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**Subject:** Status of Landscape Architect rules  
**Date:** Wednesday, January 14, 2015 12:24:00 PM

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Good afternoon,

I have reviewed the documents submitted Monday afternoon. Please note that we can't seem to find an email containing the electronic versions of these rules. **Please send the rules to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov) as soon as possible**, so that we may compile the documents for the meeting tomorrow. As it stands now, I am recommending approval of the following 10 rules:

21 NCAC 26 .0101, .0103, .0105, .0106, .0107, .0201, .0309, .0312, .0315, .0510

There are eight outstanding rules with staff opinions, in which I have reviewed the alternative language, but there remains the concerns that even within the portal, the required information is not set forth in a rule or statute. Therefore, I will not be withdrawing the staff opinions and allow the Commission to addresses this issue. The rules with staff opinions are the following eight rules:

21 NCAC 26 .0301, .0303, .0307, .0308, .0310, .0311, .0313, .0314

Finally, please confirm that 21 NCAC 26 .0105 was subjected to the consultation required by G.S. 12-3.1. The form indicates that no consult was conducted, but a fee is increased. If no consultation was conducted, please confirm, as G.S. 150B-21.3 will require this Rule to be held out of the Administrative Code until there is compliance with G.S. 12-3.1. If a consultation was conducted, please submit a revised form by tomorrow.

Thank you for attention to these issues. Please let me know if there are any remaining questions or concerns.

Sincerely,  
Abby Hammond

*Abigail M. Hammond  
Counsel to the Rules Review Commission  
Office of Administrative Hearings  
Direct Dial: (919) 431-3076*

**Notice: E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized State officials.**

1 21 NCAC 26 .0105 is amended with changes as published in 28:24 NCR 3034-3035 as follows:

2

3 **21 NCAC 26 .0105 FEES**

4 (a) ~~Application fees~~ The fee for any initial license application shall be one hundred dollars (\$100.00).

5 ~~(b) Examination fees shall be equal to the current cost of examinations incurred by the Board, plus administrative costs,~~  
6 ~~and shall be paid prior to the examination.~~

7 ~~(c) Fees for portions of examinations will be based on the actual charges to the board Board for procuring, administering~~  
8 ~~and grading the portion of the exam. The fees shall be paid prior to the examination.~~

9 ~~(b) Examination fees payable to the Board shall be paid prior to the examination and in accordance with G.S 89A-6.~~

10 ~~(d)(c)~~ The fee for a license by reciprocity comity shall be one hundred fifty dollars (\$150.00).

11 ~~(e)(d)~~ The fee for a corporate certificate of registration shall be two hundred dollars (\$200.00).

12 ~~(f)(e)~~ The fee for the annual renewal of any certificate of registration of any person, [firm] firm, or corporation shall be  
13 one hundred dollars (\$100.00).

14 ~~(g)(f)~~ Annual renewal fees received after July 1 July 1st of each year shall be subject to a ~~one time late payment penalty~~  
15 ~~late fee~~ of fifty dollars (\$50.00). Lapse of license renewal in excess of one year shall require an application reinstatement  
16 and an application fee of one hundred dollars (\$100.00).

17 ~~(h)(g)~~ The fee for re-issue of a lost or damaged certificate ~~or permit is ten dollars (\$10.00).~~ shall be twenty-five dollars  
18 (\$25.00).

19 (h) If the accompanying payment in the amount of the renewal fee is dishonored by the firm's drawee bank for any  
20 reason, the Board shall suspend the firm registration until the renewal fee is paid.

21 *History Note:* Authority G.S. 89A-3.1; 89A-5; 89A-6;

22 *Eff. February 1, 1976;*

23 *Readopted Eff. September 30, 1977;*

24 *Amended Eff. December 1, 1994; June 1, 1991; April 1, 1990; July 1, 1989;*

25 *Temporary Amendment Eff. October 1, 1997;*

26 *Temporary Amendment Expired July 12, 1998;*

27 *Amended Eff. February 1, 2015; August 1, 2000;*

1 21 NCAC 26 .0106 is adopted **with changes** as published in 28:24 NCR 3035 as follows:

2  
3 **21 NCAC 26 .0106 SUSPENSION OF AUTHORITY TO EXPEND FUNDS**

4 In the event the North Carolina Board of Landscape Architects' authority to expend funds is suspended  
5 pursuant to G.S. 93B-2(d), the Board shall continue to issue and renew licenses and all fees tendered shall  
6 be placed in an escrow account maintained by the Board for this purpose. Once the Board's authority is  
7 restored, the funds shall be moved from the escrow account into the general operating account.

8  
9 *History Note:* Authority **G.S. 89A-3.1**; G.S. 93B-2;  
10 *Eff. February 1, 2015.*

1 21 NCAC 26 .0107 is adopted **with changes** as published in 28:24 NCR 3035 as follows:

2

3 **21 NCAC 26. 0107 DEFINITIONS**

4 **In addition to the definitions in G.S. 89A-1, for purposes of this Section, the following definitions apply:**

5 ~~(a)~~ (1) “Board Executive” means the administrator of the Board.

6 ~~(b)~~ (2) “CLARB” means the Council of Landscape Architectural Registration Boards.

7 ~~(c)~~ (3) “Contact hour” means sixty (60) continuous minutes.

8 ~~(d)~~ (4) “CEAC” means the Continuing Education Advisory Committee of the Board.

9 ~~(e)~~ (5) “Direct Supervision” means the level of supervision by a licensed professional overseeing the work of  
10 another in which both work in circumstances where professional contact is relevant and routine, and the supervisor  
11 has both control over and detailed professional knowledge of the work prepared under his or her supervision.

12 ~~(f)~~ (6) “Education Activity” means an activity that increases the professional knowledge or skills of a licensee and  
13 relates to the protection or enhancement of the health, safety and welfare of the public and is approved by the Board.

14 ~~(g)~~ (7) “Examination” means the process by which the Board determines the experience, academic or other  
15 qualifications and fitness for practice of an applicant, and may include a written examination administered by the  
16 Board or a third party.

17 ~~(h)~~ (8) “Foreign Corporation” means a foreign corporation as defined in G.S. 55B-16(b).

18 ~~(i)~~ (9) ~~“LAAB”~~ “LAAB” means the Landscape Architecture Accreditation Board.

19 ~~(j)~~ (10) “LARE” means the Landscape Architecture Registration Exam administered by the CLARB.

20 ~~(k)~~ (11) “License Year” means July 1 through June 30.

21 ~~(l)~~ (12) “Resident licensed professional” means a licensee who spends a majority of the licensee's normal working  
22 time in a specifically identified place of business within North Carolina. Such time shall not be less than a majority  
23 of the operating hours of the business. A licensed professional shall be the resident licensee at only one place of  
24 business at one time unless each business is at least one-third owned by the resident professional and is **specifically**  
25 approved by the Board after a determination that the businesses are integrated in operation, ownership,  
26 office ~~location-location~~, and that the licensee will be in responsible charge of the professional services.

27

28 *History Note:* Authority G.S. 89A-3.1(2); 89A-5;

29 *Eff. February 1, 2015.*

1 21 NCAC 26 .0201 is amended **with changes** as published in 28:24 NCR 3035 as follows:

2

3 **21 NCAC 26 .0201 BOARD LISTING OF INDIVIDUAL AND FIRM NAMES**

4 Every individual licensee, partnership, firm or corporation has the continuing responsibility of keeping the Board **currently**  
5 advised of ~~his proper and~~ his, her or its current mailing address and other contact information and the name or names under  
6 which ~~he is practicing.~~ he, she or it is practicing landscape architecture. Each licensee or firm shall **immediately** notify the  
7 Board of any and all changes of ~~association or address.~~ association, address or contact information. Upon the dissolution or  
8 change of a professional relationship, the member or members thereof shall **promptly** notify the Board in writing concerning  
9 such dissolution, and of the succeeding status and addresses of the individual or firm. **Notice to the Board required by this**  
10 **Rule shall be provided with 10 days of the change.**

11

12 *History Note: Authority ~~G.S. 89A-3(e);~~ G.S. 89A-3.1(2);*

13 *Eff. February 1, 1976;*

14 *Readopted Eff. February 1, 2015; September 30, 1977;*

1 21 NCAC 26 .0301 is amended **with changes** as published in 28:24 NCR 3035-3036 as follows:

2  
3 **21 NCAC 26 .0301 EXAMINATION AND LICENSURE**

4 ~~(a) Notice. The Board shall hold at least one examination during each year and may hold such additional examinations as~~  
5 ~~may appear necessary. The secretary Board Executive shall give public notice of the time and place for each examination~~  
6 ~~at least 60 days in advance of the date set for the examination.~~

7 ~~(b) Examination. The Landscape Architect Registration Examination published by the Council of Landscape Architectural~~  
8 ~~Registration Boards shall be the examination given by the Board, so long as the Board shall remain a member of the~~  
9 ~~Council of Landscape Architectural Registration Boards. The Board may administer a state supplement to the Landscape~~  
10 ~~Architecture Registration Exam (LARE) as allowed by the Council.~~

11 (a) The LARE published by CLARB shall be the examination recognized by the Board, so long as the Board shall  
12 remain a member of the CLARB. The Board may administer a state supplement to the LARE as allowed by the CLARB.

13 (b) All persons desiring to submit an application to take the LARE are encouraged to first make application through  
14 CLARB. Upon **successfully** taking and passing all sections of the LARE, candidates shall complete the Board  
15 application for license by examination and submit the non-refundable application fee as established in Rule .0105. If an  
16 application is complete and the applicant is otherwise qualified by statute and these rules to sit for examination, the Board  
17 shall approve the application for licensure by examination.

18 ~~(c) [The fees for the LARE, or parts thereof, are set by the CLARB.] CLARB sets the fees for the LARE. Fee~~  
19 ~~information will shall be made available to all applicants for examination on the Board web site website,~~  
20 ~~www.ncbola.org, and may be obtained from the CLARB.~~

21 ~~(d) (e) "Qualified Applicant" An applicant **is deemed** shall be qualified to take the Landscape Architects Registration~~  
22 ~~Examination (LARE) for examination and licensure upon graduation from a Landscape Architect's Accreditation Board~~  
23 ~~(LAAB) LAAB accredited collegiate curriculum in landscape architecture and has completed the experience~~  
24 ~~requirements, both as set forth in Paragraphs (d) and (e) of this Rule. architecture, passage of the **LARE** LARE, and the~~  
25 ~~experience requirements of Paragraph (f) of this Rule.~~

26 ~~(e) (d) (Educational Requirements. In allowing credit for education **in fulfilling to satisfy** the minimum qualification~~  
27 ~~requirements established by **statute**, **G.S. 89A-4(a)(3)**, the Board will allow credit for educational experience as follows:~~

28 ~~An an undergraduate, a masters, or a doctorate degree from an accredited curriculum approved by the Landscape~~  
29 ~~Architectural Accreditation Board (LAAB) LAAB shall be deemed to have met the educational requirement.~~

30 ~~(e) Experience Requirements.~~

31 (1) ~~— An applicant shall have a minimum of 8,000 hours of professional experience in landscape architecture~~  
32 ~~working under the direct supervision of a registered landscape architect. In submitting an application~~  
33 ~~to the Board for registration, a licensed landscape architect shall certify that the applicant has~~  
34 ~~completed the number of hours indicated on the form; or~~

35 (2) ~~— An applicant may petition the Board for up to 8,000 hours of experience credit by providing proof of~~  
36 ~~work experience that is directly related to the practice of landscape architecture as defined by G.S.~~  
37 ~~89A-1(3).~~



1 21 NCAC 26 .0303 is amended **with changes** as published in 28:24 NCR 3036 as follows:

2  
3 **21 NCAC 26 .0303            ~~CERTIFICATE OF RECIPROCIITY LICENSE BY COMITY~~**

4 (a) To assure that the requirements of the other state are at least equivalent to those of this state, an applicant for a  
5 ~~certificate of registration by reciprocity license by comity~~ shall show education and experience equal to those required of  
6 applicants residing in this **state State** who seek ~~registration licensure~~ by examination.

7 (b) An application for a ~~certificate of registration by reciprocity license by comity~~ **must shall** be made on the form  
8 provided by the ~~board~~ **Board** and **must shall** be accompanied by the fee.

9 (c) To be approved for a ~~certificate of registration by reciprocity, license by comity~~ the applicant **must shall** meet the  
10 following requirements:

11            (1) Provide evidence of having successfully completed the ~~written examination published~~ established by  
12 the ~~Council of Landscape Architectural Registration Boards~~ **CLARB** or hold a certificate issued by the  
13 ~~Council of Landscape Architectural Registration Boards; CLARB; and~~

14            (2) Provide certification from the proper official of any state having a landscape architectural registration  
15 act that the individual is currently ~~certified, [licensed] licensed,~~ or registered and in good standing in  
16 that ~~state. state;~~

17            ~~(3) In lieu of the requirements of Subparagraph (1) of this Paragraph an applicant for reciprocity who was~~  
18 ~~licensed prior to the adoption of a national examination shall show proof of having met the~~  
19 ~~requirements of their licensing state at the time of their licensure.~~

20            ~~(4)~~(3) Submit such additional information concerning the applicant's qualifications as may be requested by  
21 the ~~board.~~ **[Board.] Board; and**

22            ~~(5)~~(4) Submit examples of work upon request.

23 (d) In lieu of the requirements of Subparagraph (c)(1) of this Rule, an applicant for licensure by comity who was licensed  
24 prior to the adoption of a national written examination shall show proof of having met the requirements of their licensing  
25 state at the time of their licensure.

26  
27 *History Note:*    *Authority G.S. 89A-3.1(3); 89A-4(c);*  
28                            *Eff. February 1, 1976;*  
29                            *Readopted Eff. September 30, 1977;*  
30                            *Amended Eff. February 1, 2015; January 1, 2008; August 1, 1988; July 1, 1984.*

1 21 NCAC 26 .0307 is amended **with changes** as published in 28:24 NCR 3036-3037 as follows:

2  
3 **21 NCAC 26 .0307 CONTINUING EDUCATION AS A CONDITION OF ANNUAL RENEWAL**

4 (a) Every licensee shall meet the continuing education requirements for professional development as a condition for license  
5 renewal.

6 ~~(a)~~(b) In order for a licensee to qualify for license renewal as a ~~Landscape Architect~~ landscape architect in North Carolina,  
7 the licensee ~~[must]~~ **shall** have completed 10 contact hours of Board approved continuing education within the previous ~~year.~~  
8 license year. Such continuing education shall be obtained by active participation in courses, seminars, ~~[sessions]~~ **sessions**, or  
9 programs approved by the Board.

10 ~~(b)~~(c) To be acceptable for credit toward this requirement, all courses, seminars, webinars, ~~[sessions]~~ **sessions**, or programs  
11 shall first be submitted to a ~~five member~~ Advisory Committee of North Carolina licensed Landscape Architects appointed by  
12 the Chairman of the Board with the advice and consent of the Board. The Continuing Education Advisory Committee [the  
13 ~~CEAC~~] **the CEAC**. ~~[which shall recommend]~~ **The CEAC shall review and recommend to the Board** any course, seminar,  
14 webinar, ~~[session]~~ **session**, or program for continuing education credit to the Board that the Advisory Committee CEAC finds  
15 ~~to meet~~ determines meets the criteria in ~~Paragraph (b)(1)(2) of this Rule~~ Rule .0308 (b) through (d).

16 ~~(d) Advisory Committee members shall be reimbursed per diem and travel expenses for official meetings at rates equivalent~~  
17 ~~to rates allowed for Board members. Advisory Committee CEAC members shall serve at the discretion of the Board.~~

18 (1) ~~Each course, seminar, session or program to be recommended for approval by the Board shall, in the~~  
19 ~~opinion of a majority of the members of the Advisory Committee, CEAC, have a direct relationship to the~~  
20 ~~practice of Landscape Architecture landscape architecture as defined in Chapter 89A of the General~~  
21 ~~Statutes of North Carolina and contain elements which will enhance the health, safety and welfare of the~~  
22 ~~citizens of North Carolina served by North Carolina licensed Landscape Architects.~~

23 (2) ~~The Continuing Education Advisory Committee CEAC shall meet at least once during each three month~~  
24 ~~quarter of the year and act on each course, seminar, session or program properly submitted for its review.~~  
25 ~~Each program shall be recommended for approval, recommended for disapproval or deferred for lack of~~  
26 ~~information. Programs recommended for approval shall be accompanied by a brief statement of findings~~  
27 ~~by the committee of how the program meets the criteria established by this Rule. Programs deferred for~~  
28 ~~lack of information shall be deferred only once; and if information is still lacking when next considered, the~~  
29 ~~program shall be recommended for disapproval. Programs may be recommended for pre approval by the~~  
30 ~~Advisory Committee CEAC before they actually occur.~~

31 ~~———— (3) Note: insert schedule for submittal of hours here).~~

32 ~~———— (4) The Board may establish, in consultation with the CEAC, mandatory continuing education topics for a~~  
33 ~~calendar year.~~

34 ~~(e)~~ (d) Documentation of compliance with this ~~Section~~ Rule shall be by affidavit provided on the application for license  
35 ~~renewal.~~ **renewal and available from the licensee's secure online profile.** Erroneous or false information attested to by the  
36 licensee shall be deemed as grounds for denial of license renewal and possible suspension of license or denial of consideration  
37 for future license reinstatement, at the discretion of the Board.

1 ~~(d) Twenty contact hours within the previous two years shall be allowed for license renewals during the period of July 1,~~  
2 ~~1995 to June 30, 1996.~~

3 (e) The Board may establish, in consultation with the CEAC, mandatory continuing education topics for a license year.

4

5 *History Note: Authority ~~G.S. 89A-3(e);~~G.S. 89A-3.1(2); 89A-5;*

6 *Eff. May 1, 1990;*

7 *Amended Eff. February 1, 2015; March 1, 1996.*

1 21 NCAC 26 .0308 is adopted **with changes** as published in 28:24 NCR 3037 as follows:

2

3 **21 NCAC 26 .0308 DUTIES AND FUNCTIONS OF CONTINUING EDUCATION ADVISORY**  
4 **COMMITTEE (CEAC)**

5 (a) CEAC members shall be reimbursed per diem and travel expenses for official meetings at rates equivalent to  
6 rates allowed for Board members.

7 (b) CEAC members shall serve at the discretion of the Board. The Board Chair shall appoint the CEAC Chair who  
8 shall serve at the discretion of the Board Chair.

9 (c) Each continuing education activity recommended for approval by the Board shall, in the opinion of a majority of  
10 the members of the CEAC, have a direct relationship to the practice of landscape architecture as defined in Chapter  
11 89A of the General Statutes of North Carolina and contain elements ~~which~~that will enhance the  
12 health, ~~safety~~ safety, and welfare of the citizens of North Carolina served by North Carolina licensed landscape  
13 architects.

14 (d) The CEAC shall meet at least once during each three month quarter of the year and act on each course, seminar,  
15 webinar, ~~session~~ session, or program ~~properly~~ submitted for its ~~review~~. review on the Board's Continuing Education  
16 Activity Approval form located on its website or available from the licensee's secure online profile. The CEAC  
17 shall review submissions in accordance with Subsection (c) of this Rule. Each program shall be recommended for  
18 approval, recommended for ~~disapproval~~ disapproval, or deferred for lack of information. Programs recommended  
19 for approval shall be accompanied by a brief statement of findings by the committee of how the program meets the  
20 criteria established by this Rule.

21 (e) An activity may be recommended for pre-approval by the CEAC before it actually ~~occurs~~. occurs by  
22 following the same procedure for submission as utilized for post-activity approval.

23

24 *History Note: Authority G.S. 89A-3.1(6); G.S. 89A-5;*

25 *Eff. February 1, 2015.*

1 21 NCAC 26 .0309 is adopted **with changes** as published in 28:24 NCR 3037 as follows:

2

3 **21 NCAC 26 .0309 EXEMPTIONS**

4 (a) A registrant shall be exempt from the continuing education requirements for any of the following reasons:

5 (1) New registrants by way of examination or comity for the current registration year.

6 (2) A licensee serving on temporary active duty in the armed forces of the United States for a period of  
7 time exceeding 90 consecutive days in a year or as provided by **statute, G.S 93B-15(b)**, whichever is  
8 greater.

9 (3) A licensee experiencing physical disability or illness if supporting documentation is approved by the  
10 Board. Such documentation shall be in the form of a sworn statement by the registrant, a statement  
11 from a physician, or medical records which show that the disability or **illness illness**, prevented  
12 registrant's participation in a course **which that** the registrant had enrolled, or prevented registrant's  
13 participation in the continuing education program for at least 90 consecutive days in a year.

14 (4) A licensee with emeritus status from the Board.

15 (b) In order to return to active practice, registrants who have received an exemption shall complete continuing  
16 education requirements for each exempted year, not to exceed two years.

17

18 *History Note:* Authority G.S. 89A-3.1(6); G.S. 89A-5; **G.S. 93B-15;**

19 *Eff. February 1, 2015.*

1 21 NCAC 26 .0310 is proposed for adoption as published in 28:24 NCR 3038 as follows:

2

3 **21 NCAC 26 .0310 REINSTATEMENT CRITERIA**

4 A former licensee may only apply for reinstatement pursuant to G.S. 89A-5 if he or she has earned all delinquent contact  
5 hours within the 12 months preceding the application. However, if the total number of contact hours required to become  
6 current exceeds 24, then upon application, the Board shall determine the number of hours required.

7

8 *History Note:* Authority G.S. 89A-3.1(6); G.S. 89A-5;

9 Eff. February 1, 2015.

1 21 NCAC 26 .0311 is adopted with changes as published in 28:24 NCR 3038 as follows:

2

3 **21 NCAC 26 .0311 APPLICATIONS FOR APPROVAL**

4 (a) Renewal applications require the completion of a continuing education form specified by the Board outlining credit  
5 claimed. These forms are located on the licensee's secure online profile. The licensee ~~must~~ shall supply sufficient detail  
6 on the form to permit audit verification, certify ~~and sign the form, the form by signature,~~ and submit the form with the  
7 renewal application and fee.

8 (b) The following schedule for submittal of hours shall apply:

9 (1) Application for approval of continuing education shall be submitted online or by paper  
10 ~~application.~~ application located on the Board's website or available from the licensee's secure online profile.

11 (2) The deadline for submittal of an application shall be seven days prior to the regularly scheduled meeting of  
12 the CEAC.

13 (3) Activity forms submitted after May 15<sup>th</sup> cannot be guaranteed approval within the license renewal year.

14 (4) Applications for continuing education ~~must~~ shall be completed in full and the answers to the essay questions  
15 contained in the application ~~must~~ shall be in complete sentences, using proper grammar.

16 (5) Administrative staff, the ~~CEAC~~ CEAC, and the Board may defer any application deemed ~~unsatisfactory, to~~  
17 ~~the licensee} unsatisfactory and return it to the registrant~~ for further information or if the application does not  
18 meet the requirements set forth in this Section, It is the responsibility of the licensee to submit sufficient  
19 information to satisfy the requirements of this Section.

20 (6) Failure of a registrant to complete the continuing education requirements, or failure to file a report of  
21 completed continuing education are grounds for denial of license renewal and possible suspension of license, or  
22 denial of consideration for future license reinstatement.

23

24 *History Note: Authority G.S. 89A-3.1(6); G.S. 89A-5;*

25 *Eff. February 1, 2015.*

1 21 NCAC 26 .0312 is adopted **with changes** as published in 28:24 NCR 3038 as follows:

2

3 **21 NCAC 26 .0312 COMPLIANCE**

4 (a) Compliance with annual continuing education requirements shall be determined through an audit process conducted  
5 by the Board. Determination of individuals to be audited shall be accomplished through a random selection process or as  
6 the result of information **available to the Board, received or obtained by the Board that gives rise to the need for an audit.**  
7 Licensees selected for auditing shall provide the Board with the following documentation of the continuing education  
8 activities claimed for the renewal period:

9 (1) Attendance verification records in the form of transcripts, completion certificates, or other documents  
10 supporting evidence of attendance; and

11 (2) Information regarding course content, **instructors instructors,** and sponsoring organization, for  
12 activities presented by other than approved sponsors as defined in Rule .0313.

13 (b) Attendance records shall be maintained by individual licensees for a period of **[two] three** years for audit verification  
14 purposes.

15

16 *History Note: Authority G.S. 89A-3.1(6); G.S. 89A-5;*

17 *Eff. February 1, 2015.*

1 21 NCAC 02 .0313 is adopted with changes as published in 28:24 NCR 3038 as follows:

2  
3 **21 NCAC 02 .0313 INDIVIDUAL LICENSES**

4 (a) License registration must shall be renewed on or before the first day in July each year. No less than 30 days prior to  
5 the renewal date, the Board shall send a renewal reminder to each individual licensee. The licensee shall complete the  
6 current license renewal documentation required by the Board. Board and found in the licensee's secure online profile.  
7 The licensee shall submit to the Board the completed license renewal documentation, along with the annual license  
8 renewal fee. The Board shall not accept incomplete renewal documentation. If the accompanying charge, draft draft, or  
9 check in the amount of the renewal fee is dishonored by the landscape architect's drawee bank for any reason, the Board  
10 shall suspend the license until the renewal fee is paid. When the annual renewal has been completed according to the  
11 provisions of G.S. 89A-5 and Section .0307, Rule .0307 of this Chapter, the Board Executive shall approve renewal of  
12 the license for the current license year.

13 (b) If the Board has not received the annual renewal fee and completed renewal documentation, on or before the first day  
14 of July each year the license shall expire and be delinquent. The license may be renewed at any time within one year of  
15 being deemed delinquent, upon the return of the completed renewal documentation, as found in the licensee's secure  
16 online profile, the annual renewal fee and the late renewal fee and fee, along with demonstration of compliance with  
17 Section Rule .0307 of this Chapter. After one year from the date of delinquency the license may no longer be renewed,  
18 but the licensee must shall seek reinstatement. Reinstatement shall occur according to the provisions of G.S. 89A-5 and  
19 Section Rule .0301 of this Chapter.

20 (c) Renewal fees are non-refundable.

21 (d) Any individual who is currently licensed by and in good standing with the Board who is serving in the armed forces  
22 of the United States shall not be subject to late fees, suspension suspension, or revocation for failure to renew licensure  
23 on or before the first day of July each year, provided that the individual has been granted an extension of time to file a tax  
24 return as set forth in G.S. 105-249.2. The licensee shall, however, comply with the continuing education requirement of  
25 Section .0310 of this Chapter.

26  
27 *History Note:* Authority G.S. 89A-5; 89A-6;  
28 *Eff. February 1, 2015.*

1 21 NCAC 26 .0314 is adopted with changes as published in 28:24 NCR 3038-3039 as follows:

2  
3 **21 NCAC 26 .0314 CORPORATE PRACTICE OF LANDSCAPE ARCHITECTURE**

4 (a) Prior to offering and rendering landscape architectural services as set forth in G.S. 89A and 21 NCAC 26 .0206, all  
5 corporations must shall, submit an application for registration and be granted registration by the Board. Application for  
6 registration to practice landscape architecture within the State of North Carolina shall be made upon forms provided by  
7 the Board on its website and include the required application fee. Certificates for corporate practice may be issued only  
8 under the provisions of Chapter 55B of the General Statutes, except as provided in Subsection (b) of this Rule and G.S.  
9 57C.

10 (b) Applications for certificate of registration as exempt from the Professional Corporation Act under the provisions of  
11 G.S. 55B-15 shall be made upon forms provided by the Board. Completed applications must shall be accompanied by  
12 the corporate application fee. To be eligible as an exempt corporation under the provisions of G.S. 55B-15, the following  
13 conditions must shall exist:

14 (1) The corporation or limited liability company must have been incorporated or organized prior to June 5,  
15 1969 and permitted by law to render professional services services, or must be a corporate successor to such  
16 corporation or limited liability company as defined by G.S. 55B-15; or

17 (2) The corporation or limited liability company must have been incorporated or organized prior to October 1,  
18 1979 and must have been a *bona fide* firm engaged in the practice of landscape architecture and such services as  
19 may be ancillary thereto within the State of North Carolina prior to that date.

20 (c) Firm registration must be renewed on or before June 30<sup>th</sup>. If the Board has not received the annual renewal fee and  
21 completed application on or before June 30<sup>th</sup>, the firm license shall expire and be delinquent. No less than 30 days prior  
22 to the renewal date, the Board shall send a notice of renewal to each registered firm. The firm must shall designate a firm  
23 manager to complete the renewal documentation required by the Board. The Board shall not accept incomplete renewal  
24 documentation. Renewal documentation must shall be accompanied by the renewal fee. If the accompanying payment in  
25 the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm  
26 registration until the renewal fee is paid. When the annual renewal has been completed according to the provisions of  
27 G.S. 89A-5, the Board Executive shall approve renewal for the firm registration for the current renewal year. The firm  
28 license shall not be renewed until the individual landscape architect in responsible charge for the firm has completed the  
29 individual renewal process.

30 (d) Within one year of expiration expiration, the firm license may be renewed at any time upon the return of the  
31 completed renewal documents, the annual renewal fee fee, and the late renewal fee. After one year from the date of  
32 expiration for non-payment of the annual renewal fee fee, the licensee shall not be eligible to seek reinstatement, as set  
33 forth in G.S. 89A-5, and the Board may reinstate the firms' certificate of registration only as allowed by G.S. 89A-4.

34 (e) Renewal fees are non-refundable.

35 (f) Each registered corporation shall adopt a seal pursuant to 21 NCAC 26 .0207.

36 (g) In addition to the requirements and limitations of Chapter 55 and Chapter 55B of the General Statutes, the firm name  
37 used by a landscape architectural corporation shall conform with 21 NCAC 26 .0206 and be approved by the Board

1 before being used. This Rule shall not prohibit the continued use of any firm name adopted in conformity with the  
2 General Statutes of North Carolina and the Board's rules in effect at the date of such adoption.

3 (h) Landscape architects may practice in this State through duly authorized limited liability companies only as provided  
4 under G.S. 57C-2-01(c). Any limited liability company that offers to practice or practices landscape architecture in this  
5 State ~~must~~ shall comply with the same requirements applicable to professional corporations under Rules .0201, .0206,  
6 .0214, .0218 and .0219 of this Section.

7

8 *History Note:* Authority G.S. 55B-5; 55B-10; 55B-15; 89A-3.1(4);

9 *Eff. February 1, 2015.*

1 21 NCAC 26 .0315 is adopted **with changes** as published in 28:24 NCR 3039-3040 as follows:

2  
3 **21 NCAC 26 .0315 OUT-OF-STATE ENTITIES**

4 (a) Landscape architectural entities from other states may be granted certificates of registration for practice in this State  
5 upon receipt by the Board of a completed application, fees, the submission of a certified copy of its corporate charter, or  
6 other corresponding documents, amended as may be necessary to ensure compliance with all requirements of Chapter  
7 55B, the Professional Corporation Act of the State of North Carolina, and the payment of the firm application fee. In  
8 addition to the other requirements as set out in G.S. 83A-8, out-of-state (or “foreign”) entities **must, shall** prior to  
9 registration, receive from the Secretary of State of North Carolina a certificate of authority to do business within the **state.**  
10 **State.** A certificate for filing for a certificate of authority **must shall** be obtained from the Board prior to submitting the  
11 application to the Secretary of State.

12 (b) An out-of-state entity may be permitted to practice landscape architecture within the State of North Carolina provided  
13 that it complies with G.S. Chapter 55B. If an out-of-state entity offers landscape architectural services, then it **must shall**  
14 comply with requirements set forth in G.S. Chapter 89A. An out-of-state entity **must shall** have at least one officer or  
15 director licensed in the State as a landscape architect. Two-thirds of the issued and outstanding shares of the out-of-state  
16 corporations **must shall** be held by a landscape architect, architect, geologist, **engineer engineer**, or land surveyor licensed  
17 to practice the profession in a jurisdiction of the United States. However, the entity **must shall** designate at least one  
18 landscape architect who is licensed in the State of North Carolina to be in responsible charge for the entity’s practice of  
19 landscape architecture within the State of North Carolina. Notwithstanding the requirements of this Rule, an individual  
20 landscape architect who is licensed under G.S. Chapter 89A, *et seq.*, may practice as an individual.

21 (c) An out-of-state **Limited Liability Company limited liability company** may practice landscape architecture, if the  
22 **Limited Liability Company limited liability company** complies with G.S. 57C and at least one member and one manager  
23 or member/manager is licensed as a landscape architect, architect, **geologist or engineer geologist, engineer, or land**  
24 **surveyor** to comply with Paragraph (a) of this Rule.

25 (d) An out of state **Limited Liability Partnership limited liability partnership** may practice landscape architecture, if the  
26 **Limited Liability Partnership limited liability partnership** complies with G.S. 59-84.2, and at least one partner is licensed  
27 in this State as an individual pursuant to Rule .0301 of this Section.

28 (e) If the Board has not received the annual firm renewal fee and completed application on or before June 30<sup>th</sup>, the firm  
29 registration shall expire and be deemed delinquent. The firm registration may be renewed at any time within one year  
30 upon the payment of the annual renewal fee and the late renewal fees. After one (1) year from the date of expiration for  
31 non-payment of the annual renewal fee, the license shall be automatically revoked. The Board may reinstate the firm's  
32 certificate of registration, as allowed by Rule .0301.

33  
34 *History Note:* Authority G.S. 55B-6; 83A-6; 89A-2(a1);  
35 *Eff. February 1, 2015.*

1 21 NCAC 26 .0510 is amended **with changes** as published in 28:24 NCR 3040 as follows:

2  
3 **21 NCAC 26 .0510 DISCIPLINARY REVIEW PROCESS**

4 (a) ~~General.~~ Allegations or evidence of a violation of the Landscape Architecture Licensing Act or the rules in this  
5 Chapter shall be preliminarily reviewed by the Board Chair and legal counsel to the Board. Upon a determination  
6 that evidence of a violation exists, the matter shall be subject to Board investigation and may be subject to  
7 disciplinary action by the Board.

8 (b) ~~Preliminary Review.~~

9 (1) ~~Upon receipt of a complaint involving a registrant, an investigation shall be initiated by the~~  
10 ~~Board's Chairman.~~

11 (2) ~~A~~ An investigation shall be initiated by a written notice and explanation of the allegation ~~shall~~  
12 ~~be being~~ forwarded to the person or ~~firm~~ entity against whom the charge is made and a response shall be requested  
13 of the person or firm so charged within 30 days of receipt of said notice to show compliance with all lawful  
14 requirements for retention of the ~~certificate of registration.~~ license. Notice of the charge and of the alleged facts or  
15 alleged conduct shall be given personally or by certified mail, return receipt requested.

16 (c) ~~(3)~~ In the discretion of the Board Chair, a field investigation may be performed.

17 (d) ~~(4) After preliminary~~ After additional evidence has been obtained, the Board Chair shall either:

18 (A) (1) recommend dismissal of the ~~[charge, or;]charge; or~~

19 (B) (2) refer the matter to the Disciplinary Review Committee.

20 (e) (5) If the Board Chair recommends dismissal, the ~~Chairman~~ Chair shall give a summary report to the Board  
21 and a vote shall be called to dismiss the complaint. If the Board does not vote to dismiss the complaint, the matter  
22 shall be forwarded to the Disciplinary Review Committee for further consideration.

23 ~~(e) The Disciplinary Review Committee.~~

24 (f) (1) The Disciplinary Review Committee shall be made up of a minimum of one member of the Board and  
25 the Board Chair.

26 (2) ~~Upon review of the evidence, the Disciplinary Review Committee shall present to the~~  
27 ~~Board a written recommendation that may include the following:~~

28 (g) Upon review of the evidence, and further investigation if necessary, the Disciplinary Review Committee  
29 shall present to the Board a written recommendation that may include the following:

30 (A) (1) The charge be dismissed as unfounded or that the Board is without jurisdiction over the  
31 matter;

32 (B) (2) The charge is admitted as true, whereupon the Board may accept the admission of guilt  
33 by the person **or entity** charged and ~~sanction~~ discipline the ~~individual or company~~ person  
34 or entity accordingly;

35 (C) (3) The Board **may** accept a proposed settlement negotiated in an effort to resolve the alleged  
36 violations; or

1                   ~~(D)~~ (4) The charge be presented to the full Board for a hearing and determination of sanctions by  
2                   the Board in accordance with the substantive and procedural requirements of the  
3                   provisions of ~~G.S. 150B~~. Article 3A of Chapter 150B of the General Statutes.

4 (h)       ~~(d) Consultant.~~ A consultant to the Disciplinary Review Committee shall be designated by the legal  
5 counsel of the Board if the Chair of the Disciplinary Review Committee determines that it needs assistance. The  
6 consultant shall be a currently ~~registered Landscape Architect~~, licensed landscape architect selected from former  
7 Board members or other ~~registered~~ licensed professionals who are knowledgeable with the Board's processes and  
8 have expressed an interest in serving as a consultant. The consultant shall review all case materials and assist the  
9 Disciplinary Review Committee in making a recommendation as to the merits of the case.

10 (i)       ~~(e) Board Decision.~~ At least 15 days written notice of the date of consideration by the Board of the  
11 recommendations of the Disciplinary Review Committee shall be given to the ~~party~~ person or entity against whom  
12 the charges have been brought and the ~~party~~ person submitting the charge.

13 (j)       ~~(f) Settlement Conference.~~ When the Board issues a notice of ~~hearing~~, hearing against whom the charges  
14 are brought, the ~~registrant~~ registered person or entity may request in writing a settlement conference to pursue resolution of the  
15 issue(s) through informal procedures. If, after the completion of a settlement conference, the ~~registrant person or~~  
16 entity and the Board's Disciplinary Review Committee do not agree to a resolution of the dispute for the full Board's  
17 consideration, the original disciplinary review process shall commence. During the course of the settlement  
18 conference, no sworn testimony shall be taken.

19  
20 *History Note:*     Authority ~~G.S. 89A-3.1~~; G.S. 89A-3.1(7), (8), (9); 89A-7;  
21                   Eff. February 1, 2015; December 1, 2005.



STATE OF NORTH CAROLINA  
**OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Street address:  
1711 New Hope Church Rd  
Raleigh, NC 27609-6285

December 17, 2014

**Sent via email to [jgray@bdixon.com](mailto:jgray@bdixon.com):**

Jeffrey P. Gray, Rulemaking Coordinator  
Board of Landscape Architects  
Post Office Box 1351  
Raleigh, North Carolina 27602

Re: Extension of the Period of Review for rules filed November 14, 2014

Dear Mr. Gray:

At its December 17, 2014 meeting, the Rules Review Commission extended the period of review on the above-identified rules in accordance with G.S. 150B-21.10 and G.S. 150B-21.13. The Commission extended the period of review to allow the Board of Landscape Architects additional time to review staff's Request for Technical Changes, and any necessary Staff Opinions.

If you have any questions regarding the Commission's action, please do not hesitate to contact me directly at (919) 431-3076.

Sincerely,

Abigail M. Hammond  
Commission Counsel

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
fax: 919/431-3104

Judges and  
Assistants  
919/431-3000  
fax: 919/431-3100

Clerk's Office  
919/431-3000  
fax: 919/431-3100

Rules Review  
Commission  
919/431-3000  
fax: 919/431-3104

Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: All forms

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*In box 5, please check either "RRC Certified on" or "Not Required"*

*In box 6, the Notice of Text for these rules is incorrect. It was published on June 16, 2014. Please correct.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0100 is proposed for amendment as published in 28:24 NCR 3034 as follows:

2

3 **SECTION .0100 – STATUTORY AND ~~ADMINISTRATIVE~~ ADMINISTRATIVE PROVISIONS**

4 21 NCAC 26 .0101 is proposed for amendment as follows:

5

6 **21 NCAC 26 .0101 AUTHORITY: NAME AND LOCATION OF BOARD**

7 The "North Carolina Landscape Architecture Act," G.S. 89A, establishes and authorizes the "North Carolina Board of  
8 Landscape Architects," hereafter called the "~~board.~~" "Board." Unless otherwise directed, all communications shall be  
9 addressed to the ~~board~~ Board at Post Office Box 41225, Raleigh, North Carolina 27629.

10

11 *History Note: Authority G.S. 89A-3.1*

12 *Eff. February 1, 1976;*

13 *Readopted Eff. September 30, 1977;*

14 *Amended Eff. January 1, 2014; August 1, 2000; July 2, 1979.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0103

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Please verify that all activities within this Rule qualify under the [G.S. 143-318.11](#), as Article 33C of G.S. 143 controls what may be subjected to closed meetings.*

*Line 5, add "In accordance with Article 33C of G.S. 143," before "meetings"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0103 is proposed for amendment as published in 28:24 NCR 3034 as follows:

2

3 **21 NCAC 26 .0103 ORGANIZATION OF THE BOARD: OFFICERS**

4 ~~Meeting~~ Meetings of the ~~board~~ Board shall be open and public except that the ~~board~~ Board may meet in closed  
5 session to prepare, approve, administer or grade written examinations; or to examine and deliberate the  
6 qualifications of an applicant for registration; or to dispose of a proceeding to discipline a registered landscape  
7 architect.

8

9 *History Note: Authority G.S. 89A-3;*

10 *Eff. February 1, 1976;*

11 *Readopted Eff. September 30, 1977;*

12 *Amended Eff. January 1, 2014; August 1, 1988.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0105

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5 through 6, what are the current costs of the examination and how are they known by the regulated public? Please clarify.*

*Line 11, add a comma after "firm"*

*Line 19, add 89A-5 to the authority*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0105

**DEADLINE FOR RECEIPT: Friday, January 9, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

**Original request set forth in November 26, 2014 technical change request:**

*Lines 5 through 6, what are the current costs of the examination and how are they known by the regulated public? Please clarify.*

**Request pursuant to technical changes reflected on December 15, 2014 version of this Rule:**

The language adopted by the Board of Landscape Architects contains language on lines 5 through 7 regarding the payment of examination fees. G.S. 89A-6 states the following:

In all instances where the Board uses the services of a testing service for preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services, in addition to its other fees. **Fees shall be paid to the Board at the times specified by the Board.**

In response to a technical change request prior to the Rules Review Commission's meeting in December of 2014, the rule was changed to strike all of this language. G.S. 89A-6 provides that the Board may assess costs for administration of the examination against the application. However, G.S. 89A-6 does require the Board to specify the time of payment. By striking all language in lines 5 through 7, this Rule is unclear and ambiguous as to when the payment is due to the Board pertaining to costs for administration of the examination.

Pursuant to 26 NCAC 05 .0101(5)(e), the following change is recommended to avoid the issuance of a staff opinion:

“(b) Examination fees shall be paid prior to the examination and in accordance with G.S. 89A-6.”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0105 is proposed for amendment as published in 28:24 NCR 3034-3035 as follows:

2

3 **21 NCAC 26 .0105 FEES**

4 (a) ~~Application fees~~ The fee for any license application shall be one hundred dollars (\$100.00).

5 (b) Examination fees shall be equal to the current cost of examinations incurred by the Board, plus administrative costs,  
6 and shall be paid prior to the examination.

7 (c) Fees for portions of examinations will be based on the actual charges to the ~~board~~ Board for procuring, administering  
8 and grading the portion of the exam. The fees shall be paid prior to the examination.

9 (d) The fee for a license by reciprocity comity shall be one hundred fifty dollars (\$150.00).

10 (e) The fee for a corporate certificate of registration shall be two hundred dollars (\$200.00).

11 (f) The fee for the annual renewal of any certificate of registration of any person, firm or corporation shall be one  
12 hundred dollars (\$100.00).

13 (g) Annual renewal fees received after ~~July 1~~ July 1st of each year shall be subject to a ~~one-time late payment penalty~~  
14 late fee of fifty dollars (\$50.00). Lapse of license renewal in excess of one year shall require an application reinstatement  
15 and an application fee of one hundred dollars (\$100.00).

16 (h) The fee for re-issue of a lost or damaged certificate ~~or permit is ten dollars (\$10.00).~~ shall be twenty-five dollars  
17 (\$25.00).

18

19 *History Note: Authority G.S. 89A-3.1; 89A-6;*

20 *Eff. February 1, 1976;*

21 *Readopted Eff. September 30, 1977;*

22 *Amended Eff. December 1, 1994; June 1, 1991; April 1, 1990; July 1, 1989;*

23 *Temporary Amendment Eff. October 1, 1997;*

24 *Temporary Amendment Expired July 12, 1998;*

25 *Amended Eff. January 1, 2014; August 1, 2000;*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0106

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 9, add 89A-3.1 to the authority*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0106

**DEADLINE FOR RECEIPT: Friday, January 9, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

**Original request set forth in November 26, 2014 technical change request:**

*Line 9, add 89A-3.1 to the authority*

**Request pursuant to technical changes reflected on December 15, 2014 version of this Rule:**

*Delete "98A-3.1" as this statutory authority is incorrect and was not included in this Rule as published in the Register.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0106 is proposed for adoption as published in 28:24 NCR 3035 as follows:  
2

3 **21 NCAC 26 .0106 SUSPENSION OF AUTHORITY TO EXPEND FUNDS**

4 In the event the North Carolina Board of Landscape Architects' authority to expend funds is suspended  
5 pursuant to G.S. 93B-2(d), the Board shall continue to issue and renew licenses and all fees tendered shall  
6 be placed in an escrow account maintained by the Board for this purpose. Once the Board's authority is  
7 restored, the funds shall be moved from the escrow account into the general operating account.

8  
9 History Note: Authority G.S. 93B-2

10 Eff. January 1, 2014;

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0107

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4, add the following opening clause:*

In addition to the definitions in G.S. 89A-1, for the purposes of this Section the following definitions apply:

*Line 17, replace the single quotation mark with double quotation marks prior to "LAAB"*

*Line 23, define or delete "specifically"*

*Line 24, add a comma after "location"*

*Line 27, add 89A-5*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0107

**DEADLINE FOR RECEIPT: Friday, January 9, 2015**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

**Original request set forth in November 26, 2014 technical change request:**

*Line 4, add the following opening clause:*

In addition to the definitions in G.S. 89A-1, for the purposes of this Section the following definitions apply:

**Request pursuant to technical changes reflected on December 15, 2014 version of this Rule:**

*Replace G.S 89A-7 with G.S. 89A-1, as one cites to definitions and the other cites to disciplinary actions.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0107 is proposed for adoption as published in 28:24 NCR 3035 as follows:

2  
3 **21 NCAC 26. 0107**            **DEFINITIONS**

4 (a) "Board Executive" means the administrator of the Board.

5 (b) "CLARB" means the Council of Landscape Architectural Registration Boards.

6 (c) "Contact hour" means sixty (60) continuous minutes.

7 (d) "CEAC" means the Continuing Education Advisory Committee of the Board.

8 (e) "Direct Supervision" means the level of supervision by a licensed professional overseeing the work of another in  
9 which both work in circumstances where professional contact is relevant and routine, and the supervisor has both  
10 control over and detailed professional knowledge of the work prepared under his or her supervision.

11 (f) "Education Activity" means an activity that increases the professional knowledge or skills of a licensee and  
12 relates to the protection or enhancement of the health, safety and welfare of the public and is approved by the Board.

13 (g) "Examination" means the process by which the Board determines the experience, academic or other  
14 qualifications and fitness for practice of an applicant, and may include a written examination administered by the  
15 Board or a third party.

16 (h) "Foreign Corporation" means a foreign corporation as defined in G.S. 55B-16(b).

17 (i) "LAAB" means the Landscape Architecture Accreditation Board.

18 (j) "LARE" means the Landscape Architecture Registration Exam administered by the CLARB.

19 (k) "License Year" means July 1 through June 30.

20 (l) "Resident licensed professional" means a licensee who spends a majority of the licensee's normal working time  
21 in a specifically identified place of business within North Carolina. Such time shall not be less than a majority of  
22 the operating hours of the business. A licensed professional shall be the resident licensee at only one place of  
23 business at one time unless each business is at least one-third owned by the resident professional and is specifically  
24 approved by the Board after a determination that the businesses are integrated in operation, ownership, office  
25 location and that the licensee will be in responsible charge of the professional services.

26  
27 *History Note:*                    *Authority G.S. 89A-3.1(2)*

28                                            *Eff. January 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0201

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4, define or delete "currently"*

*Line 6, define or delete "immediately"*

*Line 6, move the phrase "within 10 days of the change" from line 9 to between "shall notify"*

*Line 7, add a comma after "address"*

*Line 9, delete the clause "within 10 days of the change" and add a period after "firm"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0201 is proposed for amendment as published in 28:24 NCR 3035 as follows:

2

3 **21 NCAC 26 .0201 BOARD LISTING OF INDIVIDUAL AND FIRM NAMES**

4 Every individual licensee, partnership, firm or corporation has the continuing responsibility of keeping the Board currently  
5 advised of ~~his proper and~~ his, her or its current mailing address and other contact information and the name or names under  
6 which ~~he is practicing.~~ he, she or it is practicing landscape architecture. Each licensee or firm shall immediately notify the  
7 Board of any and all changes of ~~association or address.~~ association, address or contact information. Upon the dissolution or  
8 change of a professional relationship, the member or members thereof shall ~~promptly~~ notify the Board in writing concerning  
9 such dissolution, and of the succeeding status and addresses of the individual or ~~firm.~~ firm within 10 days of the change.

10

11 *History Note: Authority ~~G.S. 89A-3(e);~~ G.S. 89A-3.1(2);*

12 *Eff. February 1, 1976;*

13 *Readopted Eff. January 1, 2014; September 30, 1977;*

## RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0301

RECOMMENDED ACTION:

- Approve, but note staff's comment
- Object, based on:
  - Lack of statutory authority
  - Unclear or ambiguous
  - Unnecessary
  - Failure to comply with the APA
- Extend the period of review

COMMENT:

Page 2, line 7 references a "form" that must be certified by the landscape architect to show hours completed. The location and content of the form are not contained within this Rule or the governing statute. G.S. 150B-2 defines "rule" and "form" as follows:

- (8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
- ...
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - ...

The "form" appears to be the "NCBLA Individual Application" found on the ["Forms" section of the website](#). Both are attached to this Staff Opinion for your review.

**Summary:**

As written, this Rule is referencing a form that is outside the process of rulemaking and is not implementing a process prescribed by rule or statute. It is staff's recommendation to object to this Rule for being unclear and ambiguous by referencing a form that is not identified by name and providing no information on how to obtain this form. Furthermore, it is staff's recommendation to object to this Rule for failure to comply with the Administrative Procedure Act by using a form that is not prescribed by rule or statute.



# The North Carolina Board of LANDSCAPE ARCHITECTS



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## Forms

### [Processing Applications for Registration as a Landscape Architect](#)

Refer to these instructions for making application to the board for licensure.

#### [NCBLA Individual Application](#)

This form is used to apply to take the Landscape Architects Registration Exam (L.A.R.E.), Reciprocal licensure and Reinstatement of an expired or revoked license. Check the appropriate box at the top of the application.

#### [Employer Verification Form](#)

This form must be sent to past and present employers. They should complete the form and return them directly to the board. This form must be received by the board for Reciprocity and Examination applications.

#### [Confidential Reference Information Regarding Applicant](#)

This form must be sent to the references listed on your application for reciprocity or exam. They should complete the form and return them directly to the board. Three references are required. At least one of these references must be a licensed landscape architect.

#### [Application For Organization Certificate of Registration](#)

This form is used to apply for a Corporate Certificate. All corporations offering landscape architect services in North Carolina must be registered with the Board. The first requirement is that the corporation has a NC licensed landscape architect in its employ. Your corporation must be approved for licensure prior to obtaining the certificate of authority from the NC Secretary of State. Please refer to GS 55B - NC Professional Corporation Act.

#### [Continuing Education Activity Approval Form](#)

This form is used by both licensees and providers of continuing education activities. This form will be accepted throughout the year. The final deadline is May 15. All licensees are required to complete 10 hours of continuing education per year. Newly licensed individuals are not required to complete the continuing education requirement until the first full renewal year ending June 30.

#### [Continuing Education Notice](#)

#### [Continuing Education Guidelines and Definitions](#)

Refer to these documents if you have questions regarding Continuing Education requirements and procedures for obtaining approval for educational activities.



# North Carolina Board of Landscape Architects

P. O. Box 41225 • Raleigh, North Carolina 27629-1225 • Phone: (919) 850-9088 • Fax: (919) 872-1598

**This application shall be completed in accordance with the requirements as established by GS. 89A.**

This Application is submitted for (check one):

## Application Fee \$100.00

- Reciprocity  Examination (NOTE: Board meets quarterly. Please see website ncbla.org for application deadlines)
- Reinstatement

Preferred mailing address:  Home  Business

Full name of Applicant \_\_\_\_\_

Home Address \_\_\_\_\_

Home City/State/Zip \_\_\_\_\_

Home Phone \_\_\_\_\_

Employer \_\_\_\_\_

Business Address \_\_\_\_\_

Business City/State/Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Business Fax \_\_\_\_\_

Email Address \_\_\_\_\_ Web Site \_\_\_\_\_

Birthdate \_\_\_\_\_ Social Security Number \_\_\_\_\_

Place of Birth \_\_\_\_\_  
(City) (State) (County)

If you have a CLARB Council Record, please check here: \_\_\_\_\_ You must contact CLARB directly and request that the CCR be transmitted to the NC Board. You must complete the entire application even if you have a CCR.

You are required to list three character references one of whom must be a Landscape Architect. Please list below. If you have a CLARB Council Record, these references must match the CCR. If not, you will be required to obtain reference forms.

Name	Address

If you hold license(s) in other states, please list them below.

**How was license granted:**

State	License Number	Exam, Grandfather, or Reciprocity

*I hereby attest that all of the information contained in this application is true and accurate.*

Signature \_\_\_\_\_ Date \_\_\_\_\_

Notary Public \_\_\_\_\_

My Commission Expires <sup>42</sup>\_\_\_\_\_

Seal

(DO NOT WRITE IN THIS SPACE)
Date Received:
Fee Received:

**Education** (a degree from an accredited curriculum approved by the Landscape Architectural Accreditation Board (LAAB) shall be deemed to have met the educational requirement)

Transcripts must be forwarded to the Board under separate cover from the institutions listed.

Institution	Degree	Dates Attended	Date of Degree	Total yrs/months

**Professional Experience** (*MINIMUM FOUR YEARS REQUIRED*)

Employment verification forms must be forwarded to the Board from the companies or institutions listed. You may not overlap credits for the same time periods for education or experience. Round off percentages to the nearest month.

Company (Name & Location)	Duties Performed	Dates	Total Yrs & Months

**IMPORTANT NOTE**

It is the responsibility of each applicant to ensure that the Board receives documentation supporting this application no less than five business days prior to the next regularly scheduled Board meeting. Applicants will not be contacted regarding their application. Applications for reinstatement must be accompanied by a letter explaining the reason that the license was allowed to expire. Page two of this application is not required for reinstatement applications.

The following rules are applicable to applications for licensure by reciprocity and by exam:

**21 NCAC 26 .0303 CERTIFICATE OF RECIPROCITY**

- (a) To assure that the requirements of the other state are at least equivalent to those of this state, an applicant for a certificate of registration by reciprocity shall show education and experience equal to those required of applicants residing in this state who seek registration by examination.
- (b) An application for a certificate of registration by reciprocity must be made on the form provided by the board and must be accompanied by the fee.
- (c) To be approved for a certificate of registration by reciprocity, the applicant must meet the following requirements:
  - (1) Provide evidence of having successfully completed the examination published by the Council of Landscape Architectural Registration Boards or hold a certificate issued by the Council of Landscape Architectural Registration Boards; and
  - (2) Provide certification from the proper official of any state having a landscape architectural registration act that the individual is currently registered and in good standing in that state.
  - (3) In lieu of the requirements of Subparagraph (1) of this Paragraph an applicant for reciprocity who was licensed prior to the adoption of a national examination shall show proof of having met their requirements of their licensing state at the time of their licensure.
  - (4) Submit such additional information concerning the applicant's qualifications as may be requested by the board.
  - (5) Submit examples of work upon request.

**21 NCAC 26 .0301 EXAMINATION**

- (a) Notice. The Board shall hold at least one examination during each year and may hold such additional examinations as may appear necessary. The secretary shall give public notice of the time and place for each examination at least 60 days in advance of the date set for the examination.
- (b) Examination. The Landscape Architect Registration Examination published by the Council of Landscape Architectural Registration Boards shall be the examination given by the Board, so long as the Board shall remain a member of the Council of Landscape Architectural Registration Boards. The Board may administer a state supplement to the Landscape Architecture Registration Exam (LARE) as allowed by the Council.
- (c) "Qualified Applicant" - An applicant is deemed qualified to take the Landscape Architects Registration Examination (LARE) upon graduation from a Landscape Architect's Accreditation Board (LAAB) accredited collegiate curriculum in landscape architecture and has completed the experience requirements, both as set forth in Paragraphs (d) and (e) of this Rule.
- (d) Educational Requirements. In allowing credit for education in fulfilling the minimum qualification requirements established by statute, the Board will allow credit for educational experience as follows: An undergraduate, a masters, or a doctorate degree from an accredited curriculum approved by the Landscape Architectural Accreditation Board (LAAB) shall be deemed to have met the educational requirement.
- (e) Experience Requirements.
  - (1) An applicant shall have a minimum of 8,000 hours of professional experience in landscape architecture working under the direct supervision of a registered landscape architect. In submitting an application to the Board for registration, a licensed landscape architect shall certify that the applicant has completed the number of hours indicated on the form; or
  - (2) An applicant may petition the Board for up to 8,000 hours of experience credit by providing proof of work experience that is directly related to the practice of landscape architecture as defined by G.S. 89A-1(3).
  - (3) Experience credits shall be based on a full-time work week of 40 hours and a work year of at least 2,000 hours. Part-time work must be fully described and can be given proportional credit.
  - (4) One cannot receive experience credit if the work is fulfilling an educational requirement.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0301

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 11 through 12, delete "so long as the Board shall remain a member of the CLARB"*

*Line 14, define or delete "successfully"*

*Line 15, what is the authority for the fee to be "non-refundable"?*

*Line 18, replace "The" with "CLARB sets the"*

*Line 18, replace the comma after "LARE" with a period and delete the remainder of the sentence.*

*Line 18, replace "will" and "shall"*

*Line 19, add the website address after "site"*

*Line 20, replace "is deemed" with "shall be"*

*Line 23, add a comma after "LARE"*

*Line 25, replace "in fulfilling" with "to satisfy"*

*Line 26, what is the statute being referenced? Please clarify.*

*Page 2, lines 4 and 12, correct the alignment*

*Page 2, line 4, what is the statute being referenced? Please clarify.*

*Page 2, line 4, add a comma after "statute"*

*Page 2, line 4, delete “a minimum of”*

*Page 2, line 7, what form is being referenced? Where is it located? What content is required?*

*Page 2, line 8, define or delete “directly”*

*Page 2, line 10, replace “must” with “shall”*

*Page 2, line 10, define or delete “fully”*

*Page 2, line 10, replace “can” with “may”*

*Page 2, line 12, add a comma after “disclosure”*

*Page 2, line 13, uncapitalize “Rule” as it is not citing a specific rule*

*Page 2, line 13, add a comma after “Board”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0301 is proposed for amendment as published in 28:24 NCR 3035-3036 as follows:

2  
3 **21 NCAC 26 .0301 EXAMINATION AND LICENSURE**

4 ~~(a) Notice. The Board shall hold at least one examination during each year and may hold such additional examinations as~~  
5 ~~may appear necessary. The secretary Board Executive shall give public notice of the time and place for each examination~~  
6 ~~at least 60 days in advance of the date set for the examination.~~

7 ~~(b) Examination. The Landscape Architect Registration Examination published by the Council of Landscape Architectural~~  
8 ~~Registration Boards shall be the examination given by the Board, so long as the Board shall remain a member of the~~  
9 ~~Council of Landscape Architectural Registration Boards. The Board may administer a state supplement to the Landscape~~  
10 ~~Architecture Registration Exam (LARE) as allowed by the Council.~~

11 (a) The LARE published by CLARB shall be the examination recognized by the Board, so long as the Board shall  
12 remain a member of the CLARB. The Board may administer a state supplement to the LARE as allowed by the CLARB.

13 (b) All persons desiring to submit an application to take the LARE are encouraged to first make application through  
14 CLARB. Upon successfully taking and passing all sections of the LARE, candidates shall complete the Board  
15 application for license by examination and submit the non-refundable application fee as established in Rule .0105. If an  
16 application is complete and the applicant is otherwise qualified by statute and these rules to sit for examination, the Board  
17 shall approve the application for licensure by examination.

18 (c) The fees for the LARE, or parts thereof, are set by the CLARB. Fee information will be made available to all  
19 applicants for examination on the Board web site and may be obtained from the CLARB.

20 ~~(d) (e) "Qualified Applicant" An applicant is deemed qualified to take the Landscape Architects Registration~~  
21 ~~Examination (LARE) for examination and licensure upon graduation from a Landscape Architect's Accreditation Board~~  
22 ~~(LAAB) LAAB accredited collegiate curriculum in landscape architecture and has completed the experience~~  
23 ~~requirements, both as set forth in Paragraphs (d) and (e) of this Rule. architecture, passage of the LARE and the~~  
24 ~~experience requirements of Paragraph (f) of this Rule.~~

25 ~~(e) (d) (Educational Requirements. In allowing credit for education in fulfilling the minimum qualification requirements~~  
26 ~~established by statute, the Board will allow credit for educational experience as follows: An an undergraduate, a~~  
27 ~~masters, or a doctorate degree from an accredited curriculum approved by the Landscape Architectural Accreditation~~  
28 ~~Board (LAAB) LAAB shall be deemed to have met the educational requirement.~~

29 ~~(e) Experience Requirements.~~

30 (1) ~~— An applicant shall have a minimum of 8,000 hours of professional experience in landscape architecture~~  
31 ~~working under the direct supervision of a registered landscape architect. In submitting an application~~  
32 ~~to the Board for registration, a licensed landscape architect shall certify that the applicant has~~  
33 ~~completed the number of hours indicated on the form; or~~

34 (2) ~~— An applicant may petition the Board for up to 8,000 hours of experience credit by providing proof of~~  
35 ~~work experience that is directly related to the practice of landscape architecture as defined by G.S.~~  
36 ~~89A-1(3).~~



## RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0303

RECOMMENDED ACTION:

- Approve, but note staff's comment
- Object, based on:
  - Lack of statutory authority
  - Unclear or ambiguous
  - Unnecessary
  - Failure to comply with the APA
  - Extend the period of review

COMMENT:

Line 7 references a "form" that must be completed by the landscape architect to apply for license by comity. The location and content of the form are not contained within this Rule or the governing statute. G.S. 150B-2 defines "rule" and "form" as follows:

- (8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
- ...
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - ...

The "form" appears to be the "NCBLA Individual Application" found on the ["Forms" section of the website](#). Both are attached to this Staff Opinion for your review.

**Summary:**

As written, this Rule is referencing a form that is outside the process of rulemaking and is not implementing a process prescribed by rule or statute. It is staff's recommendation to object to this Rule for being unclear and ambiguous by referencing a form that is not identified by name and providing no information on how to obtain this form. Furthermore, it is staff's recommendation to object to this Rule for failure to comply with the Administrative Procedure Act by using a form that is not prescribed by rule or statute.



# The North Carolina Board of LANDSCAPE ARCHITECTS



Governing professional  
Landscape Architects  
in North Carolina

P.O. Box 41225  
Raleigh, NC 27629

Phone 919-850-9088  
Fax 919-872-1598  
Email [contact@ncbola.org](mailto:contact@ncbola.org)

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## Forms

### [Processing Applications for Registration as a Landscape Architect](#)

Refer to these instructions for making application to the board for licensure.

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This form is used to apply to take the Landscape Architects Registration Exam (L.A.R.E.), Reciprocal licensure and Reinstatement of an expired or revoked license. Check the appropriate box at the top of the application.

#### [Employer Verification Form](#)

This form must be sent to past and present employers. They should complete the form and return them directly to the board. This form must be received by the board for Reciprocity and Examination applications.

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This form must be sent to the references listed on your application for reciprocity or exam. They should complete the form and return them directly to the board. Three references are required. At least one of these references must be a licensed landscape architect.

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This form is used to apply for a Corporate Certificate. All corporations offering landscape architect services in North Carolina must be registered with the Board. The first requirement is that the corporation has a NC licensed landscape architect in its employ. Your corporation must be approved for licensure prior to obtaining the certificate of authority from the NC Secretary of State. Please refer to GS 55B - NC Professional Corporation Act.

#### [Continuing Education Activity Approval Form](#)

This form is used by both licensees and providers of continuing education activities. This form will be accepted throughout the year. The final deadline is May 15. All licensees are required to complete 10 hours of continuing education per year. Newly licensed individuals are not required to complete the continuing education requirement until the first full renewal year ending June 30.

#### [Continuing Education Notice](#)

#### [Continuing Education Guidelines and Definitions](#)

Refer to these documents if you have questions regarding Continuing Education requirements and procedures for obtaining approval for educational activities.



# North Carolina Board of Landscape Architects

P. O. Box 41225 • Raleigh, North Carolina 27629-1225 • Phone: (919) 850-9088 • Fax: (919) 872-1598

**This application shall be completed in accordance with the requirements as established by GS. 89A.**

This Application is submitted for (check one):

## Application Fee \$100.00

- Reciprocity  Examination (NOTE: Board meets quarterly. Please see website ncbla.org for application deadlines)
- Reinstatement

Preferred mailing address:  Home  Business

Full name of Applicant \_\_\_\_\_

Home Address \_\_\_\_\_

Home City/State/Zip \_\_\_\_\_

Home Phone \_\_\_\_\_

Employer \_\_\_\_\_

Business Address \_\_\_\_\_

Business City/State/Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Business Fax \_\_\_\_\_

Email Address \_\_\_\_\_ Web Site \_\_\_\_\_

Birthdate \_\_\_\_\_ Social Security Number \_\_\_\_\_

Place of Birth \_\_\_\_\_  
(City) (State) (County)

If you have a CLARB Council Record, please check here: \_\_\_\_\_ You must contact CLARB directly and request that the CCR be transmitted to the NC Board. You must complete the entire application even if you have a CCR.

You are required to list three character references one of whom must be a Landscape Architect. Please list below. If you have a CLARB Council Record, these references must match the CCR. If not, you will be required to obtain reference forms.

Name	Address

If you hold license(s) in other states, please list them below.

**How was license granted:**

State	License Number	Exam, Grandfather, or Reciprocity

*I hereby attest that all of the information contained in this application is true and accurate.*

Signature \_\_\_\_\_ Date \_\_\_\_\_

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_

Seal

(DO NOT WRITE IN THIS SPACE)	
Date Received:	51
Fee Received:	51

**Education** (a degree from an accredited curriculum approved by the Landscape Architectural Accreditation Board (LAAB) shall be deemed to have met the educational requirement)

Transcripts must be forwarded to the Board under separate cover from the institutions listed.

Institution	Degree	Dates Attended	Date of Degree	Total yrs/months

**Professional Experience** (*MINIMUM FOUR YEARS REQUIRED*)

Employment verification forms must be forwarded to the Board from the companies or institutions listed. You may not overlap credits for the same time periods for education or experience. Round off percentages to the nearest month.

Company (Name & Location)	Duties Performed	Dates	Total Yrs & Months

**IMPORTANT NOTE**

It is the responsibility of each applicant to ensure that the Board receives documentation supporting this application no less than five business days prior to the next regularly scheduled Board meeting. Applicants will not be contacted regarding their application. Applications for reinstatement must be accompanied by a letter explaining the reason that the license was allowed to expire. Page two of this application is not required for reinstatement applications.

The following rules are applicable to applications for licensure by reciprocity and by exam:

**21 NCAC 26 .0303 CERTIFICATE OF RECIPROCITY**

- (a) To assure that the requirements of the other state are at least equivalent to those of this state, an applicant for a certificate of registration by reciprocity shall show education and experience equal to those required of applicants residing in this state who seek registration by examination.
- (b) An application for a certificate of registration by reciprocity must be made on the form provided by the board and must be accompanied by the fee.
- (c) To be approved for a certificate of registration by reciprocity, the applicant must meet the following requirements:
  - (1) Provide evidence of having successfully completed the examination published by the Council of Landscape Architectural Registration Boards or hold a certificate issued by the Council of Landscape Architectural Registration Boards; and
  - (2) Provide certification from the proper official of any state having a landscape architectural registration act that the individual is currently registered and in good standing in that state.
  - (3) In lieu of the requirements of Subparagraph (1) of this Paragraph an applicant for reciprocity who was licensed prior to the adoption of a national examination shall show proof of having met their requirements of their licensing state at the time of their licensure.
  - (4) Submit such additional information concerning the applicant's qualifications as may be requested by the board.
  - (5) Submit examples of work upon request.

**21 NCAC 26 .0301 EXAMINATION**

- (a) Notice. The Board shall hold at least one examination during each year and may hold such additional examinations as may appear necessary. The secretary shall give public notice of the time and place for each examination at least 60 days in advance of the date set for the examination.
- (b) Examination. The Landscape Architect Registration Examination published by the Council of Landscape Architectural Registration Boards shall be the examination given by the Board, so long as the Board shall remain a member of the Council of Landscape Architectural Registration Boards. The Board may administer a state supplement to the Landscape Architecture Registration Exam (LARE) as allowed by the Council.
- (c) "Qualified Applicant" - An applicant is deemed qualified to take the Landscape Architects Registration Examination (LARE) upon graduation from a Landscape Architect's Accreditation Board (LAAB) accredited collegiate curriculum in landscape architecture and has completed the experience requirements, both as set forth in Paragraphs (d) and (e) of this Rule.
- (d) Educational Requirements. In allowing credit for education in fulfilling the minimum qualification requirements established by statute, the Board will allow credit for educational experience as follows: An undergraduate, a masters, or a doctorate degree from an accredited curriculum approved by the Landscape Architectural Accreditation Board (LAAB) shall be deemed to have met the educational requirement.
- (e) Experience Requirements.
  - (1) An applicant shall have a minimum of 8,000 hours of professional experience in landscape architecture working under the direct supervision of a registered landscape architect. In submitting an application to the Board for registration, a licensed landscape architect shall certify that the applicant has completed the number of hours indicated on the form; or
  - (2) An applicant may petition the Board for up to 8,000 hours of experience credit by providing proof of work experience that is directly related to the practice of landscape architecture as defined by G.S. 89A-1(3).
  - (3) Experience credits shall be based on a full-time work week of 40 hours and a work year of at least 2,000 hours. Part-time work must be fully described and can be given proportional credit.
  - (4) One cannot receive experience credit if the work is fulfilling an educational requirement.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0303

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 4 and 6, if the "state" is the State of North Carolina, then capitalize the term*

*Lines 7, 8, and 9, replace "must" with "shall"*

*Line 7, what is the form? Where is it located? What content is required?*

*Line 8, what is the fee? Consider adding a cross-reference to another rule to clarify.*

*Lines 11, 14, 19, and 21, consider beginning the clause within this list with lowercase letters*

*Line 13, delete the "and" at the end of the line*

*Line 15, add a comma after "licensed"*

*Line 15, add a semicolon after "registered"*

*Line 15, add a semicolon after "state"*

*Line 19, what type of "additional information" may be requested?*

*Line 20, change the period after "Board" to a semicolon and add an "and" to the end of the clause*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0303 is proposed for amendment as published in 28:24 NCR 3036 as follows:

2  
3 **21 NCAC 26 .0303            CERTIFICATE OF RECIPROCITY LICENSE BY COMITY**

4 (a) To assure that the requirements of the other state are at least equivalent to those of this state, an applicant for a  
5 ~~certificate of registration by reciprocity license by comity~~ shall show education and experience equal to those required of  
6 applicants residing in this state who seek ~~registration licensure~~ by examination.

7 (b) An application for a ~~certificate of registration by reciprocity license by comity~~ must be made on the form provided by  
8 the ~~board~~ Board and must be accompanied by the fee.

9 (c) To be approved for a ~~certificate of registration by reciprocity; license by comity~~ the applicant must meet the  
10 following requirements:

11            (1) Provide evidence of having successfully completed the ~~written examination published~~ established by  
12            the ~~Council of Landscape Architectural Registration Boards~~ CLARB or hold a certificate issued by the  
13            ~~Council of Landscape Architectural Registration Boards; CLARB;~~ and

14            (2) Provide certification from the proper official of any state having a landscape architectural registration  
15            act that the individual is currently certified, licensed or registered and in good standing in that state.

16            ~~(3) In lieu of the requirements of Subparagraph (1) of this Paragraph an applicant for reciprocity who was~~  
17            ~~licensed prior to the adoption of a national examination shall show proof of having met the~~  
18            ~~requirements of their licensing state at the time of their licensure.~~

19            ~~(4)~~(3) Submit such additional information concerning the applicant's qualifications as may be requested by  
20            the ~~board~~ Board.

21            ~~(5)~~(4) Submit examples of work upon request.

22 (d) In lieu of the requirements of Subparagraph (c)(1) of this Rule, an applicant for licensure by comity who was licensed  
23 prior to the adoption of a national written examination shall show proof of having met the requirements of their licensing  
24 state at the time of their licensure.

25  
26 *History Note: Authority G.S. 89A-3.1(3); 89A-4(c);*

27 *Eff. February 1, 1976;*

28 *Readopted Eff. September 30, 1977;*

29 *Amended Eff. January 1, 2014; January 1, 2008; August 1, 1988; July 1, 1984.*

RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0307

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
  - Lack of statutory authority
  - X Unclear or ambiguous
  - X Unnecessary
  - X Failure to comply with the APA
- Extend the period of review

COMMENT:

Line 34 references an “application for license renewal.” The location and content of the form are not contained within this Rule or the governing statute. G.S. 150B-2 defines “rule” and “form” as follows:

- (8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
  - ...
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - ...

The “application for license renewal” does not appear on the [“Forms” section of the website](#). A copy of the website is attached to this Staff Opinion for your review.

Line 3 on page 2, the sentence references some future mandatory continuing education topics. No additional information is stated and no timeline for establishment is set forth in this Rule. Staff has attached to this Staff Opinion for your review information about current continuing education guidance from the ["Forms" section of the website](#).

**Summary:**

As written, this Rule is referencing an application or form that is outside the process of rulemaking and is not implementing a process prescribed by rule or statute. It is staff's recommendation to object to this Rule for being unclear and ambiguous by referencing an application or form that is not identified by name and providing no information on how to obtain this form. Furthermore, it is staff's recommendation to object to this Rule for failure to comply with the Administrative Procedure Act by using an application or form that is not prescribed by rule or statute

Staff also recommends that the reference to some future establishment of mandatory continuing education topics is unnecessary language, as this language does not implement or describe the procedure or practice for the mandatory continuing education topics and is merely an aspiration statement of some future action.



# The North Carolina Board of LANDSCAPE ARCHITECTS



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## Forms

### [Processing Applications for Registration as a Landscape Architect](#)

Refer to these instructions for making application to the board for licensure.

### [NCBLA Individual Application](#)

This form is used to apply to take the Landscape Architects Registration Exam (L.A.R.E.), Reciprocal licensure and Reinstatement of an expired or revoked license. Check the appropriate box at the top of the application.

### [Employer Verification Form](#)

This form must be sent to past and present employers. They should complete the form and return them directly to the board. This form must be received by the board for Reciprocity and Examination applications.

### [Confidential Reference Information Regarding Applicant](#)

This form must be sent to the references listed on your application for reciprocity or exam. They should complete the form and return them directly to the board. Three references are required. At least one of these references must be a licensed landscape architect.

### [Application For Organization Certificate of Registration](#)

This form is used to apply for a Corporate Certificate. All corporations offering landscape architect services in North Carolina must be registered with the Board. The first requirement is that the corporation has a NC licensed landscape architect in its employ. Your corporation must be approved for licensure prior to obtaining the certificate of authority from the NC Secretary of State. Please refer to GS 55B - NC Professional Corporation Act.

### [Continuing Education Activity Approval Form](#)

This form is used by both licensees and providers of continuing education activities. This form will be accepted throughout the year. The final deadline is May 15. All licensees are required to complete 10 hours of continuing education per year. Newly licensed individuals are not required to complete the continuing education requirement until the first full renewal year ending June 30.

### [Continuing Education Notice](#)

### [Continuing Education Guidelines and Definitions](#)

Refer to these documents if you have questions regarding Continuing Education requirements and procedures for obtaining approval for educational activities.

## CONTINUING EDUCATION ACTIVITY APPROVAL FORM

*Ten (10) hours of approved continuing education credit are needed when applying for your license renewal.  
Credits must be obtained in the 12 months preceding the July 1 renewal and may not be carried over from one license year to the next.*

The Continuing Education Activity Committee (CEAC) reviews only completed applications for Continuing Education Activity approval. Committee recommendations are presented to the NC Board of Landscape Architects (NCBLA) for final approval. All appeals should be directed to the Chairman of the Board. The CEAC meets six times per year: January, March, May, June, July and September. The Board meets quarterly. Applicants should submit Continuing Education Activity approval forms with these dates in mind.

### **INSTRUCTIONS:**

- Use one (1) form per activity. **(Please Print or Type.)**
- Complete all information on the reverse side of the form. **Incomplete forms submitted for review will be returned to the applicant.**
- Check the box on the back for the activity for which this form is being submitted. (Educational activity or Self Directed activity)
- **EDUCATIONAL ACTIVITY** - Attach a formal activity syllabus, agenda, brochure, outline, or itinerary. *(The application will be considered incomplete without this information and will be returned to the applicant for resubmission of all required information; incomplete applications will not be reviewed.)*
- **SELF DIRECTED ACTIVITY** - Attach an activity outline, abstract, photos, or sample of research or any other final product resulting from this activity. *(The application will be considered incomplete without this information and will be returned to the applicant for resubmission of all required information; incomplete applications will not be reviewed.)*

**I. Educational Activity:** Formally sponsored activities having direct relationship to practice of Landscape Architecture.

- A. No sales or business marketing related activities or Basic CADD classes are approved for continuing education credit by the Board.
- B. Leadership; self-improvement or management related activities; advanced CADD classes must give positive evidence of a direct relationship to both the practice of Landscape Architecture and to issues of the Health, Safety and Welfare of the public.
- C. The maximum credit hours given for any one Educational Activity will be ten (10) hours.

Educational activities are defined as formally sponsored activities having a direct relationship to the practice of Landscape Architecture. These may include:

#### **Maximum Allowable • 1/3 hour Continuing Education per contact hour**

- Attending trade shows or participating in a tour.

#### **Maximum Allowable • 1 hour Continuing Education per contact hour**

- Attending professionally sponsored tour, seminar, tutorial, short course, lecture, or correspondence, televised videotaped, or on-line training course.
- Attending a product lecture, class or demonstration by a commercial manufacturer or technical specialist (promotional sales or demonstration are not acceptable).
- Attending program presentation at related technology, trade or professional meeting.
- Attending in-house programs sponsored by a corporation or other organization.

#### **Maximum Allowable • 10 hours Continuing Education per year (July 1 - June 30)**

- Successfully completing a college or university sponsored course.
- Successfully completing courses which are awarded continuing education units (CEUs).

**II. Self Directed Activity:** Self instructed educational activities having direct relationship to practice of Landscape Architecture.

- A. A self directed activity may be followed by a documented public presentation of the activity by the licensee within the reporting period.
- B. Self directed activities may not exceed 5 hours of the total continuing education hours submitted per applicant, per year.
- C. Self directed activities may be unique to the individual applicant and their educational/professional background and are approved only for the individual applicant. Basic CADD or other "basic" courses such as plant materials and "developmental" courses in such areas as leadership, self-improvement, management, business development, literature reviews, and other similar types of activities fall into this category of activity.

Self directed activities are defined as self instructed educational activities having a direct relationship to the practice of Landscape Architecture. These may include:

#### **Maximum Allowable • 1/4 hour Continuing Education per contact hour**

- Participating in a professional or community service group that encourages professional interaction and/or stimulates public interest and debate (planning, zoning boards, commissions, etc.).

#### **Maximum Allowable • 1 hour Continuing Education per hour of prep time**

- Undertaking and documenting research or an investigation on a subject beyond the knowledge and scope of normal work responsibilities.
- Authoring a published paper, article, book or literature review beyond the knowledge and scope of normal work requirements.

#### **Maximum Allowable • 2 hours Continuing Education per hour of per contact hours taught**

- Teaching or instructing a course, class, lecture, seminar, etc. Full time academics may not include activities associated with their usual teaching responsibilities.
- Making a presentation at a technical/professional meeting.

#### **Maximum Allowable • 1/3 hour Continuing Education per contact hour**

- Participating in a self-guided tour.

#### **Maximum Allowable: 1/2 hour Continuing Education per contact hour**

- Participating in a professionally sponsored "basic" or "developmental" seminar, tutorial, short course, lecture, correspondence, televised, internet, or videotaped course
- Developing and executing a personal self-directed "basic" or "developmental" course of study such as a literature review that expands one's professional awareness or capability.

Date of Application: \_\_\_\_\_ Continuing Education for License Year: 20\_\_ - 20\_\_

Applicant is:  Registered Landscape Architect  Educational Activity Provider

Type of Activity:  Education Activity  Self Directed

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

**Information required for activity approval**

Official Title of Activity: \_\_\_\_\_

Activity Date(s): \_\_\_\_\_ Activity Time(s): \_\_\_\_\_

Activity held at (location, city, state): \_\_\_\_\_

Official Sponsor or Underwriter of activity: \_\_\_\_\_

Number of Contact hours requested (from front page; provide calculation details): \_\_\_\_\_

Agenda or Itinerary Attached

**Education and Self Directed Activities**

**IMPORTANT:** All applicants must complete this portion of the application. Incomplete forms will be returned to the applicant.

Describe the activity's relative importance to a practitioner of Landscape Architecture as defined by GS 89A. G.S. 89 A. "Landscape Architecture or the "practice of Landscape Architecture" shall mean the preparation of plans and specifications and supervising the execution of projects, involving the arranging of land and the elements used thereon for public and private use and enjoyment, embracing drainage, soil conservation, grading and planting plans, and erosion control in accordance with the accepted professional standards of public health, safety and welfare."

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Explain the activity's applicability and relevance to the protection of Health, Safety and Welfare of the public.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Self Directed Activity**

If you participated in a professional organization or community service group (board, committee, etc.) explain your responsibilities, interaction with other professionals and the extent and type of the issues addressed.

\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that the above application request for Continuing Education Activity approval is true and that it accurately represents those Continuing Education Contact Hours which I have earned or have made arrangements to earn.

Signature: \_\_\_\_\_ NC RLA License Number \_\_\_\_\_



# North Carolina Board of Landscape Architects

Post Office Box 41225 • Raleigh, NC 27629-1225 • Telephone (919) 850-9088 • Fax (919) 872-1598  
Email [ncbla@bellsouth.net](mailto:ncbla@bellsouth.net)

## CONTINUING EDUCATION NOTICE

### I. Requirements for Contact Hours of Continuing Education:

10 contact hours of continuing education per renewal period.

### II. Deadline:

The deadline for submission is one week prior to the scheduled Continuing Education Approval Committee meeting. Activity forms submitted after May 15 cannot be guaranteed of approval within the license renewal year.

In order for a licensee to qualify for the annual registration renewal, the licensee must have completed 10 contact hours of continuing education within the renewal period July 1 - June 30.

All continuing education activities which a licensee wishes to apply towards meeting the continuing education requirements for any given license year **MUST BE APPROVED BEFORE THE JULY 1 DEADLINE FOR REGISTRATION RENEWAL!**

Licensees who submit *Continuing Education Activity Forms* that are received by the Board after the May 15th deadline cannot be assured that the activity will be evaluated before the July 1 deadline for Registration Renewal.

If the *Continuing Education Activity Approval Form* is received by the Board on or before May 15, it will be evaluated in time to avoid delay in the renewal of your registration. The six week window between the deadline for receipt of the Continuing Education Activity Form and the Renewal of Registration Deadline will provide the licensee with the opportunity to:

- a. be notified that his/her Continuing Education activity has been approved or denied;
- b. resubmit an application which has been given a deferred status (due to incompleteness or other reasons);
- c. submit other activities if any of the applicant's initial submittals have not been approved.

Any Renewal of Registration Application which does not include the required signed statement of continuing education will not be accepted by the Board. The application will be returned to the applicant along with the renewal payment.

- **Newly licensed individuals, continuing education is not required until your second renewal** •

Failure of a registrant to complete the continuing education requirements, or failure to file a report of completed continuing education are grounds for denial of license renewal and possible suspension of license, or denial of consideration for future license reinstatement, at the discretion of the Board.

Example of qualifying circumstances: **Received 10 hours CE credit July 1, 2005 - June 30, 2006.**

Attachment



# North Carolina Board of Landscape Architects

Post Office Box 41225 • Raleigh, NC 27629-1225 • Telephone (919) 850-9088 • Fax (919) 872-1598  
Email [ncbla@bellsouth.net](mailto:ncbla@bellsouth.net)

## CONTINUING EDUCATION GUIDELINES AND DEFINITIONS

### **001. EFFECTIVE DATE**

The North Carolina Board of Landscape Architects began requiring continuing education as a condition for renewal of a certificate of registration for the license year commencing on July 1, 1993. The licensee shall be required to successfully complete ten (10) contact hours of continuing education within the previous renewal period (Example: July 1, 2005 through June 30, 2006 for 2006 - 2007 renewal).

### **002. HOURS REQUIRED**

In order for a licensee to qualify for license renewal as a Landscape Architect in North Carolina, the licensee must have completed ten (10) contact hours of approved continuing education within the previous renewal period. The North Carolina Board of Landscape Architects shall approve all continuing education activities. Newly licensed individuals are not required to report continuing education until their second renewal. One contact hour shall be defined as sixty (60) minutes of attendance or participation in an approved continuing education activity.

### **003. REPORTING**

Each registrant shall be responsible for filing with the board a report of each continuing education activity completed. Documentation of compliance shall be by affidavit form provided by the Board. The report(s) shall be filed with each renewal application. The Board shall approve or disapprove the completed continuing education activities. If disapproved, the registrant will be notified and may be granted a period of time in which to correct deficiencies. The Board may also seek verification of information submitted by the registrant. Erroneous or false information attested to by the licensee shall be deemed as grounds for denial of license renewal.

### **004. QUALIFIED CREDIT**

The Board encourages each registrant to vary the means by which they satisfy the continuing education requirements. Such requirements shall be fulfilled through active participation in courses, seminars, sessions, programs, self-directed activities and/or educationally related activities as approved by the Board. Each course, seminar, session or program to be recommended for approval by the Board shall have a direct relationship to the practice of Landscape Architecture as defined in Chapter 89A of the General Statutes of North Carolina and contain elements which will enhance the health, safety and welfare of the citizens of North Carolina served by North Carolina licensed Landscape Architects.

**005. SPECIAL REQUEST**

The Board will consider any reasonable special request from individual registrants for continuing education credits and procedures. The Board may in individual cases involving physical disability, illness, or extenuating circumstances, grant a hardship or extension. An extension of the continuing education requirements shall be for a period of time not to exceed two years. No extension of time shall be granted unless the registrant submits a written request to the Board.

**006. SELF DIRECTED ACTIVITIES**

The Board will allow self-directed activities to fulfill the continuing education requirements of the registrant, however, these activities must result in a book draft, published article, delivered paper, workshop, symposium, or public address. When submitted for review, the licensee must be aware that self-directed activities must be followed by a documented public presentation of the self-directed activity (or the results of the activity) by the licensee within the current year reporting period. Self-directed activities may include literature reviews, research, field studies or tours as they relate to the profession of Landscape Architecture. Full-time academics may not include studies customarily associated with their usual university or college instructional teaching loads. Full-time academics may include studies required for innovative university or college courses, or for studies required for courses beyond the usual university or college audience. Full-time academics may submit academic research to satisfy continuing education requirements as long as the licensee can provide documentation that the academic research follows all of the norms of the relevant academic institution and the relevant academic peer community.

**007. FAILURE TO COMPLY**

Failure of a registrant to complete the continuing education requirements as set forth, or failure to file a report of completed continuing education, or failure to submit a written request for an extension shall be grounds for denial of license renewal and possible suspension of license or denial of consideration for future license reinstatement, at the discretion of the Board.

**008. BOARD DENIAL**

If the Board disapproves the submitted continuing education report in whole or part, the registrant will be so notified and will be granted a period of time specified by the Board to correct the deficiencies noted.

**009. APPEAL**

In the event of denial, in whole or part, of any application for approval of credit for continuing education activity, the registrant shall have the right within 30 days after the date of notification of the denial by mail, to request a hearing by the Board. The decision of the Board shall be final.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0307

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 7, replace "must" with "shall"*

*Lines 8 and 10, add a comma after "sessions"*

*Line 12, add a period after "CEAC"*

*Line 13, replace "which shall" with "The CEAC shall review and"*

*Line 13, add "to the Board" between "recommend any"*

*Page 2, the line numbers on each page should start over with 1, in accordance with [26 NCAC 02C .0108\(1\)\(f\)](#).*

*Page 2, line 39, how is this information noticed to the regulated public? Is there a rule to cross-reference?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0307 is proposed for amendment as published in 28:24 NCR 3036-3037 as follows:

2  
3 **21 NCAC 26 .0307 CONTINUING EDUCATION AS A CONDITION OF ANNUAL RENEWAL**

4 (a) Every licensee shall meet the continuing education requirements for professional development as a condition for license  
5 renewal.

6 ~~(a)~~(b) In order for a licensee to qualify for license renewal as a ~~Landscape Architect~~ landscape architect in North Carolina,  
7 the licensee must have completed 10 contact hours of Board approved continuing education within the previous ~~year~~, license  
8 year. Such continuing education shall be obtained by active participation in courses, seminars, sessions or programs approved  
9 by the Board.

10 ~~(b)~~(c) To be acceptable for credit toward this requirement, all courses, seminars, webinars, sessions or programs shall first  
11 be submitted to a ~~five member Advisory Committee of North Carolina licensed Landscape Architects appointed by the~~  
12 ~~Chairman of the Board with the advice and consent of the Board. The Continuing Education Advisory Committee~~ the CEAC  
13 which shall recommend any course, seminar, webinar, session or program for continuing education credit to the Board that the  
14 ~~Advisory Committee~~ CEAC finds to meet determines meets the criteria in ~~Paragraph (b)(1)(2) of this Rule~~ Rule .0308 (b)  
15 through (d).

16 ~~(d) Advisory Committee members shall be reimbursed per diem and travel expenses for official meetings at rates equivalent~~  
17 ~~to rates allowed for Board members. Advisory Committee CEAC members shall serve at the discretion of the Board.~~

18 (1) ~~Each course, seminar, session or program to be recommended for approval by the Board shall, in the~~  
19 ~~opinion of a majority of the members of the Advisory Committee, CEAC, have a direct relationship to the~~  
20 ~~practice of Landscape Architecture landscape architecture as defined in Chapter 89A of the General~~  
21 ~~Statutes of North Carolina and contain elements which will enhance the health, safety and welfare of the~~  
22 ~~citizens of North Carolina served by North Carolina licensed Landscape Architects.~~

23 (2) ~~The Continuing Education Advisory Committee CEAC shall meet at least once during each three month~~  
24 ~~quarter of the year and act on each course, seminar, session or program properly submitted for its review.~~  
25 ~~Each program shall be recommended for approval, recommended for disapproval or deferred for lack of~~  
26 ~~information. Programs recommended for approval shall be accompanied by a brief statement of findings~~  
27 ~~by the committee of how the program meets the criteria established by this Rule. Programs deferred for~~  
28 ~~lack of information shall be deferred only once; and if information is still lacking when next considered, the~~  
29 ~~program shall be recommended for disapproval. Programs may be recommended for pre approval by the~~  
30 ~~Advisory Committee CEAC before they actually occur.~~

31 ~~———— (3) Note: insert schedule for submittal of hours here).~~

32 ~~———— (4) The Board may establish, in consultation with the CEAC, mandatory continuing education topics for a~~  
33 ~~calendar year.~~

34 ~~(e)~~ (d) Documentation of compliance with this ~~Section~~ Rule shall be by affidavit provided on the application for license  
35 renewal. Erroneous or false information attested to by the licensee shall be deemed as grounds for denial of license renewal  
36 and possible suspension of license or denial of consideration for future license reinstatement, at the discretion of the Board.

37 ~~(d) Twenty contact hours within the previous two years shall be allowed for license renewals during the period of July 1,~~  
38 ~~1995 to June 30, 1996.~~

39 (e) The Board may establish, in consultation with the CEAC, mandatory continuing education topics for a license year.

40

41 *History Note: Authority ~~G.S. 89A-3(e);~~G.S. 89A-3.1(2); 89A-5;*

42 *Eff. May 1, 1990;*

43 *Amended Eff. January 1, 2014; March 1, 1996.*

## RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0308

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
  - Lack of statutory authority
  - X Unclear or ambiguous
  - Unnecessary
  - Failure to comply with the APA
- Extend the period of review

COMMENT:

Line 14 reference a submission of something for review by the CEAC. However, this Rule fails to provide any information regarding submission of information to CEAC for its review.

**Summary:**

It is staff's recommendation to object to this Rule for being unclear and ambiguous by not explaining how a submission is supposed to be made to CEAC for its consideration.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0308

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 11, replace "which" with "that"*

*Line 11, add a comma after "safety"*

*Line 14, add a comma after "session"*

*Line 14, define or delete "properly"*

*Line 14, please add language after "review" to clarify that the CEAE will review paperwork submitted "in accordance with \_\_\_\_" and cite the rule that provides the standards for submission to CEAE.*

*Line 15, add a comma after "disapproval"*

*Line 18, how is this pre-approval requested? Please clarify the process.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0308 is proposed for adoption as published in 28:24 NCR 3037 as follows:  
2

3 **21 NCAC 26 .0308 DUTIES AND FUNCTIONS OF CONTINUING EDUCATION ADVISORY**  
4 **COMMITTEE (CEAC)**

5 (a) CEAC members shall be reimbursed per diem and travel expenses for official meetings at rates equivalent to  
6 rates allowed for Board members.

7 (b) CEAC members shall serve at the discretion of the Board. The Board Chair shall appoint the CEAC Chair who  
8 shall serve at the discretion of the Board Chair.

9 (c) Each continuing education activity recommended for approval by the Board shall, in the opinion of a majority of  
10 the members of the CEAC, have a direct relationship to the practice of landscape architecture as defined in Chapter  
11 89A of the General Statutes of North Carolina and contain elements which will enhance the health, safety and  
12 welfare of the citizens of North Carolina served by North Carolina licensed landscape architects.

13 (d) The CEAC shall meet at least once during each three month quarter of the year and act on each course, seminar,  
14 webinar, session or program properly submitted for its review. Each program shall be recommended for approval,  
15 recommended for disapproval or deferred for lack of information. Programs recommended for approval shall be  
16 accompanied by a brief statement of findings by the committee of how the program meets the criteria established by  
17 this Rule.

18 (e) An activity may be recommended for pre-approval by the CEAC before it actually occurs.  
19

20 *History Note: Authority G.S. 89A-3.1(6); G.S. 89A-5;*  
21 *Eff. January 1, 2014.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0309

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5, 6, 8, and 13, consider beginning the clause within this list with lowercase letters*

*Lines 5, 7, and 12, consider replacing the periods at the end of the clauses with semicolons*

*Line 7, what is the statute being referenced? Please clarify.*

*Line 8, add a comma after "illness"*

*Lines 10 and 11, replace "which" with "that"*

*Line 12, add an "or" at the end of the clause*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0309 is proposed for adoption as published in 28:24 NCR 3037 as follows:

2  
3 **21 NCAC 26 .0309 EXEMPTIONS**

4 (a) A registrant shall be exempt from the continuing education requirements for any of the following reasons:

5 (1) New registrants by way of examination or comity for the current registration year.

6 (2) A licensee serving on temporary active duty in the armed forces of the United States for a period of  
7 time exceeding 90 consecutive days in a year or as provided by statute, whichever is greater.

8 (3) A licensee experiencing physical disability or illness if supporting documentation is approved by the  
9 Board. Such documentation shall be in the form of a sworn statement by the registrant, a statement  
10 from a physician, or medical records which show that the disability or illness prevented registrant's  
11 participation in a course which the registrant had enrolled, or prevented registrant's participation in the  
12 continuing education program for at least 90 consecutive days in a year.

13 (4) A licensee with emeritus status from the Board.

14 (b) In order to return to active practice, registrants who have received an exemption shall complete continuing  
15 education requirements for each exempted year, not to exceed two years.

16  
17 *History Note:* Authority G.S. 89A-3.1(6); G.S. 89A-5;

18 Eff. January 1, 2014.

## RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0310

RECOMMENDED ACTION:

- Approve, but note staff's comment
- Object, based on:
  - Lack of statutory authority
  - Unclear or ambiguous
  - Unnecessary
  - Failure to comply with the APA
- Extend the period of review

COMMENT:

Line 6 references an "application" that must be completed for reinstatement. The location and content of the application or form are not contained within this Rule or the governing statute. G.S. 150B-2 defines "rule" and "form" as follows:

- (8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
- ...
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - ...

The "form" appears to be the "NCBLA Individual Application" found on the ["Forms" section of the website](#). Both are attached to this Staff Opinion for your review.

**Summary:**

As written, this Rule is referencing an application that is outside the process of rulemaking and is not implementing a process prescribed by rule or statute. It is staff's recommendation to object to this Rule for being unclear and ambiguous by referencing an application that is not identified by name and providing no information on how to obtain this form. Furthermore, it is staff's recommendation to object to this Rule for failure to comply with the Administrative Procedure Act by using a form that is not prescribed by rule or statute.



# The North Carolina Board of LANDSCAPE ARCHITECTS



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## Forms

### [Processing Applications for Registration as a Landscape Architect](#)

Refer to these instructions for making application to the board for licensure.

#### [NCBLA Individual Application](#)

This form is used to apply to take the Landscape Architects Registration Exam (L.A.R.E.), Reciprocal licensure and Reinstatement of an expired or revoked license. Check the appropriate box at the top of the application.

#### [Employer Verification Form](#)

This form must be sent to past and present employers. They should complete the form and return them directly to the board. This form must be received by the board for Reciprocity and Examination applications.

#### [Confidential Reference Information Regarding Applicant](#)

This form must be sent to the references listed on your application for reciprocity or exam. They should complete the form and return them directly to the board. Three references are required. At least one of these references must be a licensed landscape architect.

#### [Application For Organization Certificate of Registration](#)

This form is used to apply for a Corporate Certificate. All corporations offering landscape architect services in North Carolina must be registered with the Board. The first requirement is that the corporation has a NC licensed landscape architect in its employ. Your corporation must be approved for licensure prior to obtaining the certificate of authority from the NC Secretary of State. Please refer to GS 55B - NC Professional Corporation Act.

#### [Continuing Education Activity Approval Form](#)

This form is used by both licensees and providers of continuing education activities. This form will be accepted throughout the year. The final deadline is May 15. All licensees are required to complete 10 hours of continuing education per year. Newly licensed individuals are not required to complete the continuing education requirement until the first full renewal year ending June 30.

#### [Continuing Education Notice](#)

#### [Continuing Education Guidelines and Definitions](#)

Refer to these documents if you have questions regarding Continuing Education requirements and procedures for obtaining approval for educational activities.



# North Carolina Board of Landscape Architects

P. O. Box 41225 • Raleigh, North Carolina 27629-1225 • Phone: (919) 850-9088 • Fax: (919) 872-1598

This application shall be completed in accordance with the requirements as established by GS. 89A.

This Application is submitted for (check one):

## Application Fee \$100.00

- Reciprocity  Examination (NOTE: Board meets quarterly. Please see website ncbla.org for application deadlines)
- Reinstatement

Preferred mailing address:  Home  Business

Full name of Applicant \_\_\_\_\_

Home Address \_\_\_\_\_

Home City/State/Zip \_\_\_\_\_

Home Phone \_\_\_\_\_

Employer \_\_\_\_\_

Business Address \_\_\_\_\_

Business City/State/Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Business Fax \_\_\_\_\_

Email Address \_\_\_\_\_ Web Site \_\_\_\_\_

Birthdate \_\_\_\_\_ Social Security Number \_\_\_\_\_

Place of Birth \_\_\_\_\_  
(City) (State) (County)

If you have a CLARB Council Record, please check here: \_\_\_\_\_ You must contact CLARB directly and request that the CCR be transmitted to the NC Board. You must complete the entire application even if you have a CCR.

You are required to list three character references one of whom must be a Landscape Architect. Please list below. If you have a CLARB Council Record, these references must match the CCR. If not, you will be required to obtain reference forms.

Name	Address

If you hold license(s) in other states, please list them below.

**How was license granted:**

State	License Number	Exam, Grandfather, or Reciprocity

*I hereby attest that all of the information contained in this application is true and accurate.*

Signature \_\_\_\_\_ Date \_\_\_\_\_

Notary Public \_\_\_\_\_

My Commission Expires <sup>74</sup>\_\_\_\_\_

Seal

(DO NOT WRITE IN THIS SPACE)
Date Received:
Fee Received:

**Education** (a degree from an accredited curriculum approved by the Landscape Architectural Accreditation Board (LAAB) shall be deemed to have met the educational requirement)

Transcripts must be forwarded to the Board under separate cover from the institutions listed.

Institution	Degree	Dates Attended	Date of Degree	Total yrs/months

**Professional Experience** (*MINIMUM FOUR YEARS REQUIRED*)

Employment verification forms must be forwarded to the Board from the companies or institutions listed. You may not overlap credits for the same time periods for education or experience. Round off percentages to the nearest month.

Company (Name & Location)	Duties Performed	Dates	Total Yrs & Months

**IMPORTANT NOTE**

It is the responsibility of each applicant to ensure that the Board receives documentation supporting this application no less than five business days prior to the next regularly scheduled Board meeting.

Applicants will not be contacted regarding their application. Applications for reinstatement must be accompanied by a letter explaining the reason that the license was allowed to expire. Page two of this application is not required for reinstatement applications.

The following rules are applicable to applications for licensure by reciprocity and by exam:

**21 NCAC 26 .0303 CERTIFICATE OF RECIPROCITY**

- (a) To assure that the requirements of the other state are at least equivalent to those of this state, an applicant for a certificate of registration by reciprocity shall show education and experience equal to those required of applicants residing in this state who seek registration by examination.
- (b) An application for a certificate of registration by reciprocity must be made on the form provided by the board and must be accompanied by the fee.
- (c) To be approved for a certificate of registration by reciprocity, the applicant must meet the following requirements:
  - (1) Provide evidence of having successfully completed the examination published by the Council of Landscape Architectural Registration Boards or hold a certificate issued by the Council of Landscape Architectural Registration Boards; and
  - (2) Provide certification from the proper official of any state having a landscape architectural registration act that the individual is currently registered and in good standing in that state.
  - (3) In lieu of the requirements of Subparagraph (1) of this Paragraph an applicant for reciprocity who was licensed prior to the adoption of a national examination shall show proof of having met their requirements of their licensing state at the time of their licensure.
  - (4) Submit such additional information concerning the applicant's qualifications as may be requested by the board.
  - (5) Submit examples of work upon request.

**21 NCAC 26 .0301 EXAMINATION**

- (a) Notice. The Board shall hold at least one examination during each year and may hold such additional examinations as may appear necessary. The secretary shall give public notice of the time and place for each examination at least 60 days in advance of the date set for the examination.
- (b) Examination. The Landscape Architect Registration Examination published by the Council of Landscape Architectural Registration Boards shall be the examination given by the Board, so long as the Board shall remain a member of the Council of Landscape Architectural Registration Boards. The Board may administer a state supplement to the Landscape Architecture Registration Exam (LARE) as allowed by the Council.
- (c) "Qualified Applicant" - An applicant is deemed qualified to take the Landscape Architects Registration Examination (LARE) upon graduation from a Landscape Architect's Accreditation Board (LAAB) accredited collegiate curriculum in landscape architecture and has completed the experience requirements, both as set forth in Paragraphs (d) and (e) of this Rule.
- (d) Educational Requirements. In allowing credit for education in fulfilling the minimum qualification requirements established by statute, the Board will allow credit for educational experience as follows: An undergraduate, a masters, or a doctorate degree from an accredited curriculum approved by the Landscape Architectural Accreditation Board (LAAB) shall be deemed to have met the educational requirement.
- (e) Experience Requirements.
  - (1) An applicant shall have a minimum of 8,000 hours of professional experience in landscape architecture working under the direct supervision of a registered landscape architect. In submitting an application to the Board for registration, a licensed landscape architect shall certify that the applicant has completed the number of hours indicated on the form; or
  - (2) An applicant may petition the Board for up to 8,000 hours of experience credit by providing proof of work experience that is directly related to the practice of landscape architecture as defined by G.S. 89A-1(3).
  - (3) Experience credits shall be based on a full-time work week of 40 hours and a work year of at least 2,000 hours. Part-time work must be fully described and can be given proportional credit.
  - (4) One cannot receive experience credit if the work is fulfilling an educational requirement.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0310

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 6, how does a licensee make this request or application to the Board? Please clarify.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0310 is proposed for adoption as published in 28:24 NCR 3038 as follows:

2

3 **21 NCAC 26 .0310 REINSTATEMENT CRITERIA**

4 A former licensee may only apply for reinstatement pursuant to G.S. 89A-5 if he or she has earned all delinquent contact  
5 hours within the 12 months preceding the application. However, if the total number of contact hours required to become  
6 current exceeds 24, then upon application, the Board shall determine the number of hours required.

7

8 *History Note: Authority G.S. 89A-3.1(6); G.S. 89A-5;*

9 *Eff. January 1, 2014.*

RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0311

RECOMMENDED ACTION:

- Approve, but note staff's comment
- Object, based on:
  - Lack of statutory authority
  - Unclear or ambiguous
  - Unnecessary
  - Failure to comply with the APA
- Extend the period of review

COMMENT:

Lines 4, 8, 9, and 12 references an “application” or “form” that must be completed to show continuing education. The location and content of the application or form are not contained within this Rule or the governing statute. G.S. 150B-2 defines “rule” and “form” as follows:

- (8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
  - ...
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - ...

Staff is uncertain what application or form is being referenced by this Rule, but has attached to this Staff Opinion for your review information about current continuing education guidance from the [“Forms” section of the website.](#)

**Summary:**

As written, this Rule is referencing an application or form that is outside the process of rulemaking and is not implementing a process prescribed by rule or statute. It is staff's recommendation to object to this Rule for being unclear and ambiguous by referencing an application or form that is not identified by name and providing no information on how to obtain this form. Furthermore, it is staff's recommendation to object to this Rule for failure to comply with the Administrative Procedure Act by using a form that is not prescribed by rule or statute.



# The North Carolina Board of LANDSCAPE ARCHITECTS



Governing professional  
Landscape Architects  
in North Carolina

P.O. Box 41225  
Raleigh, NC 27629

Phone 919-850-9088  
Fax 919-872-1598  
Email [contact@ncbola.org](mailto:contact@ncbola.org)

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## Forms

### [Processing Applications for Registration as a Landscape Architect](#)

Refer to these instructions for making application to the board for licensure.

### [NCBLA Individual Application](#)

This form is used to apply to take the Landscape Architects Registration Exam (L.A.R.E.), Reciprocal licensure and Reinstatement of an expired or revoked license. Check the appropriate box at the top of the application.

### [Employer Verification Form](#)

This form must be sent to past and present employers. They should complete the form and return them directly to the board. This form must be received by the board for Reciprocity and Examination applications.

### [Confidential Reference Information Regarding Applicant](#)

This form must be sent to the references listed on your application for reciprocity or exam. They should complete the form and return them directly to the board. Three references are required. At least one of these references must be a licensed landscape architect.

### [Application For Organization Certificate of Registration](#)

This form is used to apply for a Corporate Certificate. All corporations offering landscape architect services in North Carolina must be registered with the Board. The first requirement is that the corporation has a NC licensed landscape architect in its employ. Your corporation must be approved for licensure prior to obtaining the certificate of authority from the NC Secretary of State. Please refer to GS 55B - NC Professional Corporation Act.

### [Continuing Education Activity Approval Form](#)

This form is used by both licensees and providers of continuing education activities. This form will be accepted throughout the year. The final deadline is May 15. All licensees are required to complete 10 hours of continuing education per year. Newly licensed individuals are not required to complete the continuing education requirement until the first full renewal year ending June 30.

### [Continuing Education Notice](#)

### [Continuing Education Guidelines and Definitions](#)

Refer to these documents if you have questions regarding Continuing Education requirements and procedures for obtaining approval for educational activities.

## CONTINUING EDUCATION ACTIVITY APPROVAL FORM

*Ten (10) hours of approved continuing education credit are needed when applying for your license renewal.  
Credits must be obtained in the 12 months preceding the July 1 renewal and may not be carried over from one license year to the next.*

The Continuing Education Activity Committee (CEAC) reviews only completed applications for Continuing Education Activity approval. Committee recommendations are presented to the NC Board of Landscape Architects (NCBLA) for final approval. All appeals should be directed to the Chairman of the Board. The CEAC meets six times per year: January, March, May, June, July and September. The Board meets quarterly. Applicants should submit Continuing Education Activity approval forms with these dates in mind.

### **INSTRUCTIONS:**

- Use one (1) form per activity. **(Please Print or Type.)**
- Complete all information on the reverse side of the form. **Incomplete forms submitted for review will be returned to the applicant.**
- Check the box on the back for the activity for which this form is being submitted. (Educational activity or Self Directed activity)
- **EDUCATIONAL ACTIVITY** - Attach a formal activity syllabus, agenda, brochure, outline, or itinerary. *(The application will be considered incomplete without this information and will be returned to the applicant for resubmission of all required information; incomplete applications will not be reviewed.)*
- **SELF DIRECTED ACTIVITY** - Attach an activity outline, abstract, photos, or sample of research or any other final product resulting from this activity. *(The application will be considered incomplete without this information and will be returned to the applicant for resubmission of all required information; incomplete applications will not be reviewed.)*

**I. Educational Activity:** Formally sponsored activities having direct relationship to practice of Landscape Architecture.

- A. No sales or business marketing related activities or Basic CADD classes are approved for continuing education credit by the Board.
- B. Leadership; self-improvement or management related activities; advanced CADD classes must give positive evidence of a direct relationship to both the practice of Landscape Architecture and to issues of the Health, Safety and Welfare of the public.
- C. The maximum credit hours given for any one Educational Activity will be ten (10) hours.

Educational activities are defined as formally sponsored activities having a direct relationship to the practice of Landscape Architecture. These may include:

#### **Maximum Allowable • 1/3 hour Continuing Education per contact hour**

- Attending trade shows or participating in a tour.

#### **Maximum Allowable • 1 hour Continuing Education per contact hour**

- Attending professionally sponsored tour, seminar, tutorial, short course, lecture, or correspondence, televised videotaped, or on-line training course.
- Attending a product lecture, class or demonstration by a commercial manufacturer or technical specialist (promotional sales or demonstration are not acceptable).
- Attending program presentation at related technology, trade or professional meeting.
- Attending in-house programs sponsored by a corporation or other organization.

#### **Maximum Allowable • 10 hours Continuing Education per year (July 1 - June 30)**

- Successfully completing a college or university sponsored course.
- Successfully completing courses which are awarded continuing education units (CEUs).

**II. Self Directed Activity:** Self instructed educational activities having direct relationship to practice of Landscape Architecture.

- A. A self directed activity may be followed by a documented public presentation of the activity by the licensee within the reporting period.
- B. Self directed activities may not exceed 5 hours of the total continuing education hours submitted per applicant, per year.
- C. Self directed activities may be unique to the individual applicant and their educational/professional background and are approved only for the individual applicant. Basic CADD or other "basic" courses such as plant materials and "developmental" courses in such areas as leadership, self-improvement, management, business development, literature reviews, and other similar types of activities fall into this category of activity.

Self directed activities are defined as self instructed educational activities having a direct relationship to the practice of Landscape Architecture. These may include:

#### **Maximum Allowable • 1/4 hour Continuing Education per contact hour**

- Participating in a professional or community service group that encourages professional interaction and/or stimulates public interest and debate (planning, zoning boards, commissions, etc.).

#### **Maximum Allowable • 1 hour Continuing Education per hour of prep time**

- Undertaking and documenting research or an investigation on a subject beyond the knowledge and scope of normal work responsibilities.
- Authoring a published paper, article, book or literature review beyond the knowledge and scope of normal work requirements.

#### **Maximum Allowable • 2 hours Continuing Education per hour of per contact hours taught**

- Teaching or instructing a course, class, lecture, seminar, etc. Full time academics may not include activities associated with their usual teaching responsibilities.
- Making a presentation at a technical/professional meeting.

#### **Maximum Allowable • 1/3 hour Continuing Education per contact hour**

- Participating in a self-guided tour.

#### **Maximum Allowable: 1/2 hour Continuing Education per contact hour**

- Participating in a professionally sponsored "basic" or "developmental" seminar, tutorial, short course, lecture, correspondence, televised, internet, or videotaped course
- Developing and executing a personal self-directed "basic" or "developmental" course of study such as a literature review that expands one's professional awareness or capability.

Date of Application: \_\_\_\_\_ Continuing Education for License Year: 20\_\_ - 20\_\_

Applicant is:  Registered Landscape Architect  Educational Activity Provider

Type of Activity:  Education Activity  Self Directed

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

**Information required for activity approval**

Official Title of Activity: \_\_\_\_\_

Activity Date(s): \_\_\_\_\_ Activity Time(s): \_\_\_\_\_

Activity held at (location, city, state): \_\_\_\_\_

Official Sponsor or Underwriter of activity: \_\_\_\_\_

Number of Contact hours requested (from front page; provide calculation details): \_\_\_\_\_

Agenda or Itinerary Attached

**Education and Self Directed Activities**

**IMPORTANT:** All applicants must complete this portion of the application. Incomplete forms will be returned to the applicant.

Describe the activity's relative importance to a practitioner of Landscape Architecture as defined by GS 89A.  
G.S. 89 A. "Landscape Architecture or the "practice of Landscape Architecture" shall mean the preparation of plans and specifications and supervising the execution of projects, involving the arranging of land and the elements used thereon for public and private use and enjoyment, embracing drainage, soil conservation, grading and planting plans, and erosion control in accordance with the accepted professional standards of public health, safety and welfare."

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Explain the activity's applicability and relevance to the protection of Health, Safety and Welfare of the public.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Self Directed Activity**

If you participated in a professional organization or community service group (board, committee, etc.) explain your responsibilities, interaction with other professionals and the extent and type of the issues addressed.

\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that the above application request for Continuing Education Activity approval is true and that it accurately represents those Continuing Education Contact Hours which I have earned or have made arrangements to earn.

Signature: \_\_\_\_\_ NC RLA License Number \_\_\_\_\_



# North Carolina Board of Landscape Architects

Post Office Box 41225 • Raleigh, NC 27629-1225 • Telephone (919) 850-9088 • Fax (919) 872-1598  
Email ncbla@bellsouth.net

## CONTINUING EDUCATION NOTICE

### I. Requirements for Contact Hours of Continuing Education:

10 contact hours of continuing education per renewal period.

### II. Deadline:

The deadline for submission is one week prior to the scheduled Continuing Education Approval Committee meeting. Activity forms submitted after May 15 cannot be guaranteed of approval within the license renewal year.

In order for a licensee to qualify for the annual registration renewal, the licensee must have completed 10 contact hours of continuing education within the renewal period July 1 - June 30.

All continuing education activities which a licensee wishes to apply towards meeting the continuing education requirements for any given license year **MUST BE APPROVED BEFORE THE JULY 1 DEADLINE FOR REGISTRATION RENEWAL!**

Licensees who submit *Continuing Education Activity Forms* that are received by the Board after the May 15th deadline cannot be assured that the activity will be evaluated before the July 1 deadline for Registration Renewal.

If the *Continuing Education Activity Approval Form* is received by the Board on or before May 15, it will be evaluated in time to avoid delay in the renewal of your registration. The six week window between the deadline for receipt of the Continuing Education Activity Form and the Renewal of Registration Deadline will provide the licensee with the opportunity to:

- a. be notified that his/her Continuing Education activity has been approved or denied;
- b. resubmit an application which has been given a deferred status (due to incompleteness or other reasons);
- c. submit other activities if any of the applicant's initial submittals have not been approved.

Any Renewal of Registration Application which does not include the required signed statement of continuing education will not be accepted by the Board. The application will be returned to the applicant along with the renewal payment.

- **Newly licensed individuals, continuing education is not required until your second renewal •**

Failure of a registrant to complete the continuing education requirements, or failure to file a report of completed continuing education are grounds for denial of license renewal and possible suspension of license, or denial of consideration for future license reinstatement, at the discretion of the Board.

Example of qualifying circumstances: **Received 10 hours CE credit July 1, 2005 - June 30, 2006.**

Attachment



# North Carolina Board of Landscape Architects

Post Office Box 41225 • Raleigh, NC 27629-1225 • Telephone (919) 850-9088 • Fax (919) 872-1598  
Email [ncbla@bellsouth.net](mailto:ncbla@bellsouth.net)

## CONTINUING EDUCATION GUIDELINES AND DEFINITIONS

### **001. EFFECTIVE DATE**

The North Carolina Board of Landscape Architects began requiring continuing education as a condition for renewal of a certificate of registration for the license year commencing on July 1, 1993. The licensee shall be required to successfully complete ten (10) contact hours of continuing education within the previous renewal period (Example: July 1, 2005 through June 30, 2006 for 2006 - 2007 renewal).

### **002. HOURS REQUIRED**

In order for a licensee to qualify for license renewal as a Landscape Architect in North Carolina, the licensee must have completed ten (10) contact hours of approved continuing education within the previous renewal period. The North Carolina Board of Landscape Architects shall approve all continuing education activities. Newly licensed individuals are not required to report continuing education until their second renewal. One contact hour shall be defined as sixty (60) minutes of attendance or participation in an approved continuing education activity.

### **003. REPORTING**

Each registrant shall be responsible for filing with the board a report of each continuing education activity completed. Documentation of compliance shall be by affidavit form provided by the Board. The report(s) shall be filed with each renewal application. The Board shall approve or disapprove the completed continuing education activities. If disapproved, the registrant will be notified and may be granted a period of time in which to correct deficiencies. The Board may also seek verification of information submitted by the registrant. Erroneous or false information attested to by the licensee shall be deemed as grounds for denial of license renewal.

### **004. QUALIFIED CREDIT**

The Board encourages each registrant to vary the means by which they satisfy the continuing education requirements. Such requirements shall be fulfilled through active participation in courses, seminars, sessions, programs, self-directed activities and/or educationally related activities as approved by the Board. Each course, seminar, session or program to be recommended for approval by the Board shall have a direct relationship to the practice of Landscape Architecture as defined in Chapter 89A of the General Statutes of North Carolina and contain elements which will enhance the health, safety and welfare of the citizens of North Carolina served by North Carolina licensed Landscape Architects.

**005. SPECIAL REQUEST**

The Board will consider any reasonable special request from individual registrants for continuing education credits and procedures. The Board may in individual cases involving physical disability, illness, or extenuating circumstances, grant a hardship or extension. An extension of the continuing education requirements shall be for a period of time not to exceed two years. No extension of time shall be granted unless the registrant submits a written request to the Board.

**006. SELF DIRECTED ACTIVITIES**

The Board will allow self-directed activities to fulfill the continuing education requirements of the registrant, however, these activities must result in a book draft, published article, delivered paper, workshop, symposium, or public address. When submitted for review, the licensee must be aware that self-directed activities must be followed by a documented public presentation of the self-directed activity (or the results of the activity) by the licensee within the current year reporting period. Self-directed activities may include literature reviews, research, field studies or tours as they relate to the profession of Landscape Architecture. Full-time academics may not include studies customarily associated with their usual university or college instructional teaching loads. Full-time academics may include studies required for innovative university or college courses, or for studies required for courses beyond the usual university or college audience. Full-time academics may submit academic research to satisfy continuing education requirements as long as the licensee can provide documentation that the academic research follows all of the norms of the relevant academic institution and the relevant academic peer community.

**007. FAILURE TO COMPLY**

Failure of a registrant to complete the continuing education requirements as set forth, or failure to file a report of completed continuing education, or failure to submit a written request for an extension shall be grounds for denial of license renewal and possible suspension of license or denial of consideration for future license reinstatement, at the discretion of the Board.

**008. BOARD DENIAL**

If the Board disapproves the submitted continuing education report in whole or part, the registrant will be so notified and will be granted a period of time specified by the Board to correct the deficiencies noted.

**009. APPEAL**

In the event of denial, in whole or part, of any application for approval of credit for continuing education activity, the registrant shall have the right within 30 days after the date of notification of the denial by mail, to request a hearing by the Board. The decision of the Board shall be final.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0311

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5, 12, and 13, replace "must" with "shall"*

*Line 5, replace "certify and sign the form" with "certify the form by signature"*

*Line 6, what is the application? Where is it located? What content is required?*

*Line 6, what is the fee? Consider adding a cross reference to another rule to clarify.*

*Line 7 and 9 discuss submittal of information. Who is the information supposed to be submitted to? Please clarify.*

*Line 14, add a comma after "CEAC"*

*Lines 14 and 15, please clarify this sentence. If an application is deferred, for how long? Is it returned to the applicant? What is the purpose of the last clause about "does not meet the requirements"? Is there supposed to be a list of what happens after the review? This sentence is very cumbersome and unclear. Please clarify.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0311 is proposed for adoption as published in 28:24 NCR 3038 as follows:

2  
3 **21 NCAC 26 .0311 APPLICATIONS FOR APPROVAL**

4 (a) Renewal applications require the completion of a continuing education form specified by the Board outlining credit  
5 claimed. The licensee must supply sufficient detail on the form to permit audit verification, certify and sign the form, and  
6 submit the form with the renewal application and fee.

7 (b) The following schedule for submittal of hours shall apply:

8 (1) Application for approval of continuing education shall be submitted online or by paper application.

9 (2) The deadline for submittal of an application shall be seven days prior to the regularly scheduled meeting of  
10 the CEAC.

11 (3) Activity forms submitted after May 15<sup>th</sup> cannot be guaranteed approval within the license renewal year.

12 (4) Applications for continuing education must be completed in full and the answers to the essay questions  
13 contained in the application must be in complete sentences, using proper grammar.

14 (5) Administrative staff, the CEAC and the Board may defer any application deemed unsatisfactory, to the  
15 licensee for further information or if the application does not meet the requirements set forth in this Section.

16 (6) Failure of a registrant to complete the continuing education requirements, or failure to file a report of  
17 completed continuing education are grounds for denial of license renewal and possible suspension of license, or  
18 denial of consideration for future license reinstatement.

19  
20 History Note: Authority G.S. 89A-3.1(6); G.S. 89A-5;

21 Eff. January 1, 2014.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0312

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

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The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5 through 6, please clarify what is meant by "or as the result of information available to the Board."*

*Lines 8, and 10, consider beginning the clause within this list with lowercase letters*

*Line 8, add "or" after "certificates,"*

*Line 10, add a comma after "instructors"*

*Line 12, if the audits are conducted randomly, why are records only kept for two years? Do audits never look back beyond the most recent year?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0312 is proposed for adoption as published in 28:24 NCR 3038 as follows:

2

3 **21 NCAC 26 .0312 COMPLIANCE**

4 (a) Compliance with annual continuing education requirements shall be determined through an audit process conducted  
5 by the Board. Determination of individuals to be audited shall be accomplished through a random selection process or as  
6 the result of information available to the Board. Licensees selected for auditing shall provide the Board with the  
7 following documentation of the continuing education activities claimed for the renewal period:

8 (1) Attendance verification records in the form of transcripts, completion certificates, other documents  
9 supporting evidence of attendance; and

10 (2) Information regarding course content, instructors and sponsoring organization, for activities presented  
11 by other than approved sponsors as defined in Rule .0313.

12 (b) Attendance records shall be maintained by individual licensees for a period of two years for audit verification  
13 purposes.

14

15 History Note: Authority G.S. 89A-3.1(6); G.S. 89A-5;

16 Eff. January 1, 2014.

## RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0313

RECOMMENDED ACTION:

- Approve, but note staff's comment
- Object, based on:
  - Lack of statutory authority
  - Unclear or ambiguous
  - Unnecessary
  - Failure to comply with the APA
- Extend the period of review

COMMENT:

Lines 6 and 14 reference "renewal documentation required by the Board." The location and content of the documentation is not contained within this Rule or the governing statute. G.S. 150B-2 defines "rule" and "form" as follows:

- (8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
- ...
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - ...

Staff is uncertain what documentation is being referenced by this Rule, but has attached to this Staff Opinion for your review information from the ["Forms" section of the website](#).

**Summary:**

As written, this Rule is referencing documentation that is outside the process of rulemaking and is not implementing a process prescribed by rule or statute. It is staff's recommendation to object to this Rule for being unclear and ambiguous by referencing documentation that is not identified by name and providing no information on how to obtain this form. Furthermore, it is staff's recommendation to object to this Rule for failure to comply with the Administrative Procedure Act by using a form that is not prescribed by rule or statute.



# The North Carolina Board of LANDSCAPE ARCHITECTS



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## Forms

### [Processing Applications for Registration as a Landscape Architect](#)

Refer to these instructions for making application to the board for licensure.

### [NCBLA Individual Application](#)

This form is used to apply to take the Landscape Architects Registration Exam (L.A.R.E.), Reciprocal licensure and Reinstatement of an expired or revoked license. Check the appropriate box at the top of the application.

### [Employer Verification Form](#)

This form must be sent to past and present employers. They should complete the form and return them directly to the board. This form must be received by the board for Reciprocity and Examination applications.

### [Confidential Reference Information Regarding Applicant](#)

This form must be sent to the references listed on your application for reciprocity or exam. They should complete the form and return them directly to the board. Three references are required. At least one of these references must be a licensed landscape architect.

### [Application For Organization Certificate of Registration](#)

This form is used to apply for a Corporate Certificate. All corporations offering landscape architect services in North Carolina must be registered with the Board. The first requirement is that the corporation has a NC licensed landscape architect in its employ. Your corporation must be approved for licensure prior to obtaining the certificate of authority from the NC Secretary of State. Please refer to GS 55B - NC Professional Corporation Act.

### [Continuing Education Activity Approval Form](#)

This form is used by both licensees and providers of continuing education activities. This form will be accepted throughout the year. The final deadline is May 15. All licensees are required to complete 10 hours of continuing education per year. Newly licensed individuals are not required to complete the continuing education requirement until the first full renewal year ending June 30.

### [Continuing Education Notice](#)

### [Continuing Education Guidelines and Definitions](#)

Refer to these documents if you have questions regarding Continuing Education requirements and procedures for obtaining approval for educational activities.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0313

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

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The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*On the form, box 11, this form is unsigned. Please sign and file an original and two copies, unstapled.*

*Lines 4 and 16, replace "must" with "shall"*

*Line 7, what is the renewal documentation? Where is it located? What content is required?*

*Line 7, what is the fee? Consider adding a cross reference to another rule to clarify.*

*Line 8, add a comma after "draft"*

*Lines 10, 15, and 17, replace "Section" with "Rule" and add "of this Section" or "of this Chapter" after the number. Please be consistent with the use of either "Section" or "Chapter"*

*Line 15, what is the late renewal fee? Consider adding a cross reference to another rule to clarify.*

*Line 15, add a comma after "fee"*

*Line 15, replace "and" with "along with"*

*Line 18, what is the authority for the fee to be "non-refundable"?*

*Line 20, add a comma after "suspension"*

*Line 21, add "of" after "first"*

*Line 25, add 89A-6 to the authority.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 02 .0313 is proposed for adoption as published in 28:24 NCR 3038 as follows:

2  
3 **21 NCAC 02 .0313**      **INDIVIDUAL LICENSES**

4 (a) License registration must be renewed on or before the first day in July each year. No less than 30 days prior to the  
5 renewal date, the Board shall send a renewal reminder to each individual licensee. The licensee shall complete the  
6 current license renewal documentation required by the Board. The licensee shall submit to the Board the completed  
7 license renewal documentation, along with the annual license renewal fee. The Board shall not accept incomplete  
8 renewal documentation. If the accompanying charge, draft or check in the amount of the renewal fee is dishonored by the  
9 landscape architect's drawee bank for any reason, the Board shall suspend the license until the renewal fee is paid. When  
10 the annual renewal has been completed according to the provisions of G.S. 89A-5 and Section .0307, the Board  
11 Executive shall approve renewal of the license for the current license year.

12 (b) If the Board has not received the annual renewal fee and completed renewal documentation, on or before the first day  
13 of July each year the license shall expire and be delinquent. The license may be renewed at any time within one year of  
14 being deemed delinquent, upon the return of the completed renewal documentation, the annual renewal fee and the late  
15 renewal fee and demonstration of compliance with Section .0307 of this Chapter. After one year from the date of  
16 delinquency the license may no longer be renewed, but the licensee must seek reinstatement. Reinstatement shall occur  
17 according to the provisions of G.S. 89A- 5 and Section .0301 of this Chapter.

18 (c) Renewal fees are non-refundable.

19 (d) Any individual who is currently licensed by and in good standing with the Board who is serving in the armed forces  
20 of the United States shall not be subject to late fees, suspension or revocation for failure to renew licensure on or before  
21 the first day July each year, provided that the individual has been granted an extension of time to file a tax return as set  
22 forth in G.S. 105-249.2. The licensee shall, however, comply with the continuing education requirement of Section .0310  
23 of this Chapter.

24  
25 History Note: Authority G.S. 89A-5;  
26 Eff. January, 2014.

## RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0314

RECOMMENDED ACTION:

- Approve, but note staff's comment
- Object, based on:
  - Lack of statutory authority
  - Unclear or ambiguous
  - Unnecessary
  - Failure to comply with the APA
  - Extend the period of review

COMMENT:

Lines 5 and 6 reference "application for registration." The location and content of the application is not contained within this Rule or the governing statute. G.S. 150B-2 defines "rule" and "form" as follows:

- (8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
- ...
  - d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
  - ...

Staff is uncertain what application is being referenced by this Rule, but has attached to this Staff Opinion for your review information from the ["Forms" section of the website](#).

**Summary:**

As written, this Rule is referencing an application that is outside the process of rulemaking and is not implementing a process prescribed by rule or statute. It is staff's recommendation to object to this Rule for being unclear and ambiguous by referencing an application that is not identified by name and providing no information on how to obtain this form. Furthermore, it is staff's recommendation to object to this Rule for failure to comply with the Administrative Procedure Act by using a form that is not prescribed by rule or statute.



# The North Carolina Board of LANDSCAPE ARCHITECTS



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This form must be sent to past and present employers. They should complete the form and return them directly to the board. This form must be received by the board for Reciprocity and Examination applications.

### [Confidential Reference Information Regarding Applicant](#)

This form must be sent to the references listed on your application for reciprocity or exam. They should complete the form and return them directly to the board. Three references are required. At least one of these references must be a licensed landscape architect.

### [Application For Organization Certificate of Registration](#)

This form is used to apply for a Corporate Certificate. All corporations offering landscape architect services in North Carolina must be registered with the Board. The first requirement is that the corporation has a NC licensed landscape architect in its employ. Your corporation must be approved for licensure prior to obtaining the certificate of authority from the NC Secretary of State. Please refer to GS 55B - NC Professional Corporation Act.

### [Continuing Education Activity Approval Form](#)

This form is used by both licensees and providers of continuing education activities. This form will be accepted throughout the year. The final deadline is May 15. All licensees are required to complete 10 hours of continuing education per year. Newly licensed individuals are not required to complete the continuing education requirement until the first full renewal year ending June 30.

### [Continuing Education Notice](#)

### [Continuing Education Guidelines and Definitions](#)

Refer to these documents if you have questions regarding Continuing Education requirements and procedures for obtaining approval for educational activities.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0314

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

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The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5, 10, 12, 21, 23, and page 2, line 5, replace "must" with "shall"*

*Lines 6 and 10, what is the registration form? Where is it located? What content is required?*

*Line 7, what is the fee? Consider adding a cross reference to another rule to clarify.*

*Lines 13 and 16, consider beginning the clause within this list with lowercase letters*

*Line 14, add a comma after "services"*

*Line 19, why is this renewal required by June 30 and not July 1?*

*Lines 23 and 24, why is this language located here? Would it not apply to all fees? Would this language not be better located in 21 NCAC 26 .0105, Fees?*

*Line 27, delete "in" before "responsible" and "charge" after "responsible"*

*Line 29, add a comma after "expiration"*

*Lines 30 and 31, add a comma after "fee"*

*Line 33, what is the authority for the fee to be "non-refundable"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0314 is proposed for adoption as published in 28:24 NCR 3038-3039 as follows:

2  
3 **21 NCAC 26 .0314 CORPORATE PRACTICE OF LANDSCAPE ARCHITECTURE**

4 (a) Prior to offering and rendering landscape architectural services as set forth in G.S. 89A and 21 NCAC 26 .0206, all  
5 corporations must submit an application for registration and be granted registration by the Board. Application for  
6 registration to practice landscape architecture within the State of North Carolina shall be made upon forms provided by  
7 the Board and include the required application fee. Certificates for corporate practice may be issued only under the  
8 provisions of Chapter 55B of the General Statutes, except as provided in Subsection (b) of this Rule and G.S 57C.

9 (b) Applications for certificate of registration as exempt from the Professional Corporation Act under the provisions of  
10 G.S. 55B-15 shall be made upon forms provided by the Board. Completed applications must be accompanied by the  
11 corporate application fee. To be eligible as an exempt corporation under the provisions of G.S. 55B-15, the following  
12 conditions must exist:

13 (1) The corporation or limited liability company must have been incorporated or organized prior to June 5,  
14 1969 and permitted by law to render professional services or must be a corporate successor to such corporation  
15 or limited liability company as defined by G.S. 55B-15; or

16 (2) The corporation or limited liability company must have been incorporated or organized prior to October 1,  
17 1979 and must have been a *bona fide* firm engaged in the practice of landscape architecture and such services as  
18 may be ancillary thereto within the State of North Carolina prior to that date.

19 (c) Firm registration must be renewed on or before June 30<sup>th</sup>. If the Board has not received the annual renewal fee and  
20 completed application on or before June 30<sup>th</sup>, the firm license shall expire and be delinquent. No less than 30 days prior  
21 to the renewal date, the Board shall send a notice of renewal to each registered firm. The firm must designate a firm  
22 manager to complete the renewal documentation required by the Board. The Board shall not accept incomplete renewal  
23 documentation. Renewal documentation must be accompanied by the renewal fee. If the accompanying payment in the  
24 amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm  
25 registration until the renewal fee is paid. When the annual renewal has been completed according to the provisions of  
26 G.S. 89A-5, the Board Executive shall approve renewal for the firm registration for the current renewal year. The firm  
27 license shall not be renewed until the individual landscape architect in responsible charge for the firm has completed the  
28 individual renewal process.

29 (d) Within one year of expiration the firm license may be renewed at any time upon the return of the completed renewal  
30 documents, the annual renewal fee and the late renewal fee. After one year from the date of expiration for non-payment  
31 of the annual renewal fee the licensee shall not be eligible to seek reinstatement, as set forth in G.S. 89A-5, and the Board  
32 may reinstate the firms' certificate of registration only as allowed by G.S. 89A-4.

33 (e) Renewal fees are non-refundable.

34 (f) Each registered corporation shall adopt a seal pursuant to 21 NCAC 26 .0207.

35 (g) In addition to the requirements and limitations of Chapter 55 and Chapter 55B of the General Statutes, the firm name  
36 used by a landscape architectural corporation shall conform with 21 NCAC 26 .0206 and be approved by the Board

1 before being used. This Rule shall not prohibit the continued use of any firm name adopted in conformity with the  
2 General Statutes of North Carolina and the Board's rules in effect at the date of such adoption.

3 (h) Landscape architects may practice in this State through duly authorized limited liability companies only as provided  
4 under G.S. 57C-2-01(c). Any limited liability company that offers to practice or practices landscape architecture in this  
5 State must comply with the same requirements applicable to professional corporations under Rules .0201, .0206, .0214,  
6 .0218 and .0219 of this Section.

7

8 *History Note: Authority G.S. 55B-5; 55B-10; 55B-15; 89A-3.1(4);*

9 *Eff. January 1, 2014.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0315

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

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The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5 through 7, consider providing this information in a list to clarify the items required and to provide cross-references to other rules to provide the specifics about the information required.*

*Lines 8, 10, 13, 14, 16, and 17, replace "must" with "shall"*

*Line 9, if the "state" is the State of North Carolina, then capitalize the term*

*Line 10, is this statement correct, "a certificate for filing a certificate"? Please verify*

*Line 16, add a comma after "engineer"*

*Line 18, delete "in" before "responsible" and "charge" after "responsible"*

*Line 21, why is the term "Limited Liability Company" capitalized? Since there is not a specific company, consider using lowercase letters*

*Line 23, add a comma after "geologist"*

*Line 23, why does this list of people not include a "land surveyor" like line 16?*

*Line 27, why is this renewal required by June 30 and not July 1?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0315 is proposed for adoption as published in 28:24 NCR 3039-3040 as follows:

2  
3 **21 NCAC 26 .0315 OUT-OF-STATE ENTITIES**

4 (a) Landscape architectural entities from other states may be granted certificates of registration for practice in this State  
5 upon receipt by the Board of a completed application, fees, the submission of a certified copy of its corporate charter, or  
6 other corresponding documents, amended as may be necessary to ensure compliance with all requirements of Chapter  
7 55B, the Professional Corporation Act of the State of North Carolina, and the payment of the firm application fee. In  
8 addition to the other requirements as set out in G.S. 83A-8, out-of-state (or “foreign”) entities must, prior to registration,  
9 receive from the Secretary of State of North Carolina a certificate of authority to do business within the state. A  
10 certificate for filing for a certificate of authority must be obtained from the Board prior to submitting the application to  
11 the Secretary of State.

12 (b) An out-of-state entity may be permitted to practice landscape architecture within the State of North Carolina provided  
13 that it complies with G.S. Chapter 55B. If an out-of-state entity offers landscape architectural services, then it must  
14 comply with requirements set forth in G.S. Chapter 89A. An out-of-state entity must have at least one officer or director  
15 licensed in the State as a landscape architect. Two-thirds of the issued and outstanding shares of the out-of-state  
16 corporations must be held by a landscape architect, architect, geologist, engineer or land surveyor licensed to practice the  
17 profession in a jurisdiction of the United States. However, the entity must designate at least one landscape architect who  
18 is licensed in the State of North Carolina to be in responsible charge for the entity’s practice of landscape architecture  
19 within the State of North Carolina. Notwithstanding the requirements of this Rule, an individual landscape architect who  
20 is licensed under G.S. Chapter 89A, et seq., may practice as an individual.

21 (c) An out-of-state Limited Liability Company may practice landscape architecture, if the Limited Liability Company  
22 complies with G.S. 57C and at least one member and one manager or member/manager is licensed as a landscape  
23 architect, architect, geologist or engineer to comply with Paragraph (a) of this Rule.

24 (d) An out of state Limited Liability Partnership may practice landscape architecture, if the Limited Liability Partnership  
25 complies with G.S. 59-84.2, and at least one partner is licensed in this State as an individual pursuant to Rule .0301  
26 of this Section.

27 (e) If the Board has not received the annual firm renewal fee and completed application on or before June 30<sup>th</sup>, the firm  
28 registration shall expire and be deemed delinquent. The firm registration may be renewed at any time within one year  
29 upon the payment of the annual renewal fee and the late renewal fees. After one (1) year from the date of expiration for  
30 non-payment of the annual renewal fee, the license shall be automatically revoked. The Board may reinstate the firm's  
31 certificate of registration, as allowed by Rule .0301.

32  
33 History Note: Authority G.S. 55B-6; 83A-6; 89A-2(a1);

34 Eff. January 1, 2014.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0510

**DEADLINE FOR RECEIPT: Wednesday, December 10, 2014**

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The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*On the form, box 2, please correct the rule citation to the correct number.*

*Line 18, replace the comma after "charge" to a semicolon and delete the semicolon after "or"*

*Lines 30, 32, 35, and 37, consider beginning the clause within this list with lowercase letters*

*Line 33, add "or entity" after "person"*

*Line 35, add "may" after "Board"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 21 NCAC 26 .0510 is proposed for amendment as published in 28:24 NCR 3040 as follows:

2  
3 **21 NCAC 26 .0510 DISCIPLINARY REVIEW PROCESS**

4 (a) ~~General.~~ Allegations or evidence of a violation of the Landscape Architecture Licensing Act or the rules in this  
5 Chapter shall be preliminarily reviewed by the Board Chair and legal counsel to the Board. Upon a determination  
6 that evidence of a violation exists, the matter shall be subject to Board investigation and may be subject to  
7 disciplinary action by the Board.

8 (b) ~~Preliminary Review.~~

9 (1) ~~Upon receipt of a complaint involving a registrant, an investigation shall be initiated by the~~  
10 ~~Board's Chairman.~~

11 (2) ~~A~~ An investigation shall be initiated by a written notice and explanation of the allegation ~~shall~~  
12 ~~be being~~ forwarded to the person or ~~firm~~ entity against whom the charge is made and a response shall be requested  
13 of the person or firm so charged within 30 days of receipt of said notice to show compliance with all lawful  
14 requirements for retention of the ~~certificate of registration.~~ license. Notice of the charge and of the alleged facts or  
15 alleged conduct shall be given personally or by certified mail, return receipt requested.

16 (c) ~~(3)~~ In the discretion of the Board Chair, a field investigation may be performed.

17 (d) ~~(4) After preliminary~~ After additional evidence has been obtained, the Board Chair shall either:

18 (A) ~~(1)~~ recommend dismissal of the charge, or;

19 (B) ~~(2)~~ refer the matter to the Disciplinary Review Committee.

20 (e) ~~(5)~~ If the Board Chair recommends dismissal, the ~~Chairman~~ Chair shall give a summary report to the Board  
21 and a vote shall be called to dismiss the complaint. If the Board does not vote to dismiss the complaint, the matter  
22 shall be forwarded to the Disciplinary Review Committee for further consideration.

23 ~~(e) The Disciplinary Review Committee.~~

24 (f) ~~(1)~~ The Disciplinary Review Committee shall be made up of a minimum of one member of the Board and  
25 the Board Chair.

26 (2) ~~Upon review of the evidence, the Disciplinary Review Committee shall present to the~~  
27 ~~Board a written recommendation that may include the following:~~

28 (g) Upon review of the evidence, and further investigation if necessary, the Disciplinary Review Committee  
29 shall present to the Board a written recommendation that may include the following:

30 (A) ~~(1)~~ The charge be dismissed as unfounded or that the Board is without jurisdiction over the  
31 matter;

32 (B) ~~(2)~~ The charge is admitted as true, whereupon the Board may accept the admission of guilt  
33 by the person charged and ~~sanction~~ discipline the individual or company person or entity  
34 accordingly;

35 (C) ~~(3)~~ The Board accept a proposed settlement negotiated in an effort to resolve the alleged  
36 violations; or

37 (D) ~~(4)~~ The charge be presented to the full Board for a hearing and determination of sanctions by  
38 the Board in accordance with the substantive and procedural requirements of the  
39 provisions of ~~G.S. 150B.~~ Article 3A of Chapter 150B of the General Statutes.

1 ~~(d)~~ ~~Consultant.~~ A consultant to the Disciplinary Review Committee shall be designated by the legal  
2 counsel of the Board if the Chair of the Disciplinary Review Committee determines that it needs assistance. The  
3 consultant shall be a currently ~~registered Landscape Architect,~~ licensed landscape architect selected from former  
4 Board members or other ~~registered~~ licensed professionals who are knowledgeable with the Board's processes and  
5 have expressed an interest in serving as a consultant. The consultant shall review all case materials and assist the  
6 Disciplinary Review Committee in making a recommendation as to the merits of the case.

7 ~~(e)~~ ~~Board Decision.~~ At least 15 days written notice of the date of consideration by the Board of the  
8 recommendations of the Disciplinary Review Committee shall be given to the party person or entity against whom  
9 the charges have been brought and the party person submitting the charge.

10 ~~(f)~~ ~~Settlement Conference.~~ When the Board issues a notice of ~~hearing,~~ hearing against whom the charges  
11 are brought, the ~~registrant~~ registered person or entity may request in writing a settlement conference to pursue resolution of the  
12 issue(s) through informal procedures. If, after the completion of a settlement conference, the ~~registrant~~ person or  
13 entity and the Board's Disciplinary Review Committee do not agree to a resolution of the dispute for the full Board's  
14 consideration, the original disciplinary review process shall commence. During the course of the settlement  
15 conference, no sworn testimony shall be taken.

16  
17 *History Note:* Authority ~~G.S. 89A-3.1;~~ G.S. 89A-3.1(7), (8), (9); 89A-7;  
18 *Eff. January 1, 2014; December 1, 2005.*