

201 KAR 19:095. Professional practice standards; violations, penalties.

RELATES TO: KRS 323.095, 323.120

STATUTORY AUTHORITY: KRS 323.210(2), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 323.210(2) and (3) authorizes the board to establish administrative regulations relating to architecture and continuing education requirements. This administrative regulation establishes penalties for unprofessional practice and the failure to comply with continuing education requirements.

Section 1. Unprofessional Practice, Penalties, and Procedure. (1) The following shall constitute unprofessional practice:

- (a) Gross incompetence or negligence;
- (b) Unprofessional conduct or conduct tending to bring the profession into disrepute;
- (c) Conviction of a felony;
- (d) Fraudulent or dishonest architectural practice;
- (e) Use of false evidence or misrepresentation in an:
 1. Application for licensing; or
 2. License renewal application;
- (f) Signing or affixing a seal to a plan, print, specifications for a building, or report which have not been prepared by the architect or an employee under his supervision; and
- (g) Failure to comply with continuing education requirements in 201 KAR 19:087.

(2) The following penalties may be imposed on an architect for unprofessional practice:

- (a) Refusal of to grant a license;
- (b) Refusal to renew or reissue a license;
- (c) Private or public reprimand;
- (d) Imposition of probation;
- (e) Suspension of a license;
- (f) Revocation of a license.

(3) The procedure for imposing a penalty on an architect shall be conducted in accordance with KRS Chapter 13B and 323.130.

Section 2. Gross Incompetence and Gross Negligence Defined. The following acts or omissions by an architect shall be deemed to be gross incompetence or gross negligence within the meaning of the law:

- (1) Willfully failing to use reasonable care and diligence in his professional practice, resulting in a building or structure being improperly constructed to the detriment of the occupants.
- (2) Willfully failing to use reasonable care and diligence in preparing drawings, specifications, and other documents relating to the design and construction of buildings for the protection of a client in all relationships as agent of the client.

Section 3. Unprofessional Conduct Defined. The following acts by an architect shall be deemed to be "unprofessional conduct":

- (1) Accepting compensation for architectural services from any entity other than his client or employer.
- (2) Offering or making a payment or gift to a government official (whether elected or appointed) with the intent to influence the official judgment in connection with a prospective or existing project in which the architect has an interest in providing architectural services.
- (3)(a) Offering or making a payment or gift, as an individual architect or as a participating member of a partnership or corporation, to an elected governmental official, candidate for governmental of-

office, or the campaign of a candidate for governmental office, when the payment or gift is a violation of federal or state campaign finance laws or administrative regulations.

(b) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony or misdemeanor involving the violation of federal or state campaign finance laws, and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, suspending imposition of sentence shall be conclusive proof of a violation of this section, and a certified copy of the judgment or order shall constitute sufficient proof of a violation.

(4) Offering or making any gifts, except gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent to influence the judgment of an existing or prospective client in connection with a project in which the architect has an interest.

(5) Having a financial interest in the manufacture, sale or installation of any component or process used in a project for which he is the architect unless the client has been advised and has waived any objection.

(6) Publicly endorsing a product, system, or service, or permitting the use of his name or photograph to imply endorsement of a product, system, or service not designed or developed by him; or

(7)(a) Using paid advertising on behalf of himself, his partner, associate, or any other architect affiliated with him or his firm, that contains a statement or claim which is false or tends to be misleading, deceptive, or unfair, or which makes material claims of superiority which cannot be substantiated rather than being designed to inform the public.

(b) Advertising may include the name of the architect or firm, address, telephone number, a statement of the fields of practice, and a statement of the geographical area where services are rendered, and cost of services.

(c) An architect or architectural firm which advertises a fee for a specific service and accepts employment for that service shall perform for the amount stated, and a statement to that effect shall be included in every advertisement.

(d) Advertisements may be by newspaper or magazine advertisements, radio or television announcements, or display advertisements in the city or telephone directories.

Section 4. Fraudulent or Dishonest Practice Defined. The following practices by an architect shall be deemed to be "fraudulent or dishonest practice" within the meaning of the law:

(1) Making an untrue or deceitful statement in an application for examination or registration, or in an application for license renewal or in any other statements or representations to the board.

(2) Affixing his seal to a drawing:

(a) For which he was not:

1. The author; or

2. In charge of preparing the plan; or

(b) Which was not prepared under his supervision.

(3) Bribing a person who may influence the selection of an architect.

(4) Willfully misleading or defrauding a person employing him as an architect.

(5) Willful violation of:

(a) A Kentucky or other state law relating to the practice of architecture; or

(b) An administrative regulation promulgated by the board.

(6) Using, or attempting to use, or practicing under, a license that has been suspended or revoked or which has not been renewed as required by law and the administrative regulations of the board.

Section 5. Registration while Working for Others. (1) Without affecting the status of his registration, an architect may as an employee of:

- (a) Another architect; or
 - (b) A firm, if his duties are nonarchitectural.
- (2) If an architect works as an architect for or with a nonarchitect or corporation not under the control of architects:
- (a) He shall maintain:
 - 1. Free and unbiased judgment;
 - 2. Unrestrained use of his professional prerogatives and services to clients; and
 - (b) The terms of his employment shall permit full compliance with the:
 - 1. Obligations of practice; and
 - 2. Administrative regulations.

Section 6. Office Staffing. An office maintained for the preparation of drawings, specifications, reports and other professional work shall have a regularly employed architect duly registered with this board, in full authority and responsible charge, having direct knowledge and supervisory control of all work. (BERA:R-3; 1 Ky.R. 1246; eff. 7-2-75; Am. 3 Ky.R. 751; 4 Ky.R. 120; eff. 9-7-77; 5 Ky.R. 807; 971; eff. 6-6-79; 11 Ky.R. 1276; eff. 4-9-85; 13 Ky.R. 1872; eff. 6-9-87; 14 Ky.R. 837; eff. 12-11-87; 17 Ky.R. 1790; eff. 12-14-90; 20 Ky.R. 2884; eff. 6-2-94; 24 Ky.R. 2141; 2619; eff. 6-15-98.)