

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Architecture

RULE CITATION: 21 NCAC 02 .0108

DEADLINE FOR RECEIPT: Thursday, October 12, 2017

PLEASE NOTE: *This request may extend to 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 our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Introductory Statement, line 1, please include the page numbers of the publication. (See Rule 26 NCAC 02C .0404)

On line 3, I suggest stating "The fees required by the Board are payable..."

On line 6, what is the "Firm Registration" fee? Is this the initial application fee for corporate in G.S. 83A-4? If so, why is the term different here?

And if the fee is not the application fee for corporate, then what is your authority for the fee?

On line 13, G.S. 83A-11 does not establish a fee. It appears that only this Rule establishes a fee. So, why are you citing to this statute here?

§ 83A-11. Expirations and renewals.

Certificates must be renewed on or before the first day of July in each year. No less than 30 days prior to the renewal date, a renewal application shall be mailed to each individual and corporate licensee. The completed application together with the required renewal fee shall be returned to the Board on or before the renewal date. When the Board is satisfied as to the continuing competency of an architect, it shall issue a renewal of the certificate. Upon failure to renew within 30 days after the date set for expiration, the license shall be automatically revoked but such license may be renewed at any time within one year following the expiration date upon proof of continuing competency and payment of the renewal fee plus a late renewal fee. After one year from the date of revocation, reinstatement may be made by the Board, or in its discretion, the application may be treated as new subject to reexamination and qualification requirements as in the case of new applications. (1919, c. 336, s. 2; C.S., s. 4995; 1951, c. 1130, s. 2; 1957, c. 794, s. 10; 1979, c. 871, s. 1.)

On line 14, what is your authority to state the fees are nonrefundable? Are you relying upon G.S. 83A-3?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

On line 15, consider making “website” one word. But if this will create inconsistency with your other Rules, you do not need to make this change.

In the History Note:

- 1. Put the citations in numerical order.*
- 2. You will add the amended effective date on line 20.*
- 3. Please change the effective date to November 1, 2017.*

It will look like this:

*History Note: Authority G.S. 55B-10; 83A-4; 83A-11;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. July 1, 2014; December 1, 2010; June 1, 1995; December 1, 1992; May 1, 1991; May 1, 1989; July 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. November 1, 2017.*

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

21 NCAC 02 .0108 is amended with changed as published in NCR 31:23:

21 NCAC 02 .0108 FEES

Fees required by the Board, are payable in advance and are set forth below:

Initial Registration Application by Exam

Residents and Non-Residents	\$ 50.00
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Firm Registration	\$ 75.00
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Application to take the Architectural Registration [for]Exam [Candidate Record Review]	\$ 50.00
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Annual license renewal

Individual	\$ 50.00
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Firm	\$100.00
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Late renewal Penalty	\$ 50.00
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Reciprocal registration	\$150.00
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Individual or Firm Reinstatement shall be the fee as set forth in G.S. 83A-11 and G.S. 55B-10.

All fees paid to the Board are non-refundable.

Other publications and services provided by the Board are available on the Board web site at www.ncbarch.org.

History Note: Authority G.S. 83A-4; 83A-11; 55B-10;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. October 1, 2017; July 1, 2014; December 1, 2010; June 1, 1995; December 1, 1992;

May 1, 1991; May 1, 1989; July 1, 1987;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13,

2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Architecture

RULE CITATION: 21 NCAC 02 .0206

DEADLINE FOR RECEIPT: Thursday, October 12, 2017

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 our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, please change Box 3 to reflect that this is an amendment, not an adoption.

In the Introductory Statement, line 1, please include the publication information and state that the Rule is "amended" not "proposed for amendment" (See Rule 26 NCAC 02C .0404)

In (a), line 3, I believe the first several rules are unnecessary. I suggest deleting "As more fully set out in this Rule" and beginning the sentence "An architect"

On line 3 and 5, replace "his/her" with "his or her" and be consistent with line 10.

Also on line 3, replace "must" with "shall"

On line 4, state "N.C.G.S. 83A-13."

On line 5, insert a comma after "reports" and replace "which" with "that"

In (a)(1)(A), line 9, capitalize "State" if you mean North Carolina.

In (a)(2)(A), line 26, insert a comma after "permitting"

On line 28, what are "lawful" copies?

In (a)(2)(C), line 33, remove the comma after "handwritten"

On line 33, how will this requirement for "handwritten" interact with Paragraph (e), which allows digital signatures?

In (a)(3)(A), Page 2, line 5, who approves the name?

In (a)(3)(B), line 14, I suggest inserting a comma after "Company"

In (a)(5)(C), lines 32-33, are you defining "technical submissions" here? If so, please put the term in quotation marks.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

On line 32, insert a comma after “addenda”

On line 33, please capitalize “State” But do you need to retain the phrase “for use in this State” here, since this is stated on line 27?

In (a)(6), Page 3, line 3, consider removing the parenthesis and stating “documents, such as renderings...”

On line 3, remove the comma after “renderings”

In (a)(7), line 6, insert a comma after “name”

On line 7, define “conspicuously”

In (a)(8), the language on line 9 is repeated on lines 9 and 10. Why do you need them both? Do you need the description of the Subparagraph on line 9? I recommend deleting it.

On line 10, I recommend removing the parenthesis and stating “consultants, such as structural...”

In (a)(9), line 13, insert a comma after “generated”

I recommend making (a)(9) two sentences. End the first sentence after “signatures” on line 15. Then state “However, a digital...”

In (a)(10), line 18, insert a comma after “State”

On line 19, state “he or she”

Also on line 19, do you intend to have “as” there? Should it be “is”?

On line 19, what is “responsible control”? Is this what is in Paragraph (d)?

On line 20, what do you mean by security? Physically securing it from use by others? Does your regulated public know?

In (b), line 25, what is a “Prototypical Building design”? Does your regulated public know? And why is “Prototypical Building” capitalized?

On line 25, capitalize “State”

In (b)(4), line 34, what are “local conditions” and “site conditions”? Does your regulated public know?

In (b)(5), line 35, state “his or her”

On line 36, define “substantially”

On line 37, define “properly”

So that I'm clear – the architect will attest in (b)(5) to compliance with the local building codes, but will not attest to anything regarding local conditions or sites?

In (c), Page 4, lines 4 and 6, insert a comma after "permit"

In (d), line 7, state "his or her"

On line 8, state "his or her" or "the architect's"

On line 8, are you defining the term "responsible control" with the language on lines 8 through 21? If so, state "Responsible control" means..."

On line 8, define "detailed"

On line 9, define "ordinarily"

On line 10, what is this "required" standard? Does your regulated public know?

In (d)(7), line 19, define "reasonably" Or will this be entirely within the discretion of the licensee? If so, can you delete it?

In (e), line 22, begin the sentence with "The"

Also on line 22, insert a comma after "reports"

In (e)(1), line 25, replace "which" with "that"

On line 26, do you really mean "provisions of G.S. 83A" rather than "G.S. 83A-10?" And regardless of the citation, please remove the comma after it.

Also on line 26, insert a comma after "dated"

On line 26, is "responsible control" what it appears you are defining in (d)?

On lines 28 and 30, "(A)" and "(B)" should be capitalized. As it was published correctly, you do not need to show this as a change, but please do so.

In (e)(1)(B), lines 32 and 33, I believe you can replace "section (a)(5)(A)(B)(C) of this rule" with "Subparagraph (a)(5) of this Rule." If you need to retain citation to the specific parts, please state "Parts (a)(5)(A),(B), and (C) of this Rule."

In (e)(2), line 36, do you mean "ensure" rather than "assure"?

In (e)(3)(A), line 37, who will determine uniqueness?

Also on line 37, delete the comma after "using"

In (e)(3)(B), Page 5, line 1, capable of verification by whom?

In (e)(3)(D), what do you mean by "in such a manner"? Does your regulated public know?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

In (e)(3), line 8, are you defining “message digest” here? If so, put the term in quotation marks.

In (e)(3), this is not the correct way to incorporate the document. You need to state if you are incorporating subsequent amendments and editions of this standard (and I am guessing you are based upon the word “amended” on line 10), then you need to state that. You also need to state if there is a cost to access the document. Finally, when I looked for the document, I saw it was amended in 2015. Do you want that version?

Depending upon the answers to the questions above, I recommend stating beginning on line 9, “a message digest as set forth in the Federal Information Processing Standards (FIPS) standards 180-4, “Secure Hash Standard,” amended August 2015. This standard is incorporated by reference, including subsequent amendments and editions, and may be accessed at no cost at [url].”

I am merely inquiring – how is (e)(4) different from (e)(2)(C)?

In the History Note, please make “Amended Eff.” on line 20 “November 1, 2017;” and move that to line 20. Please see the technical changes request for Rule 21 NCAC 02 .0108 to see how to format the History Note.

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

21 NCAC 02 .0206 is proposed for amendment as follows:

21 NCAC 02 .0206 REQUIREMENT FOR AND USE OF PROFESSIONAL SEAL

(a) As more fully set out in this Rule, an architect must seal his/her work whether or not the work is for an exempt project as defined in North Carolina General Statute 83A-13. An architect shall not sign nor seal drawings, specifications, reports or other professional work which were not prepared by the architect or under his/her responsible control. Documents shall be sealed as follows:

(1) An architect may ~~sign or~~ seal those portions of the professional work that:

(A) were prepared by or under the responsible control of persons who are registered architects in this state if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work; and

(B) are not required by law to be prepared by or under the responsible control of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.

(2) Individual Seal Design shall be as follows: ~~Design.~~

~~Every licensed architect shall have an individual seal which shall be composed of two concentric circles with outer and inner circle diameters of approximately 1.5 inches and 1 inch respectively. The architect's name and primary place of business shall be between the inner and outer circles. The words "Registered Architect, North Carolina" shall be along the inside perimeter of the inner circle. The architect's North Carolina registration number shall be in the center of the inner circle. The original signature of the individual named on the seal and date is a required part of an individual seal and a seal image lacking said signature and date is incomplete and shall not be considered a "seal" for purposes of these Rules. (See facsimile on Board web site.)~~

(A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to original drawings or sets of specifications for use in this State. For the purposes of this Rule, the term "for use in this State" means drawings and sets of specifications prepared for bidding, procurement, permitting or for construction. For purposes of this Rule, "original" means the version of drawings and sets of specifications from which all lawful copies can be made.

(B) The standard design of the seal shall be two concentric circles in which "North Carolina" and the name of the licensee are placed within the outermost circle and in which the license number of the licensee and "Registered Architect" placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter.

(C) The original, handwritten, signature of the individual named on the seal shall be considered part of an individual seal and shall appear across the face of each original seal imprint along with the date of affixation.

(3) Firm Seal Design shall be as follows: ~~Design.~~ ~~Every firm shall have a firm seal, which shall be composed of two concentric circles with outer and inner circle diameters of approximately 1.5~~

~~inches and 1 inch respectively. The Architectural Firm's approved North Carolina name and place of business shall be between the inner and outer circles. Seals shall be made as follows:~~

(A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to drawings or sets of specifications. The design of the seal shall be two concentric circles in which the Architectural Firm's approved name and "North Carolina" shall be between the inner and outer circles and the firm's license registration number is placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter. ~~For a Professional Corporation the words "Registered Architectural Corporation, North Carolina" shall be along the inside perimeter of the inner circle. The firm's North Carolina registration number shall be in the center of the inner circle. (See facsimile on Board web site.)~~

(B) For a Professional Corporation the words "Registered Architectural Corporation, North Carolina" shall be along the inside perimeter of the inner circle. (See facsimile on Board web site.) ~~For a Professional Limited Liability Company the words "Registered Architectural Company" shall be along the inside perimeter of the inner circle. The firm's North Carolina registration number shall be in the center of the inner circle. (See facsimile on the Board web site.)~~

A sole proprietorship is not required to have firm seal and shall seal all work with the individual seal as set forth in Subparagraph (2) of this Paragraph.

(4) ~~Seal Types. The seal required for use on original technical submissions not intended for duplication shall be of a type which will produce an impression facsimile of the seal, or a rubber stamp which will produce an ink facsimile of the seal. The seal required for use on original technical submissions intended for duplication shall be of a type which will produce an ink facsimile of the seal such as a rubber stamp, or a substantially similar electronic or digital representation of the design. The use of pre-printed documents bearing a pre-printed facsimile of the signed and dated seal is prohibited.~~

(5) ~~Individual Seal, Signature and Date Required. Architects shall affix their seal on one original of all their drawings and sets of specifications prepared by them for use in this State as follows:~~

(A) on the cover sheet of each design and on each drawing prepared by the architect for the design;

(B) on the index page identifying each set of specifications; and

(C) on the index page of all other technical submissions. For the purposes of this Rule, technical submissions refer to plans, drawings, specifications, studies, addenda and other technical reports prepared for use in this state in the course of practicing architecture.

~~The original signature of the individual named on the seal shall be considered part of an individual seal and shall appear across the face of each original seal imprint along with the date of affixation. For the purposes of this Rule, the term "for use in this State" means drawings and sets of specifications prepared for bidding, procurement, permitting or for construction. For purposes of~~

- 1 this Rule, "original" means the version of drawings and sets of specifications from which all lawful
2 copies can be made.
- 3 (6) Presentation documents (renderings, drawings used to communicate conceptual information only)
4 shall not be sealed or signed.
- 5 (7) Documents considered incomplete by the architect may be released for interim review without the
6 architect's seal or signature affixed, but shall be dated, bear the architect's name and be
7 conspicuously marked to indicate the documents are for interim review and not intended for bidding,
8 procurement, permit, or construction purposes.
- 9 (8) Sheets or Pages Prepared By Licensed Professional Consultants. Those sheets or pages prepared by
10 licensed professional consultants (for example, structural, mechanical or electrical engineers)
11 retained by the architect shall bear the seal and registration number of the consultant responsible
12 therefore and shall not be sealed by the architect.
- 13 (9) Original Signature. The use of signature reproductions such as rubber stamps, computer generated
14 or other facsimiles are not permitted in lieu of actual handwritten and hand dated signatures;
15 provided, however, a digital signature as defined in Paragraph (e) of this Rule may be used in lieu
16 of a handwritten signature and handwritten date.
- 17 (10) ~~Authorized~~ The use of the prescribed seal is an individual act whereby the architect must personally
18 sign over the imprint of the seal. By sealing documents for use in this State an architect is
19 representing that he/she as in responsible control over the content of such documents and has applied
20 the required professional standard of care. The architect is responsible for security of the seal when
21 not in use.
- 22 (11) Use of Firm Seal. The use of the firm seal does not replace the statutory requirement for an
23 architect's individual seal as required in Paragraph (d). The firm seal must be affixed in addition to
24 the individual seal on the cover sheet.
- 25 (b) ~~Standard design~~ Prototypical Building design documents prepared by architects who are registered in this state or
26 in their state of origin may be sealed by a succeeding licensed architect registered in North Carolina provided:
- 27 (1) the seal of the original architect appears on the documents to authenticate authorship;
- 28 (2) the words "~~standard design document~~" "Prototypical Design Documents/Not for Construction" be
29 ~~placed~~ appear on each sheet of the documents by the original architect;
- 30 (3) the succeeding North Carolina architect identifies all modifications to the standard design
31 documents;
- 32 (4) the succeeding North Carolina architect assumes responsibility for the adequacy of the design for
33 the specific application in North Carolina and for the design conforming with applicable building
34 ~~codes;~~ codes, local conditions, site condition; and
- 35 (5) the succeeding North Carolina architect affixes his/her seal to the ~~standard design~~ prototypical
36 design documents ~~and with~~ a statement substantially as follows: "These documents have been
37 properly examined by the undersigned. I have determined that they comply with existing local

1 North Carolina codes, and I assume responsibility for the adequacy of the design for the specific
2 application in North Carolina."

3 (c) Post Construction record drawings prepared by an architect, but based upon representations of contractors, are not
4 plans that are for "bidding, procurement, permit or construction purposes" and therefore shall not be sealed by the
5 architect as long as the documents bear the name of the architect and include language stating "these drawings are
6 based in part upon the representations of others and are not for bidding, procurement, permit or construction purposes".

7 (d) Responsible Control. No architect shall affix his/her seal and signature to contract documents developed by others
8 not under his responsible control. Responsible control includes that amount of control over and detailed professional
9 knowledge of the content of technical submissions during their preparation as is ordinarily exercised by an architect
10 applying the required professional standard of care, including:

- 11 (1) Dissemination of programmatic requirements;
- 12 (2) Ongoing coordination and correlation of services with other aspects of the total design of the project;
- 13 (3) Verification with consultant that owner's requirements are being met;
- 14 (4) Authority over the services of those who assisted in the preparation of the documents;
- 15 (5) Assumption of responsibility for the services;
- 16 (6) Incorporation of services and technical submissions into design documents to be issued for
17 permitting purposes; and
- 18 (7) Incorporation and integration of information from manufacturers, suppliers, installers, the architect's
19 consultants, owners, contractors, or other sources the architect reasonably trusts that is incidental to
20 and intended to be incorporated into the architect's technical submissions if the architect has
21 coordinated and reviewed such information

22 (e) Procedure for digitally signing and electronically sealing electronically transmitted plans, specifications, reports
23 or other documents prepared for use in this State in the course of practicing architecture is as follows: For purposes of
24 this Rule the term "Signature" shall mean handwritten or digital as follows:

- 25 (1) Information stored in electronic files representing plans or specifications which must be sealed under
26 the provisions of G.S. 83A, shall be signed, dated and sealed by the architect in responsible control.
27 A handwritten message identification containing the name of the person who applied it; or
28 (a) A scanned image of an original signature shall not be used in lieu of a digital or electronic
29 signature.
30 (b) The date that the electronic signature file was created or the digital signature was placed in to
31 the document must appear on the document in the same manner as date is required to be
32 applied when a licensee uses the manual sealing procedure set out in section
33 (a)(5)(A)(B)(C) of this rule.
34 (2) A digital signature that is an electronic authentication process attached to or logically associated
35 with an electronic document. The digital signature must be: An architect utilizing a digital signature
36 to seal electronic documents for use in this State shall assure that the digital signature is:
37 (A) Unique to the person using, it;

- 1 (B) Capable of verification;
2 (C) Under the sole control of the person using it; and
3 (D) Linked to a document in such a manner that the digital signature is invalidated if any data
4 in the document is changed.

5 ~~A digital signature that uses a process approved by the Board is presumed to meet the criteria set forth in~~
6 ~~Parts (e)(2)(A) through (e)(2)(D) of this Rule. The architect is responsible for the security of the digital~~
7 ~~signature.~~

8 (3) Each electronically signed file shall have an authentication code defined as a message digest
9 described in Federal Information Processing Standards (FIPS) Publication 180-4 "Secure Hash
10 Standard," March 2012, amended, which is hereby adopted and incorporated by reference by the
11 Board and can be obtained from the Internet [http://csrc.nist.gov/publications/fips/fips180-4/fips-](http://csrc.nist.gov/publications/fips/fips180-4/fips-180-4.pdf)
12 180-4.pdf .

13 (4) The architect is responsible for the security of the digital seal.

14 ~~(f) For the purposes of this Rule, technical submissions refer to plans, drawings, specifications, studies, addenda and~~
15 ~~other technical reports prepared for use in this state in the course of practicing architecture.~~

16
17 *History Note: Authority G.S. 83A-6; 83A-10; 83A-12;*
18 *Eff. February 1, 1976;*
19 *Readopted Eff. September 29, 1977;*
20 *Amended Eff. October 1, 2017; December 1, 2010; July 1, 2006; October 1, 1995; July 1, 1993;*
21 *May 1, 1989; October 1, 1985;*
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13,*
23 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Architecture

RULE CITATION: 21 NCAC 02 .0209

DEADLINE FOR RECEIPT: Thursday, October 12, 2017

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 our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, please change Box 3 to reflect that this is an amendment, not an adoption.

Also on the form, you refer in Box 9B to "HB 255." Are you referring to the bill that became Session Law 2015-145? If so, please change the language to state that. If not, please state what law you are referring to.

In the Rule's Introductory Statement, line 1, please include the page numbers of the publication. (See Rule 26 NCAC 02C .0404)

On line 3, I suggest replacing "those grounds as stated in G.S. 83A-15(3)" with "the grounds stated in G.S. 83A-15(3)," If you do not want to do that, please at least insert the comma after the citation.

On line 3, delete "among others"

And how is this deemed? Pursuant to the process set forth in G.S. 83A-14 and 15?

In Item (1), line 7, by "state" do you mean any state, or NC? If you mean NC, capitalize the term.

In Item (1), you refer to any criminal conviction. However, G.S. 83A-15(3)(d) refers to felonies or crimes involving moral turpitude. Are you using a different statute to regulate here and encompass all crimes?

In Item (2), does this apply to all jurisdictions or just the jurisdictions the individual is licensed or certified in? As written, an architect who is not licensed or certified in another state could be disciplined by the Board for failing to pay licensure fees in every other state in America.

In Item (3), line 15, what is "valuable consideration"? Does your regulated public know?

In Item (4), I take it you believe that you can regulate dishonest advertising even considering G.S. 83A-6(b)?

In Item (5), line 19, define "maliciously injure"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

On line 20, what is “active”?

In Item (6), line 21, what do you mean by “Evasion is:” Are you defining the term? If so, state “Evasion means” Or do you want to state simply “Evasion:”?

In (6)(b), line 28, what is “limited” services? Does your regulated public know?

On lines 30-31, consider putting the citations in numerical order. Also, is there a reason the citation to G.S. 160A-412(c) is so specific, when none of the rest include the subsection of the law?

In (c), line 35, what do you mean by “directly or indirectly”?

On line 36, I am just checking – did you not want to add G.S. 153A-352 and 160A-412 here?

In Item (7), Page 2, line 2, replace “he/she” with “he or she”

On line 4, capitalize “Item”

In Item (8), delete or define “accurately.” Given the language in the Sub-Items, I think you can likely just delete it. Or is the intent to define “accurately” with the language in the Sub-Items?

On line 7, replace “his/her” with “his or her” both places.

On line 8, state “he or she”

It seems you are missing a verb on lines 8 and 9, so it is “Misrepresentation shall be found if the following is not complied with”? Because the Board isn’t saying that Sub-Items (a) through (e) are examples of misrepresentation, right? So, what are you trying to say here? Is it that “Accurate representation shall be as follows:”? If so, this would address my concerns regarding line 6, as well.

In (8)(a), lines 11-12, do you need to retain “both public and private”? Could you not state “all prospective clients”?

On line 13, since you are defining the term, put it in quotation marks. “Architect-of-record” means...”

On line 14, insert a comma after “specifications”

In (8)(b), line 19, replace “his/her” with “his or her”

In (8)(c), line 21, what do you mean by “additional claims”? You mean the claims in Sub-Item (8)(b)? If so, state that.

On line 22, replace “he/she” with “he or she”

On line 23, define “specificity”

Also on line 23, replace “his/her” with “his or her”

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 28, 2017

In (8)(d), line 24, replace “must” with “shall”

On line 25, replace “Item (8) of this Rule” with “this Item”

In (8)(e), line 27, replace the first “which” with “that” and delete the second “which” altogether. So, it will read “Projects that remain unconstructed and are listed as credits...”

And where are these listed as credits? Is this to address the presentations listed in the Item?

On line 28, will the “similar designation” be entirely up to the architect to determine?

In Item (10), I do not see how the cross-reference to 21 NCAC 02 .0201 is appropriate here. This Rule refers to response to Board inquiries, not proactive notice requirements to the Board by the licensee, which is what is addressed by Rule .0201.

21 NCAC 02 .0201 ARCHITECT, FIRM OR PARTNERSHIP CONTACT INFORMATION AS ON FILE WITH THE BOARD

(a) Every individual licensee shall keep the Board advised of his/her preferred current contact information, including physical mailing address, email and phone numbers, principle place of business and electronic mail address and the name of the firm or partnership where he/she is employed.

(b) Each firm or partnership shall within 30 days notify the Board of all changes in ownership, of association, contact information, electronic email or physical address. Upon the dissolution of a firm, the architect in responsible control of the firm at the time of dissolution shall within 30 days notify the Board concerning such dissolution, and of the succeeding status and addresses of the firm. This requirement is in addition to registration, listing and renewal requirements set out elsewhere in rules of this Chapter.

If the intent of this Rule is to require response within 30 days, then it needs to state that instead.

On line 32, delete “timely”

I am just inquiring – isn’t Item (12) addressed by G.S. 83A-15(a)(3)(a)? Or do you need this language to capture expiration or delinquent status?

In Item (12), Page 3, line 2, replace “his/her” with “his or her”

On lines 2 and 3, I take it “delinquent status” is as set forth in Rules 21 NCAC 02 .0213 and .0214?

On line 3, insert a comma after “status”

In the History Note, please make “Amended Eff.” on line 20 “November 1, 2017;” and move that to line 13. Please see the technical changes request for Rule 21 NCAC 02 .0108 to see how to format the History Note.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

21 NCAC 02 .0209 Unprofessional Conduct is amended with changes as published in NCR 31:23:

21 NCAC 02 .0209 UNPROFESSIONAL CONDUCT

In addition to those grounds as stated in G.S. 83A-15(3) the following acts or omissions, among others, may be deemed to be "unprofessional conduct" and to be cause for the levy of a civil penalty or for denial, suspension, or revocation of a license or certificate of registration to practice architecture:

- (1) Compliance With Laws. It is unprofessional conduct for an architect, in the conduct of his or her professional practice, to knowingly violate any state or federal criminal law. A criminal conviction shall be deemed prima facie evidence of knowingly violating the law.
- (2) Compliance With Foreign Registration. It is unprofessional conduct for an architect to knowingly violate the laws governing the practice of architecture or the rules promulgated by any other architectural licensing board in any United States jurisdiction. A finding by a foreign architectural registration board that an architect has violated a law or rule governing the practice of architecture shall be deemed prima facie evidence of knowingly violating the law or rule.
- (3) Product Specification. It is unprofessional conduct for an architect to solicit or accept financial or other valuable consideration from material or equipment suppliers for specifying their products.
- (4) Advertising. It is unprofessional conduct for an architect to engage in any false, deceptive, fraudulent, or misleading advertising.
- (5) False Statements. It is unprofessional conduct for an architect to knowingly make false statements about the professional work of; or to maliciously injure the prospects, practice, or employment position of others active in the design and construction of the physical environment.
- (6) Evasion is:
 - (a) It is unprofessional conduct for an architect, through employment by contractors (whether or not the contractors are licensed under G.S. 89), or by another individual or entity not holding an individual or firm registration from the Board, to enable the employer to offer or perform architectural services, except as provided in G.S. 83A-13. In design/build arrangements, the architect shall not be an employee of a person or firm not holding a registration to practice architecture in North Carolina.
 - (b) It is unprofessional conduct for an architect to furnish limited services in such manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of Chapter 83A, G.S. 133-2, G.S. 153A-352, G.S. 160A-412(c), G.S. 153A-357, or G.S. 160A-417.
 - (c) When building plans are begun or contracted for by persons not licensed and qualified, it is unprofessional conduct for an architect to take over, review, revise, or sign or seal such drawings or revisions thereof for such persons, or do any act to enable either such persons or the project owners, directly or indirectly, to evade the requirements of Chapter 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.

- 1 (7) Branch Office. It is unprofessional conduct for an individual architect or firm to maintain or
2 represent by sign, listing, or other manner that he/she maintains an architectural office or branch
3 office in North Carolina unless such office has a registered resident architect in North Carolina
4 whose principle place of business is in that office. This item does not apply to on-site project offices
5 during construction of a project.
- 6 (8) Misrepresentation Regarding Prior Experience. An architect shall accurately represent to a
7 prospective or existing client or employer his/her qualifications and the scope of his/her
8 responsibility in connection with work for which he is claiming credit. Misrepresentation shall be
9 as follows:
- 10 (a) Each architect shall state his or her prior professional experience and the firm the architect
11 is representing while presenting qualifications to prospective clients, both public and
12 private. If an architect uses visual representations of prior projects or experience, all
13 architects-of-record must be identified. Architect-of-record means persons or entities
14 whose seals appear on plans, specifications and contract documents.
- 15 (b) An architect who has been an employee of another architectural practice may not claim
16 credit for projects contracted for in the name of the previous employer. The architect shall
17 indicate, next to the listing for each project, that individual experience gained in connection
18 with the project was acquired as an employee, and identify the previous architectural
19 firm. The architect shall also describe the nature and extent of his/her participation in the
20 project.
- 21 (c) An architect who was formerly a principal in a firm may make additional claims provided
22 he/she discloses the nature of ownership in the previous architectural firm (e.g. stockholder
23 or junior partner) and identifies with specificity his/her responsibilities for that project.
- 24 (d) An architect who presents a project that has received awards or public recognition must
25 comply with the requirements in Item (8) of this Rule with regard to project presentation
26 to the public and prospective clients.
- 27 (e) Projects which remain unconstructed and which are listed as credits shall be listed as
28 "unbuilt" or a similar designation.
- 29 (9) Fee Bidding on Public Projects. An architect shall not knowingly cooperate in a violation of any
30 provisions of G.S. 143-64.31.
- 31 (10) An architect shall cooperate with the Board in connection with any inquiry it shall
32 make. Cooperation includes responding in a timely manner to all inquiries of the Board or its
33 representative which is mailed in accordance with 21 NCAC 02 .0201.
- 34 (11) Copyright Infringement. It is unprofessional conduct for an architect to be found by a court to have
35 infringed upon the copyrighted works of other architects or design professionals.

1 (12) It is unprofessional conduct for an individual to knowingly continue offering and rendering
2 architectural services as set forth in G.S. 83A after his/her license expires, is placed on delinquent
3 status or revoked for failure to renew.
4

5 *History Note:* Authority G.S. 83A-6; 83A-14; 83A-15;
6 Eff. February 1, 1976;
7 Amended Eff. February 24, 1976;
8 Readopted September 29, 1977;
9 Amended Eff. October 1, 2017; November 1, 2010; July 1, 2006; June 1, 1995; July 1, 1992;
10 October 1, 1989; May 1, 1989;
11 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13,
12 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Architecture

RULE CITATION: 21 NCAC 02 .0213

DEADLINE FOR RECEIPT: Thursday, October 12, 2017

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 our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, please change Box 3 to reflect that this is an amendment, not an adoption.

In the Rule's Introductory Statement, line 1, please include the page numbers of the publication. (See Rule 26 NCAC 02C .0404)

In (a), line 4, do you have a requirement that all licensees have email accounts? Or as a practical matter, do they all maintain them? And do you all interpret "mailed" to allow only email?

If you are making this a professional responsibility, shouldn't the language on lines 5-7 be in disciplinary rule?

On line 6, you state that continued practice after July 1 is unlawful practice. However, G.S. 83A-11 seems to grant a 30-day grace period for license revocation.

§ 83A-11. Expirations and renewals.

Certificates must be renewed on or before the first day of July in each year. No less than 30 days prior to the renewal date, a renewal application shall be mailed to each individual and corporate licensee. The completed application together with the required renewal fee shall be returned to the Board on or before the renewal date. When the Board is satisfied as to the continuing competency of an architect, it shall issue a renewal of the certificate. **Upon failure to renew within 30 days after the date set for expiration, the license shall be automatically revoked** but such license may be renewed at any time within one year following the expiration date upon proof of continuing competency and payment of the renewal fee plus a late renewal fee. After one year from the date of revocation, reinstatement may be made by the Board, or in its discretion, the application may be treated as new subject to reexamination and qualification requirements as in the case of new applications. (1919, c. 336, s. 2; C.S., s. 4995; 1951, c. 1130, s. 2; 1957, c. 794, s. 10; 1979, c. 871, s. 1.)

So, what is the authority of the Board to ignore this grace period?

On lines 7, 8, 14, and 19, what is the "renewal documentation required by the Board"? Is this set forth in another Rule that you can cross-reference? If not, it needs to be stated in Rule in order to comply with the APA.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

On line 12, replace “these Rules” with “this Chapter”

Why do you need the sentence on line 13?

In (b), line 14, this is not the correct way to insert a period. Treat punctuation as part of the word that precedes it. Thus, “~~Renewal~~ Renewal.”

On line 15, remove the comma after “documentation” and insert one after “July”

What is your authority on line 15 to state the license is expired, given the 30-day grace period in statute?

On line 19, insert a comma after “fee”

On line 20, delete “the rules in”

In (c), line 23, state “After one year from the date of expiration, the Board shall ...”

Also on line 23, what is “administratively”?

On line 24, I recommend replacing “according to the directives of” with “pursuant to”

Also on line 24, I recommend putting the rule citations in numerical order and deleting “the rules in” so it states “Sections .0300 and .0900 of this Chapter.”

I take it that Paragraph (d) is to comply with G.S. 93B-15(b)? If so, put that citation in the History Note.

In the History Note, please make “Amended Eff.” on line 20 “November 1, 2017;” and move that to line 38. Please see the technical changes request for Rule 21 NCAC 02 .0108 to see how to format the History Note.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

21 NCAC 02 .0213 is amended with changes as published in NCR 31:23:

21 NCAC 02 .0213 INDIVIDUAL LICENSES

(a) Renewal. License registration must be renewed on or before the first day in July each year. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each individual licensee via electronic mail. It

shall be the professional responsibility of the licensee to renew the license on or before the first day of July each year.

Continued practice after such date shall constitute unlawful practice as set forth in G.S. 83A-12 and may be grounds for disciplinary action. The licensee shall complete the current license renewal documentation required by the

Board. The licensee shall submit to the Board the completed license renewal documentation, along with the annual license renewal fee. The Board shall not accept incomplete renewal documentation. If the accompanying ~~draft or~~ check payment in the amount of the renewal fee is dishonored by the architect's drawee bank for any reason, the Board shall suspend the license until the renewal fees and check charges are paid. When the annual renewal has been completed according to the provisions of G.S. 83A-11, as well as Section .0900 of these Rules, the Executive Director shall approve renewal of the license for the current license year. Renewal fees are non-refundable.

(b) ~~Late Renewal, and Reinstatement.~~ If the Board has not received the annual renewal fee and completed renewal documentation, on or before the first day of July each year the license shall expire and be placed on delinquent status. [An individual who continues to practice architecture as defined in G.S. 83A after their license has been placed

on delinquent status shall be considered a non-licensed individual and may be deemed in violation of G.S. 83A and subject to disciplinary action.] The license may be renewed at any time within one year of being deemed delinquent,

upon the return of the completed renewal documentation, the annual renewal fee and the late renewal ~~fee~~ penalty and demonstration of compliance with Section .0900 of the rules in this Chapter. ~~After one year from the date of delinquency the license may no longer be renewed, but the licensee must seek reinstatement. Reinstatement shall occur according to the directives of G.S. 83A-11 and Section .0900 of the rules in this Chapter.~~

(c) Reinstatement. After one year from the date of expiration the license will be administratively revoked for failure to renew. Reinstatement shall occur according to the directives of G.S. 83A-11 and Section .0900 and Section .0300 of the rules in this Chapter.

~~(e)~~ (d) Any individual who is currently licensed by and in good standing with the Board who is serving in the armed forces of the United States shall not be subject to late fees, suspension or revocation for failure to renew licensure on or before the first day July each year, provided that the individual has been granted an extension of time to file a tax return as set forth in G.S. 105-249.2.

History Note: Authority G.S. 83A-6; 83A-11;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. October 1, 2017; December 1, 2010; July 1, 2006; July 1, 1999; May 1, 1989; November 1, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015.

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 Architecture

RULE CITATION: 21 NCAC 02 .0217

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:

Staff recommends objection to this Rule because staff does not believe the Board has statutory authority to create a designation for and regulate individuals no longer licensed by the Board.

This Rule, which has been in the NC Administrative Code since 1991, was used to create a designation for Architect Emeritus Status. The Rule currently allows this designation to be applied to retired architects who are no longer in active practice. The proposed amendment will require the individuals seeking this status to permanently relinquish their license. Therefore, the agency is proposing to regulate individuals who are no longer licensed by the Board. However, the Board is a licensing board, and staff is not aware of any authority for the agency to confer a status that is exclusive of a license.

The Board has not provided, and staff is not aware of, any authority for the agency to create this designation without requiring licensure of an individual. It may be that the agency is relying upon G.S. 83A-12 for this Rule; however, staff notes that the statute expressly refers to licensees, and these individuals will not be licensed.

§ 83A-12. Prohibited practice.

The purpose of the Chapter is to safeguard life, health and property. It shall be unlawful for any individual, firm or corporation to practice or offer to practice architecture in this State as defined in this Chapter, or to use the title "Architect" or any form thereof, except as provided in Chapter 89A for Landscape Architects, or to display or use any words, letters,

Amanda J. Reeder
Commission Counsel

figures, titles, sign, card, advertisement, or other device to indicate that such individual or firm practices or offers to practice architecture as herein defined or is an architect or architectural firm qualified to perform architectural work, unless such person holds a current individual or corporate certificate of admission to practice architecture under the provisions of this Chapter. (1915, c. 270, s. 4; C.S., s. 4996; 1941, c. 369, ss. 1, 2; 1951, c. 1130, s. 3; 1957, c. 794, s. 11; 1965, c. 1100; 1969, c. 718, s. 21; 1973, c. 1414, s. 1; 1979, c. 871, s. 1.)

Therefore, staff recommends objection to this Rule as written for lack of statutory authority.

Chapter 83A.

Architects.

§ 83A-1. Definitions.

When used in this Chapter, unless the context otherwise requires:

- (1) "Architect" means a person who is duly licensed to practice architecture.
- (2) "Board" means the North Carolina Board of Architecture.
- (3) "Corporate certificate" means a certificate of corporate registration issued by the Board recognizing the corporation named in the certificate as meeting the requirements for the corporate practice of architecture.
- (4) "Corporate practice of architecture" means "practice" as defined in G.S. 83A-1(7) by a corporation which is organized or domesticated in this State, and which holds a current "corporate certificate" from this Board.
- (5) "Good moral character" means such character as tends to assure the faithful discharge of the fiduciary duties of an architect to his client. Evidence of lack of such character shall include the willful commission of an offense justifying discipline under this Chapter, the practice of architecture in violation of this Chapter, or of the laws of another jurisdiction, or the conviction of a felony.
- (6) "License" means a certificate of registration issued by the Board recognizing the individual named in the certificate as meeting the requirements for registration under this Chapter.
- (7) "Practice of architecture" means performing or offering to perform or holding oneself out as legally qualified to perform professional services in connection with the design, construction, enlargement or alteration of buildings, including consultations, investigations, evaluations, preliminary studies, the preparation of plans, specifications and contract documents, administration of construction contracts and related services or combination of services in connection with the design and construction of buildings, regardless of whether these services are performed in person or as the directing head of an office or organization. (1915, c. 270, s. 9; C.S., s. 4985; 1941, c. 369, s. 3; 1951, c. 1130, s. 1; 1957, c. 794, ss. 1, 2; 1979, c. 871, s. 1.)

§ 83A-2. North Carolina Board of Architecture; creation; appointment, terms and oath of members; vacancies; officers; bond of treasurer; notice of meetings; quorum.

(a) The North Carolina Board of Architecture shall have the power and responsibility to administer the provisions of this Chapter in compliance with the Administrative Procedure Act.

(b) The Board shall consist of seven members appointed by the Governor. Five of the members of the Board shall be licensed architects appointed for five year terms; the terms shall be staggered so that the term of one architect member expires each year. No architect member shall be eligible to serve more than two consecutive terms; if a vacancy occurs during a term, the Governor shall appoint a person to fill the vacancy for the remainder of the unexpired term. Two of the members of the Board shall be persons who are not licensed architects and who represent the interest of the public at large; the Governor shall appoint these members not later than July 1, 1979. The public members shall have full voting powers and shall serve at the pleasure of the Governor. Each Board member shall file with the Secretary of State an oath faithfully to perform duties as a member

of the Board, and to uphold the Constitution of North Carolina and the Constitution of the United States.

(c) Officers of the Board shall include a president, vice-president, secretary and treasurer elected at the annual meeting for terms of one year. The treasurer shall give bond in such sum as the Board shall determine, with such security as shall be approved by the Board, said bond to be conditioned for the faithful performance of the duties of his office and for the faithful accounting of all moneys and other property as shall come into his hands. Notice of the annual meeting, and the time and place of the annual meeting shall be given each member by letter at least 10 days prior to such meeting and public notice of annual meetings shall be published at least once each week for two weeks preceding such meetings in one or more newspapers of general circulation in this State. A majority of the members of the Board shall constitute a quorum. (1915, c. 270, ss. 1, 2; C.S., ss. 4986-4988, 4990; 1957, c. 794, ss. 3, 4, 6; 1979, c. 871, s. 1.)

§ 83A-4. Fees.

All fees and charges by the Board shall be established by Board rule subject to the provisions of the Administrative Procedure Act.

Fees set by the Board shall not exceed the following amounts:

Initial Application	
Individual	
Residents	\$50.00
Nonresidents	\$50.00
Corporate	\$75.00
Reexamination	\$25.00
Annual License Renewal	
Individual	\$75.00
Corporate	\$100.00
Late Renewal Penalty	
Up-to-30 days	\$50.00
30 days to 1 year	\$50.00
Reciprocal Registration	\$150.00

The above fees are provided in addition to any other fees prescribed by law. Reasonable fees for examination materials, certificates, rosters and other published materials shall be established by the Board, but the Board shall not collect any fees not authorized by this Chapter. (1915, c. 270, ss. 3, 6; 1919, c. 336, ss. 1, 2; C.S., ss. 4992, 4994, 4995; 1951, c. 1130, s. 2; 1957, c. 794, ss. 7, 9, 10; 1971, c. 1231, s. 1; 1979, c. 871, s. 1; 1985, c. 364.)

§ 83A-6. Board rules; bylaws; standards of professional conduct.

(a) The Board shall have the power to adopt bylaws, rules, and standards of professional conduct to carry out the purposes of this Chapter, including, but not limited to:

- (1) The adoption of bylaws governing its meetings and proceedings;
- (2) The establishment of qualification requirements for admission to examinations, and for individual or corporate licensure as provided in G.S. 83A-7 and 83A-8;
- (3) The establishment of the types and contents of examinations, their conduct, and the minimum scores or other criteria for passing such examinations;
- (4) The adoption of mandatory standards of professional conduct concerning misrepresentations, conflicts of interest, incompetence, disability, violations of

law, dishonest conduct, or other unprofessional conduct for those persons or corporations regulated by this Chapter, which standards shall be enforceable under the disciplinary procedures of the Board;

- (5) The establishment or approval of requirements for renewal of licenses designed to promote the continued professional development and competence of licensees. Such requirements shall be designed solely to improve the professional knowledge and skills of a licensee directly related to the current and emerging bodies of knowledge and skills of the licensee's profession.

When necessary to protect the public health, safety, or welfare, the Board shall require such evidence as it deems necessary to establish the continuing competency of architects as a condition of renewal of licenses.

(b) The Board shall not adopt any rule or regulation which prohibits advertising.

(c) The adoption, amendment or revocation of rules, regulations, and standards of professional conduct, and the publication and distribution of the same shall be subject to the provisions of the Administrative Procedure Act. (1979, c. 871, s. 1.)

§ 83A-11. Expirations and renewals.

Certificates must be renewed on or before the first day of July in each year. No less than 30 days prior to the renewal date, a renewal application shall be mailed to each individual and corporate licensee. The completed application together with the required renewal fee shall be returned to the Board on or before the renewal date. When the Board is satisfied as to the continuing competency of an architect, it shall issue a renewal of the certificate. Upon failure to renew within 30 days after the date set for expiration, the license shall be automatically revoked but such license may be renewed at any time within one year following the expiration date upon proof of continuing competency and payment of the renewal fee plus a late renewal fee. After one year from the date of revocation, reinstatement may be made by the Board, or in its discretion, the application may be treated as new subject to reexamination and qualification requirements as in the case of new applications. (1919, c. 336, s. 2; C.S., s. 4995; 1951, c. 1130, s. 2; 1957, c. 794, s. 10; 1979, c. 871, s. 1.)

§ 83A-12. Prohibited practice.

The purpose of the Chapter is to safeguard life, health and property. It shall be unlawful for any individual, firm or corporation to practice or offer to practice architecture in this State as defined in this Chapter, or to use the title "Architect" or any form thereof, except as provided in Chapter 89A for Landscape Architects, or to display or use any words, letters, figures, titles, sign, card, advertisement, or other device to indicate that such individual or firm practices or offers to practice architecture as herein defined or is an architect or architectural firm qualified to perform architectural work, unless such person holds a current individual or corporate certificate of admission to practice architecture under the provisions of this Chapter. (1915, c. 270, s. 4; C.S., s. 4996; 1941, c. 369, ss. 1, 2; 1951, c. 1130, s. 3; 1957, c. 794, s. 11; 1965, c. 1100; 1969, c. 718, s. 21; 1973, c. 1414, s. 1; 1979, c. 871, s. 1.)

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Architecture

RULE CITATION: 21 NCAC 02 .0217

DEADLINE FOR RECEIPT: Thursday, October 12, 2017

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 our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, please amend Box 2 to accurately reflect the name of the Rule. If you are intending to rename the Rule, please accurately reflect the name change on the Rule.

Also on the form, please change Box 3 to reflect that this is an amendment, not an adoption.

In the Rule's Introductory Statement, line 1, please state that the rule is amended, not proposed for amendment, and include the publication information. (See Rule 26 NCAC 02C .0404)

What is the Board's authority to create this designation? Since the individual must surrender his or her license to get the designation, what is the authority of the Board to create this? Most of the cited authority in the History Note refers to licensure; however, this is not licensure, but a status. What is your authority to create this status? Are you relying upon an expansive reading of G.S. 83A-1(6), such that the individual meets the criteria of the Chapter but is not in fact regulated by you, since they are not licensees?

In Item (1), line 4, I take it you need to retain "minimum"?

End line 4 with a semicolon.

In Item (2), properly move the semicolon before "and"

In Item (3), what is "good character and reputation"? If you mean "good moral character" as defined in G.S. 83A-1, state that.

Why are you retaining the language on lines 10-12? What purpose does it serve here?

On line 12, if you mean the "as amended" to apply to G.S. 83D-1, delete it. Updates to the statutes will automatically control and do not need to be incorporated in the Rule. If you were referring to something else, state what it is.

On line 18, what do you mean by "device"?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

In the History Note, please make "Amended Eff." on line 20 "November 1, 2017;" and move that to line 26. Please see the technical changes request for Rule 21 NCAC 02 .0108 to see how to format the History Note.

Also in the History Note, why are you referring to G.S. 83A-4, 83A-11, and 83A-12?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

21 NCAC 02 .0217 is proposed for amendment as follows:

21 NCAC 02 .0217 ARCHITECT EMERITUS

The Board shall approve an application for Architect Emeritus status for a person who meets the following criteria:

- (1) the individual has been continuously licensed as an architect by the Board for a minimum of 10 years,
- (2) the individual agrees to permanently relinquish their license and;
- (3) the individual has no pending disciplinary action or history of criminal convictions that would support a determination that the licensee is not of good character and reputation.

~~Resident architects who have been registered in this state who are retired from active practice or other related professional activities in any jurisdictions whatsoever, may apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. "Retired" means that the architect no longer practices architecture in that he/she no longer seals and certifies documents with his/her seal or otherwise offers to practice or practices architecture as defined in G.S. 83A-1 as amended. Nonresident architects who have been continuously certified by NCARB who are retired from active practice [or other related professional activities] in any jurisdictions whatsoever, and who are "emeritus", inactive or retired in every other jurisdiction in which they are licensed may also apply for "Emeritus Status" by submitting a form provided by the Board showing compliance with the requirements of this Section. Any such "architect emeritus" must renew that status on forms provided by the Board on or before the first day of July in each year. Any reference to an architect~~ An individual on who has been granted "Emeritus Status" may use the designation "Architect Emeritus" on any letter, title, sign, card or other device. device shall list such architect as "Architect Emeritus".

History Note: Authority G.S. 83A-4; 83A-6; 83A-11; 83A-12;

Eff. November 1, 1991;

Amended Eff. October 1, 2017; July 1, 2006;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Architecture

RULE CITATION: 21 NCAC 02 .0301

DEADLINE FOR RECEIPT: Thursday, October 12, 2017

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 our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 1, please state that the Rule is repealed, not proposed for repeal, and include publication information. (See Rule 26 NCAC 02C .0404)

Do not strike the language on line 3.

Do not show the struck through language on lines 4 through 10. Please see the example of permanent repeals at the OAH website:

<http://www.ncoah.com/rules/examples/Permanent%20Repeal%20for%20Publication%20in%20the%20NCAC.pdf>

In the History Note, please make "Repealed Eff." on line 20 "November 1, 2017;" and move that to line 18. Please see the technical changes request for Rule 21 NCAC 02 .0108 to see how to format the History Note.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

1 **SECTION .0300 - EXAMINATION PROCEDURES**

2 21 NCAC 02 .0301 is proposed for repeal as follows:

3 ~~**21 NCAC 02 .0301 — APPLICATION FOR REGISTRATION BY EXAM**~~

4 ~~(a) All persons desiring to submit an application to take the Architectural Registration Exam (ARE) shall complete~~
5 ~~the application for licensure by exam and submit the non-refundable application fee as established in Rule .0108. If~~
6 ~~an application is complete and the applicant is otherwise qualified by statute and the rules of the Board to sit for the~~
7 ~~examination, the Board shall send notice of ARE eligibility to the applicant.~~

8 ~~(b) The fees for examination, or parts thereof, are set by the National Council of Architecture Registration Boards.~~
9 ~~Fee information will be made available to all applicants for examination on the Board web site and may be obtained~~
10 ~~from the National Council of Architecture Registration Boards.~~

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12 *History Note: Authority G.S. 83A-4; 83A-6; 83A-7;*

13 *Eff. February 1, 1976;*

14 *Readopted Eff. September 29, 1977;*

15 *Amended Eff. November 1, 2010; July 1, 1996; December 1, 1992; May 1, 1989;*

16 *Repealed October 1, 2017.*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13,*
18 *2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Architecture

RULE CITATION: 21 NCAC 02 .0302

DEADLINE FOR RECEIPT: Thursday, October 12, 2017

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 our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, please change Box 3 to reflect that this is an amendment, not an adoption.

In the Introductory Statement, if you did make changes post-publication, you need to highlight those. [See Rule 26 NCAC 02C .0405(b)(2)]

Also in the Introductory Statement, please include the page number of the publication.

In (a), line 3, consider stating "The Board became a Direct Registration State ... (NCARB) on July 25, 2016."

Have you incorporated these NCARB standards elsewhere in your rules?

Throughout this Rule, you capitalize several terms. I take that these terms are capitalized because they are organizations or terms of art?

In (a), line 5, does your regulated public know how to contact the NCARB directly?

On line 6, replace "wishes to obtain" with "seeking"

On line 7, do not use "should" Use "must" or "shall" However, is this sentence necessary given the language on line 12?

On lines 7-8, can't you just state "the Board"? That is the term used in the rest of the Rule.

In (b), line 9, and elsewhere it is used, what is "successful"? Is this determined by NCARB?

On lines 9 and 10, why are you spelling out "Architectural Registration Exam" and "National Council of Architecture Registration Boards," as you've already done that on lines 4 and 5? I note that you did not restate what "AXP" means on line 11.

On line 11, remove the parenthesis from "AXP" and insert a comma after "requirement"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

Are you saying on lines 9-12 that the NCARB will only send the AXP after the candidate has done all of these things? Is the AXP a catalogue of everything that is in this sentence? Or are you trying to state that after the candidate has done everything listed, the candidate will instruct NCARB to transfer the AXP file to the Board?

Regardless of the intent, this sentence is too long and confusing and should be broken into two sentences. Please use the intent to determine the best way to rewrite the sentence.

Also, on line 13, why are you not just stating “Board”?

On lines 14 and 25, what is contained in the application? Is it set forth in another Rule or law?

On line 16, do you not want to require individuals to comply with Subparagraph (5) as well?

On line 17, you speak of the Board granting exam eligibility, but the new language on line 5 states that the NCARB will determine eligibility. How will this work?

(b)(1) and (2) repeat G.S. 83A-7. Do you need to repeat them here for the convenience of your regulated public?

In (a)(3) what is the NAAB and the Integrated Path to Architectural Licensure Degree Program? Does your regulated public know?

In (a)(4), line 24, you refer to G.S. 83A-7(a)(2). However, that statute requires the Board to establish rules for this. What rule should you be referring to here?

I am simply inquiring – do you still need to retain the dates in (c), or (c)(2) at all? Do you have individuals seeking licensure based upon scores pre-dating July 1, 2006?

In (d), is this program incorporated by another Rule that you can cross-reference?

In (e), line 32, when will the Board not interview someone? Since you are stating the Board “may” take an action, this creates a waiver pursuant to G.S. 150B-19(6), and you need to give some clarification of when this will occur.

What is the purpose of the sentence on lines 32-34? If the intention is to clarify when the interview will take place, why not just state “During the application process... Board members in order to augment the evidence...”

On line 33, I suggest replacing “with regard to” with “regarding”

In (f), who is grading this exam? The Board? I ask because if it’s NCARB or its contractors, then this language wouldn’t be necessary.

On line 37, I recommend replacing “is” with “can be”

On line 37, and Page 2, line 6, consider making “website” one word. But if this will create inconsistency with your other Rules, you do not need to make this change.

In (g), Page 2, is the authority for this to prevent unauthorized practice of architecture by an intern, and thus, are you invoking G.S. 83A-12 for authority for this? If so, please consider adding it to your History Note.

In (h), line 5, I recommend replacing “will” with “shall” or stating “Fee information is available...”

In the History Note, please make “Amended Eff.” on line 20 “November 1, 2017;” and move that to line 13. Please see the technical changes request for Rule 21 NCAC 02 .0108 to see how to format the History Note.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 28, 2017

21 NCAC 02 .0302 is amended with changes as published in NCR 31:23:

21 NCAC 02 .0302 EXAMINATION

(a) As of July 25, 2016, the North Carolina Board of Architecture is a Direct Registration State with the National Council of Architecture Registration Boards (NCARB). Those individuals who wish to take the Architectural Registration Exam (ARE) must contact NCARB directly to obtain exam eligibility to take the ARE. Upon completion of all requirements set forth in the NCARB Architecture Experience Program (AXP), a candidate who wishes to obtain license registration by exam in North Carolina should direct NCARB to transmit a completed AXP record to the North Carolina Board of Architecture.

~~(a) Licensure by Examination.~~ (b) Upon successful completion of all sections of the Architectural Registration Exam (ARE) as prepared by the National Council of Architecture Registration Boards (NCARB), fulfillment of all NCARB ~~Intern Development Program (IDP)~~ (AXP) requirements and completion of the National Architectural Accrediting Board (NAAB) accredited degree, NCARB, as directed by the candidate, will transmit a completed AXP file to the North Carolina Board of Architecture for review. Upon notification of receipt of a completed AXP file from the Board, an individual may submit the application [and fee] for Candidate Record Review to determine compliance with G.S. 83A-7(a)(1)a. ~~and fee for licensure by exam and may then be granted a license to practice architecture.~~ G.S. 83A-7(a)(1)a. shall be deemed satisfied through completion of the requirements set forth in Subparagraphs (1) through (4) of this Paragraph. The Board shall grant eligibility ~~to take the ARE~~ for licensure by exam to those individuals who:

- (1) are of good moral character as defined in G.S. 83A-1(5);
- (2) are at least 18 years of age;
- (3) have completed a NAAB accredited professional degree in architecture or who ~~are actively enrolled in~~ have completed a NAAB accredited degree program that is identified ~~by the college or university~~ as an NCARB endorsed Integrated Path To Architectural Licensure Degree Program;
- (4) ~~are actively enrolled in~~ have completed the NCARB ~~IDP~~ AXP or a program approved as equivalent by the North Carolina Board of Architecture as set forth in ~~G.S. 83A-7(a)(2).~~ G.S. 83A-7(a)(2); and
- (5) submits the Application for Licensure by Exam and fee.

~~(b)(c)~~ Retention of credit for purposes of licensure by examination in North Carolina.

- (1) Passing scores received after July 1, 2006 on any part of the ARE remain valid for a period of time established by the exam provider, NCARB.
- (2) Scores received on any part of the ARE prior to July 1, 2006 are invalid.

~~(c)~~ (d) Practical training pursuant to G.S. 83A-7(a)(2) means practical experience and diversified training as defined by the ~~Intern Development Program~~ Architectural Experience Program through the NCARB.

~~(d)~~ (e) During the application process, the applicant may be interviewed by the Board members. The purpose of the interview is to augment the evidence submitted in an application with regard to qualifications required in Paragraph ~~(a)~~ (b) of this Rule.

~~(e)~~ (f) The ARE shall be graded in accordance with the methods and procedures recommended by NCARB. To successfully complete the ARE, an exam candidate shall receive a passing grade in each division of the ARE. Information regarding NCARB grading methods and procedures is found on their web site at www.ncarb.org.

1 ~~(f)~~ (g) A person currently employed under the responsible control of an architect, who holds a Professional Degree
2 from a NAAB accredited program, and who maintains an active NCARB ~~IDP~~ AXP record or has successfully
3 completed the NCARB ~~IDP~~ AXP may use the title "Architectural Intern" or "Intern Architect" in conjunction with his
4 or her current employment.

5 (h) The fees for examination, or parts thereof, are set and collected by the NCARB. Fee information will be made
6 available to all applicants for examination on NCARB web site www.ncarb.org.

7
8 *History Note: Authority G.S. 83A-1; 83A-6; 83A-7;*

9 *Eff. February 1, 1976;*

10 *Readopted Eff. September 29, 1977;*

11 *Amended Eff. October 1, 2017; March 1, 2016; July 1, 2014; November 1, 2010; July 1, 2006; July*
12 *1, 2000; July 1, 1996; June 1, 1995; December 1, 1992; July 1, 1991.*