, the Engineering Board told us they wanted to discipline engineers and would remove an engineer's license if they violated the Architects Licensing Law. To date, no Engineer's License has been removed.

The Engineering Board continues to be more lenient on engineers that are suspected of plan stamping or incompetent practice than the Architect's Board feels is appropriate. This has been a long and difficult battle between the boards. The Engineering Board appears not to consider it plan stamping as long as the engineer reviews the documents and has the right to make changes. The Architect's Board recently started to investigate engineers for plan stamping rather than turning them over to the Engineering Board because, typically where there is a plan stamper, there is also an unlicensed practitioner.

Because the Architect's Board adopted Continuing Education to maintain registration, the engineering board has also elected to adopt mandatory Continuing Education. A Civil Engineer must have a significant portion of their Continuing Education Hours in architectural code issues if they are to practice architecture under the exemption.

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