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Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission: Tennessee State Board of Architectural and Engineering Examiners
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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

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Chapter 0120-01
Registration Requirements and Procedures

Repeal/Amendments/New

Table of Contents is amended by deleting 0120-01-.27 Mailing Addresses and substituting instead 0120-01-.27 Notification to the Board so that, as amended, the Table of Contents shall read as follows:

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| | 0120-01-.27 Notification to the Board |

Authority: T.C.A. § 62-2-203(c).

Rule 0120-01-.03 Residency Requirements is repealed in its entirety.

Authority: T.C.A. § 62-2-203(c).

Rule 0120-01-.06 Applications – Engineer Intern is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0120-01-.06 Applications – Engineer Intern

The application and fee must be submitted each time an applicant sits for the required examination. An applicant shall receive a certificate upon passing the required examination and meeting the other legal requirements.

Authority: T.C.A. §§ 62-2-203(c), 62-2-402(b), and 62-2-404(c)(2).

Rule 0120-01-.17 Postponement of Examinations – General is repealed in its entirety.

Authority: T.C.A. § 62-2-203(c).

Rule 0120-01-.19 Postponement of Examinations – Engineer Intern is repealed in its entirety.

Authority: T.C.A. § 62-2-203(c).

Rule 0120-01-.26 Fee for Transfer of Examination Grades is repealed in its entirety.

Authority: T.C.A. §§62-2-203(c).

Rule 0120-01-.27 Mailing Addresses is amended by changing the title to Notification to the Board and repealing the text of the rule in its entirety and substituting instead the following language so that the new rule in its entirety shall read:

0120-01-.27 Notification to the Board
SS-7039 (October 2011)

- (1) A registrant or applicant for registration shall notify the Board in writing within thirty (30) *calendar* days of any change of name, mailing address, e-mail address, or phone number. Registrants and applicants are encouraged to notify the Board of a change of employment.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-207.

Amendments

Rule 0120-01-.04 Applications – General is amended by deleting the text of paragraph (1) in its entirety and substituting instead the following language so that, as amended, the rule in its entirety shall read:

0120-01-.04 Applications – General

- (1) Applications for registration and certification are available on the Board website and upon request from the office of the Board.
- (2) Any application submitted which lacks required information or reflects a failure to meet any requirement will be held in “pending” status until satisfactorily completed within a reasonable period of time, not to exceed five (5) years from the date of application.
- (3) Any application submitted may be withdrawn; provided, however, that the application fee will not be refunded.

Authority: T.C.A. §62-2-203(c).

Rule 0120-01-.05 Applications – Engineer is amended by deleting the text of paragraph (1) in its entirety and substituting instead the following language so that, as amended, the rule in its entirety shall read:

0120-01-.05 Applications – Engineer

- (1) An applicant for registration as an engineer shall submit with the application a nonrefundable application fee of thirty dollars (\$30.00). An applicant who has passed the required examination(s) shall also pay a biennial registration fee of one hundred forty dollars (\$140.00) and shall receive a certificate of registration.
- (2) An applicant for registration as an engineer by comity shall pay a nonrefundable application fee of fifty-five dollars (\$55.00) and, if approved, a biennial registration fee of one hundred forty dollars (\$140.00) and shall receive a certificate of registration.
- (3) The deadline for receipt of applications from candidates who must be examined prior to registration as an engineer shall be determined annually by the Board after the Board receives notification from the National Council of Examiners for Engineers and Surveyors (NCEES) of the dates of the examinations.

Authority: T.C.A. §§ 62-2-203(c), 62-2-301(a) and 62-2-404(b).

Rule 0120-01-.08 Applications – Landscape Architect is amended by deleting paragraph (3) in its entirety so that, as amended, the rule in its entirety shall read:

0120-01-.08 Applications – Landscape Architect

- (1) An applicant for registration as a landscape architect shall submit with the application a nonrefundable application fee of thirty dollars (\$30.00). An applicant who has passed the required examination(s) shall also pay a biennial registration fee of one hundred forty dollars (\$140.00) and shall receive a certificate of registration.
- (2) An applicant for registration as a landscape architect by comity shall pay a nonrefundable application fee of fifty-five dollars (\$55.00) and, if approved, a biennial registration fee of one hundred forty dollars (\$140.00) and shall receive a certificate of registration.

Authority: T.C.A. §§ 56-1-302(b), 56-1-302(h), 62-2-203(c), 62-2-307, 62-2-301(a), and 62-2-804(d) and (e).

Rule 0120-01-.09 References is amended by deleting the text of paragraph (1) in its entirety and substituting instead the following language, so that, as amended, the rule in its entirety shall read:

0120-01-.09 References

- (1) References named in applications for registration must be acquainted with the technical ability of the applicant, but need not be residents of the State of Tennessee. A minimum of five (5) references for architect, engineer, and landscape architect applicants shall be submitted. References from relatives will not be considered. No reference will be considered if prepared more than two (2) years prior to the date of application.
- (2) Three (3) such references must be registered architects or engineers with registration and experience in the applicant's field(s) of experience; except, however, that applicants for registration as a landscape architect may use references who are registered engineers, architects or landscape architects.
- (3) A maximum of three (3) references shall be obtained from the employer listed by the applicant. References are required from both the applicant's current employer/supervisor and a past employer/supervisor (if applicable).
- (4) If a reference reply is uncomplimentary, derogatory, or unfavorable of the applicant, the applicant may be required to furnish additional references. If subsequent replies are unfavorable, the applicant will be scheduled for an interview with the Board for further consideration.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-301(a).

Rule 0120-01-.10 Education and Experience Requirements – Engineer is amended by deleting the text of subparagraphs (1)(f) and (1)(g) in their entirety and substituting instead the following language, so that, as amended, the rule in its entirety shall read:

0120-01-.10 Education and Experience Requirements – Engineer

- (1)
 - (a) Accredited engineering programs. An engineering curriculum of four (4) years or more which was accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET) (or its predecessor) at the time of graduation, or graduation was not more than two (2) academic years prior to accreditation, may be approved by the Board as being satisfactory.
 - (b) Nonaccredited engineering programs. An engineering curriculum of four (4) years or more which is a non-ABET accredited program shall be referred at the applicant's expense to a person or entity approved by the Board and qualified to evaluate equivalency to an ABET accredited engineering program for evaluation and recommendation. If the curriculum for the degree at the time of the applicant's graduation is substantially equivalent to ABET accreditation requirements, the application shall be reviewed in accordance with the requirements for applicants holding engineering degrees from institutions which do not have ABET accredited engineering programs in consideration of the factors outlined below.
 - (c) In reviewing applicants holding degrees from nonaccredited engineering programs, whether obtained in the United States or otherwise, which are substantially equivalent to degrees from ABET accredited programs, the Board may consider the following factors:
 1. Evidence of having obtained the statutory minimum acceptable progressive professional experience of a grade and character which indicates to the Board that the applicant may be competent to practice engineering; and

2. At least five (5) references from individuals having knowledge of the applicant's technical competence as an engineer on projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering.
- (d) Applicants meeting the above requirements shall be reviewed by the Board for determination of eligibility for either the Fundamentals of Engineering examination or the Principles and Practice of Engineering examination or for registration by comity.
 - (e) An engineering technology program, whether four (4) or two (2) years in length, is not considered by the Board to be an acceptable curriculum.
 - (f) Programs that allow credit for work experience and experiential learning (with the exception of cooperative education programs), or which are not part of an institution that is accredited or recognized as a degree-granting institution of higher learning within a national territory or in the United States, are not considered by the Board to be acceptable curricula.
 - (g) Engineering degrees from programs accredited by the Canadian Engineering Accreditation Board (CEAB) that were awarded in or after 1980 are considered substantially equivalent and do not require evaluation.
- (2) In general, "progressive experience in the practice of engineering" consists of engineering experience which is supervised by a registered professional engineer. The Board may grant toward experience requirements for registration as an engineer one (1) year of credit for graduation with a Master's degree (or higher) in engineering from an approved curriculum or up to one (1) year of qualified experience obtained in an established cooperative education program, which is carried out within the framework of an approved engineering curriculum, and which has been approved by the Board. At least one (1) year of engineering experience must be completed in the United States. Unless otherwise noted above, an applicant's engineering experience must be obtained after graduation with the qualifying degree and completed by the date of the examination.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-401.

Rule 0120-01-.11 Education and Experience Requirements – Architect is amended by adding the following language as a new subparagraph (3)(d), so that, as amended, the rule in its entirety shall read:

0120-01-.11 Education and Experience Requirements – Architect

- (1) For purposes of evaluating the education and experience of applicants for examination and registration as an architect, the Board will utilize the "Table of Equivalents" contained in Appendix "A" to Circular of Information No. 1, published in July 1983 by the National Council of Architectural Registration Boards (NCARB), except to the extent that such document conflicts with any applicable statute.
- (2) Accredited architecture programs. An architecture program which was accredited by the National Architectural Accrediting Board (NAAB) at the time of graduation, or graduation was not more than two (2) academic years prior to accreditation, may be approved by the Board as being satisfactory. For purposes of this paragraph, a state-supported school of architecture approved by the Tennessee Higher Education Commission is deemed to have an accredited degree curriculum.
- (3) (a) Non-accredited architecture programs. For purposes of T.C.A. §§62-2-501(2) and 62-2-502(b), an architectural curriculum of four (4) years or more which is a non-NAAB accredited program shall be referred at the applicant's expense to a person or entity approved by the Board and qualified to evaluate equivalency to an NAAB accredited program for evaluation and recommendation. If the curriculum for the degree at the time of the applicant's graduation is equivalent to NAAB accreditation requirements, the application shall be reviewed in accordance with the requirements for applicants holding architecture degrees from institutions which do not have NAAB accredited architecture programs in consideration of the factors outlined below.

- (b) In reviewing a non-accredited architectural curriculum, the Board may approve either an architectural curriculum of not less than four (4) years offered by a school of architecture as part of an architectural curriculum toward a NAAB accredited degree or its equivalent.
 - (c) In reviewing applicants holding degrees from non-accredited architecture programs, whether obtained in the United States or otherwise, which are substantially equivalent to degrees from NAAB accredited programs, the Board may consider the following factors:
 - 1. Evidence of having obtained the statutory minimum acceptable practical experience in architectural work, and
 - 2. At least five (5) references from individuals having knowledge of the applicant's technical competence as an architect.
 - (d) For purposes of this paragraph, an architectural degree from a program accredited by the Canadian Architectural Certification Board (CACB), or from a program deemed substantially equivalent by the NAAB, is deemed to be equivalent to a degree from a NAAB-accredited program.
- (4) For purposes of Tenn. Code Ann. § 62-2-501(3), an approved "architecture-related curriculum" is an architectural engineering or architectural engineering technology curriculum accredited by the Accreditation Board for Engineering and Technology (ABET).
 - (5) Effective December 1, 1984, an applicant for the required examination for registration as an architect must have completed the Intern-Architect Development Program (IDP) of the NCARB prior to registration.
 - (6) An applicant for registration by comity shall submit proof acceptable to the Board of having obtained the practical experience in architectural work required by Tenn. Code Ann. §§ 62-2-501 and 62-2-502.
 - (7) In general, "practical experience in architectural work" consists of architectural experience which is supervised by a registered architect and meets the requirements of Tenn. Code Ann. § 62-2-503.
 - (8) Applicants meeting the above requirements shall be reviewed by the Board for determination of eligibility for either the Architect Registration Examination prepared by the National Council of Architectural Registration Boards or for registration by comity.

Authority: T.C.A. §§ 62-2-203(c), 62-2-501, 62-2-502 and 62-2-503.

Rule 0120-01-.14 Examinations – Engineer, Engineer Intern is amended by deleting paragraph (4) in its entirety so that, as amended, the rule in its entirety shall read:

0120-01-.14 Examinations – Engineer, Engineer Intern

- (1) The NCEES prepares the examinations administered to candidates for registration as an engineer or certification as an engineer intern. The use of materials, reference books, notes, calculators and equipment in such examinations shall be in accordance with instructions by the NCEES.
- (2) The passing score on both the "Fundamentals of Engineering" and "Principles and Practice of Engineering" examinations shall be determined by the NCEES and shall be reported as "pass" or "fail."
- (3) A candidate who passes either the "Fundamentals of Engineering" examination or the "Principles and Practice of Engineering" examination may retain credit for passing such examination indefinitely.

Authority: T.C.A. §§ 62-2-203(c), 62-2-401(a) and 62-2-405.

Rule 0120-01-.20 Reexamination – Engineer is amended by deleting paragraph (2) in its entirety so that, as amended, the rule in its entirety shall read:

0120-01-.20 Reexamination – Engineer

The "Principles and Practice of Engineering" examination is graded as a whole. A candidate for registration as an engineer who fails the examination must retake the examination in its entirety.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-405(c).

Rule 0120-01-.21 Reexamination – Engineer Intern is amended by deleting paragraph (2) in its entirety so that, as amended, the rule in its entirety shall read:

The "Fundamentals of Engineering" examination is graded as a whole. A candidate for certification as an engineer intern who fails the examination must retake the examination in its entirety.

Authority: T.C.A. §§ 62-2-203(c), 62-2-404, and 62-2-405(c).

Chapter 0120-02
Rules of Professional Conduct

Amendments

Rule 0120-02-.02 Proper Conduct of Practice is amended by deleting the text of paragraph (5) in its entirety and substituting instead the following language, so that, as amended, the rule in its entirety shall read:

0120-02-.02 Proper Conduct of Practice

- (1) The registrant shall at all times recognize the primary obligation to protect the safety, health and welfare of the public in the performance of the registrant's professional duties.
- (2) If the registrant becomes aware of a decision taken by an employer, client, or contractor, against the registrant's advice, which violates applicable Federal, State or Local building Laws and Regulations or which may affect adversely the safety to the public, the registrant shall:
 - (a) Report the decision to the local building inspector or other public official charged with the enforcement of the applicable Federal, State or Local building Laws and Regulations;
 - (b) Refuse to consent to the decision; and
 - (c) In circumstances where the registrant reasonably believes that other such decisions will be taken notwithstanding the registrant's objections, terminate services with reference to the project.
- (3) A registrant possessing knowledge of a violation of T.C.A. Title 62, chapter 2, or this chapter, shall report such knowledge to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as it may require.
- (4) The registrant shall maintain the continuing education records required by rule 0120-05-.10 "Records" for a period of four (4) years and shall furnish such records to the Board for audit verification purposes within thirty (30) days of the Board's request.
- (5) A registrant possessing knowledge of an applicant's qualifications for registration shall cooperate with the applicant and/or the Board by responding appropriately regarding those qualifications when requested to do so. A registrant shall provide timely verification of employment and/or experience earned by an applicant under his or her supervision if there is reasonable assurance that the facts to be verified are accurate. A registrant shall not knowingly sign any verification document that contains false or misleading information.

- (6) A registrant may not enter into a contract for professional services on any basis other than direct negotiation with any governmental entity that is prohibited by T.C.A. § 12-4-106(a)(2)(A) from making a selection or awarding a contract on the basis of competitive bids, thereby precluding participation in any system requiring a comparison of compensation. Upon selection, a registrant may state compensation to a prospective client in direct negotiation where architectural, engineering, or landscape architectural services necessary to protect the public health, safety, and welfare have been defined.

Authority: T.C.A. §§ 62-2-203(c) and (d) and 62-204.

Rule 0120-02-.05 Conflicts of Interest is amended by deleting paragraph (5) in its entirety and renumbering the subsequent paragraphs. The rule is further amended by adding the words "or her" to paragraphs (1) and (2) and the words "the registrant" to paragraphs (2), (5), (6) and (7) so that, as amended, the rule in its entirety shall read as follows:

0120-02-.05 Conflicts of Interest

- (1) The registrant shall conscientiously strive to avoid conflicts of interest with his or her employer or his client; but, when such conflict is unavoidable, the registrant shall forthwith disclose the circumstances to his or her employer or client in writing.
- (2) The registrant shall avoid all known conflicts of interest with his or her employer or client, and shall promptly inform his or her employer or client in writing of any business association, interests or circumstances which could influence the registrant's judgment or the quality of the registrant's services.
- (3) The registrant shall not accept compensation (financial or otherwise) from more than one (1) party for services on or pertaining to the same project unless the circumstances are agreed to in writing by all interested parties prior to the acceptance of any such compensation.
- (4) The registrant shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- (5) When in public service as a member, advisor or employee of a governmental body or department, the registrant shall not participate in considerations or actions with respect to services provided by the registrant or the registrant's organization in private professional practices.
- (6) The registrant shall not solicit or accept any contract from a governmental body on which the registrant, or a principal or officer of the registrant's organization, serves as a member.
- (7) When acting as the interpreter of construction contract documents and the judge of construction contract performance, the registrant shall render decisions impartially, favoring neither party to the construction contract.

Authority: T.C.A. §§ 62-2-203(c), and 62-2-308.

Rule 0120-02-.07 Misconduct is amended by adding the words "or her" to paragraph (1) and by deleting subparagraph (5)(c) in its entirety and renumbering the subsequent subparagraphs. The rule is further amended so that all remaining subparagraphs of paragraph (5) shall begin with the words "The registrant" instead of "He" and "His," so that, as amended, the rule in its entirety shall read as follows:

0120-02-.07 Misconduct

- (1) The registrant shall not knowingly associate with, or permit the use of his or her name or firm name in, a business venture by any person or firm which the registrant knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.
- (2) The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:

- (a) Federal, State and Local building laws and regulations, including building permit requirements; or
 - (b) Registration requirements of T.C.A. Title 62, chapter 2.
- (3) The registrant may not take over, review, revise, or sign or seal drawings or revisions thereof when such plans are begun by persons not properly registered and qualified; or do any other act to enable either such persons or the project owners, directly or indirectly, to evade the registration requirements of T.C.A. Title 62, Chapter 2.
- (4) The registrant may not make or promise to make contributions of money for the purpose of securing a commission or influencing the engagement or employment of the registrant for a project.
- (5) A registrant may be deemed by the Board to be guilty of misconduct in the registrant's professional practice if:
- (a) The registrant has pleaded guilty or nolo contendere to or is convicted in a court of competent jurisdiction of a felony or fails to report such action to the Board in writing within sixty (60) days of the action;
 - (b) The registrant's license or certificate of registration to practice architecture, engineering or landscape architecture in another jurisdiction is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings or the registrant fails to report such action to the Board in writing within sixty (60) days of the action;
 - (c) The registrant has been delinquent in the payment of the professional privilege tax pursuant to T.C.A. §§ 67-4-1702 – 67-4-1704;
 - (d) The registrant fails to respond to Board requests and investigations within thirty (30) days of the mailing of communications, unless an earlier response is specified; or
 - (e) The registrant fails to comply with a lawful order of the Board.

Authority: T.C.A. §§ 62-2-203(c), 62-204, 62-212, and 62-2-308.

Rule 0120-02-.08 Seals is amended by deleting the text of paragraphs (5) and (6) in their entirety and substituting instead the following language so that, as amended, paragraphs (5) and (6) shall read as follows:

0120-02-.08 Seals

- (5) (a) No registrant shall affix his or her seal or signature to sketches, working drawings, specifications or other documents developed by others not under the registrant's responsible charge and not subject to the authority of that registrant in critical professional judgments.
 - (b) In circumstances where a registrant can no longer provide services on a project (such as death, retirement, disability, contract termination, etc.), a successor registrant may perform work on a set of plans originally prepared by another registrant. If the plans are incomplete (are at a stage prior to submittal to a reviewing official), the successor registrant may not seal the set of drawings prepared by the original registrant; rather, the successor registrant must take all steps necessary to ensure that the drawings were prepared under his or her responsible charge before sealing them. If the plans are complete and have been submitted to a reviewing official, the successor registrant may prepare and seal addenda sheets or document and seal changes to the original sheets if revisions are necessary.
- (6) (a) Responsible Charge. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a registrant only when:

1. The client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or to the registrant's employee at the time initial client contact is made, so long as the registrant has the right to control and direct the employee in the material details of how the work is to be performed;
 2. The registrant supervises and is involved in the preparation of the plans, specifications, drawings, reports or other documents and has input into and full knowledge of their preparation prior to their completion;
 3. The registrant reviews the final plans, specifications, drawings, reports or other documents; and
 4. The registrant has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents; and
 5. Contributions of information or predrawn detail items or detail units that are incidental to and intended to be integrated into a registrant's technical submissions are from trusted sources (including, but not limited to, manufacturers, installers, consultants, owners, or contractors), are subject to appropriate review, and are then coordinated and integrated into the design by the registrant.
- (b) Except as provided by Rule 0120-02-.08(5)(b), any changes made to the final plans, specifications, drawings, reports or other documents after final revision and sealing by the registrant are prohibited by any person other than the registrant, including but not limited to owners/clients, contractors, subcontractors, other design professionals, or any of their agents, employees or assigns.
- (c) Mere review of work prepared by another person, even if that person is the registrant's employee, does not constitute responsible charge unless the registrant has met the criteria set out above.
- (d) The intent of the definition of responsible charge may be met if all provisions of the definition are met using remote electronic or other communication means.

Authority: T.C.A. §§ 62-2-203(c), 62-2-306, and 62-2-306(d).

Chapter 0120-04
Interior Designers

Amendments/New

Table of Contents is amended by adding 0120-04-.13 Notification to the Board so that, as amended, the Table of Contents shall read as follows:

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Authority: T.C.A. § 62-2-203(c).

Rule 0120-04-.05 Experience Requirements is amended by deleting the text of paragraph (4) in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

0120-04-.05 Experience Requirements

- (4) Diversified interior design experience shall be demonstrated to the Board by the applicant who shall furnish the following:
- (a) An affidavit by the applicant attesting that the applicant has engaged in the practice of interior design for the number of years for which the applicant is claiming experience; and
 - (b) A minimum of five (5) references, on forms supplied by the Board, certifying that the applicant has provided interior design services for the period of experience claimed by the applicant. References from relatives will not be considered. No reference will be considered if prepared more than two (2) years prior to the date of application.
 - (c) Three (3) such references must be registered interior designers and/or registered architects. In addition, one (1) client reference and one (1) employer reference are required. A client reference may be substituted for the employer reference if an applicant is self-employed.
 - (d) If a reference reply is uncomplimentary, derogatory, or unfavorable of the applicant, the applicant may be required to furnish additional references. If subsequent replies are unfavorable, the applicant will be scheduled for an interview with the Board for further consideration.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-904(a).

Rule 0120-04-.10 Professional Conduct is amended by deleting the text of paragraph (17) in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

0120-04-.10 Professional Conduct

- (17) A registrant possessing knowledge of an applicant's qualifications for registration shall cooperate with the applicant and/or the Board by responding appropriately regarding those qualifications when requested to do so. A registrant shall provide timely verification of employment and/or experience earned by an applicant under his or her supervision if there is reasonable assurance that the facts to be verified are accurate. A registrant shall not knowingly sign any verification document that contains false or misleading information.

Authority: T.C.A. § 62-2-203(c).

Rule 0120-04-.13 Notification to the Board is added to Chapter 0120-04, and shall read as follows:

0120-04-.13 Notification to the Board

A registrant or applicant for registration shall notify the Board in writing within thirty (30) calendar days of any change of name, mailing address, e-mail address, or phone number. Registrants and applicants are encouraged to notify the Board of a change of employment.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-207.

Chapter 0120-05
Continuing Education

New Rule

Table of Contents is amended by adding 0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers so that, as amended, the Table of Contents shall read as follows:

TABLE OF CONTENTS

0120-05-.01 Purpose
0120-05-.02 Definitions
0120-05-.03 Continuing Education Review
0120-05-.04 Basic Requirements
0120-05-.05 Conversion Table
0120-05-.06 Types of Acceptable Continuing Education
0120-05-.07 Credits

0120-05-.08 Exemptions
0120-05-.09 Certification
0120-05-.10 Records
0120-05-.11 Disallowances
0120-05-.12 Noncompliance
0120-05-.13 Reciprocity
0120-05-.14 Alternative Continuing Professional Development
Option for Architects and Registered Interior Designers

Authority: T.C.A. § 62-2-203(c).

Rule 0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers is added to Chapter 0120-05, and shall read as follows:

0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers

- (1) As an alternative to the requirements of Rule 0120-05-.04 Basic Requirements, a registered architect or registered interior designer may meet the continuing education requirement for renewal by obtaining twelve (12) Continuing Education Hours (CEH) per calendar year. All twelve (12) Continuing Education Hours must be completed in Health, Safety, and Welfare subjects acquired in structured educational activities. Continuing Education Hours may be acquired at any location. Excess Continuing Education Hours may not be credited to a future calendar year.
- (2) For the purposes of this rule, CEH means one continuous instructional hour (no less than 50 minutes of contact) spent in structured educational activities intended to increase or update the architect's or registered interior designer's knowledge and competence in Health, Safety, and Welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity, then such prescribed time shall, unless the Board finds the prescribed time to be unreasonable, be accepted as the architect's or registered interior designer's time for Continuing Education Hour purposes irrespective of actual time spent on the activity. Registrants will not receive credit for activities less than one (1) CEH in duration.
- (3) For purposes of this rule, a structured educational activity is one (1) in which at least seventy-five percent (75%) of an activity's content and instructional time must be devoted to Health, Safety, and Welfare subjects related to the practice of architecture or interior design, including courses of study or other activities under the areas identified as Health, Safety and Welfare subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.
- (4) For purposes of this rule, health, safety, and welfare subjects are technical and professional subjects that the Board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

Building Systems: Structural, Mechanical, Electrical, Plumbing, Communications, Security, Fire Protection

Construction Contract Administration: Contracts, Bidding, Contract Negotiations

Construction Documents: Drawings, Specifications, Delivery Methods

Design: Urban Planning, Master Planning, Building Design, Site Design, Interiors, Safety and Security Measures

Environmental: Energy Efficiency, Sustainability, Natural Resources, Natural Hazards, Hazardous Materials, Weatherproofing, Insulation

Legal: Laws, Codes, Zoning, Regulations, Standards, Life Safety, Accessibility, Ethics, Insurance to Protect Owners and Public

Materials and Methods: Construction Systems, Products, Finishes, Furnishings, Equipment

Pre-Design: Land Use Analysis, Programming, Site Selection, Site and Soils Analysis, Surveying

Preservation: Historic, Reuse, Adaptation

Authority: T.C.A. § 62-2-203(d).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|-----------------------------|-----|----|---------|--------|-------------------------|
| Susan K. Ballard, RID | X | | | | |
| Hal Balthrop, PE | X | | | | |
| Wilson Borden | X | | | | |
| Robert G. Campbell, Jr., PE | X | | | | |
| Jerome M. Headley, RA | X | | | | |
| Philip K. S. Lim, PE | X | | | | |
| Paul W. Lockwood, RLA | X | | | | |
| Richard D. Thompson, RA | X | | | | |
| Frank W. Wagster, RA | X | | | | |

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee State Board of Architectural and Engineering Examiners on 08/14/2013, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/21/13

Rulemaking Hearing(s) Conducted on: (add more dates). 08/14/13

Date: 10/24/2014

Signature: [Handwritten Signature]

Name of Officer: Robert E. Herndon

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: October 24, 2014

Notary Public Signature: [Handwritten Signature]

My commission expires on: May 5, 2015

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.



[Handwritten Signature]
 Herbert H. Statory III
 Attorney General and Reporter
11/7/2014
 Date

Department of State Use Only

Filed with the Department of State on: 11/17/14

Effective on: 2/15/14

Tre Hargett

Tre Hargett
Secretary of State

2014 NOV 17 PM 4:25
OFFICE OF
SECRETARY OF STATE

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Please see attached documentation for copies of letters that the Board sent in response to public comments.

0120-01-.27 Notification to the Board

Candy Toler, representing the American Council of Engineering Companies of Tennessee and the Tennessee Society of Professional Engineers, expressed that the rule asking for any change of status for registrants seemed to be overreaching. The Board members explained that this was necessary in order to maintain current contact information on registrants rather than receive updated information only at renewal times.

0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers

A written comment was received from Julie Harse, P.E., Environmental Protection Specialist 3, Department of Environment and Conservation, Division of Water Resources, remarking that this rule establishing that only 12 professional development hours are allowed in one calendar year and excess hours may not be credited for future years is burdensome and would prevent employers from financing classes over 12 hours. The Board explained that this rule applies only to architects and interior designers, not engineers.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

1. Types of small businesses directly affected:

These amendments would not impact small businesses because the Board licenses individuals, not entities.

2. Projected reporting, recordkeeping, and other administrative costs:

There are no projected administrative costs as a result of these amendments.

3. Probable effect on small businesses:

There is no expected adverse impact on small businesses as a result of these amendments.

4. Less burdensome, intrusive, or costly alternative methods:

The Board knows of no other alternative method to achieve the goals exhibited by these rules.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these rules.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

The Board of Architectural and Engineering Examiners licenses only individuals and foresees no financial impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 0120-01-.03 Residency Requirements is repealed. There is no practical need to require applicants for examination to be physically in the state to take national examination under the new computerized scheme.

Rule 0120-01-.17 Postponement of Examinations – General is repealed. The Board will no longer oversee or administrate the costs of taking the examination, and scheduling a time to take the computerized examination is the responsibility of the applicant.

Rule 0120-01-.19 Postponement of Examinations – Engineering Intern is repealed; the Board no longer oversees this examination.

Rule 0120-01-.26 Fee for Transfer of Examinations is repealed; the Board no longer oversees examinations.

Rule 0120-01-.04 Applications – General is amended to provide that certification as well as registration is available on the Board's website, and deletes the provision that applications for engineering intern are available at the various schools of engineering.

Rule 0120-01-.05 Applications – Engineer is amended to remove the Board from the approval process to take examinations or managing the costs of taking an examination.

Rule 0120-01-.06 Applications – Engineer Intern is amended by reducing the cost of application for certification fee from fifty dollars (\$50.00) to fifteen dollars (\$15.00), which must be submitted with another application each time an applicant sits for the examination; the rule is also amended to remove the Board's requirement to set deadlines for receipt of applications for Spring and Fall examinations since computer-based examinations may be taken at any time during the year.

Rule 0120-01-.08 Applications – Landscape Architect is amended by deleting the Board's requirement to set deadlines for applications in conformance with the examination provider's responsibility for administering and reporting examination results to the Board.

Rule 0120-01-.09 References is amended by deleting the requirement for interior design applicants to provide the Board with five (5) references.

Rule 0120-01-.10 Education and Experience Requirements is amended to delete the acceptability of a master's degree in engineering for applicants to meet the educational requirement and to clarify that accredited programs that allow experience learning, other than cooperative program experience, will not be acceptable, nor will degrees obtained from non-accredited institutions within the United States or its territories. The rule is also amended to allow engineering degrees accredited by the Canadian Engineering Accreditation Board (CEAB), awarded after 1980, to not require evaluation.

Rule 0120-01-.11 Education and Experience Requirements – Architects is amended to allow Canadian accredited degrees to be considered substantially equivalent to those accredited by the National Architectural Accrediting Board (NAAB).

Rule 0120-01-.14 Examinations – Engineer, Engineer Intern is amended to delete the requirement that a senior student who fails to report for a required examination must reapply for the examination.

Rule 0120-01-.20 Reexamination – Engineer is amended to delete the requirement that the Board receive the costs of examination from the applicant for registration.

Rule 0120-01-.21 Reexamination – Engineer Intern is amended to delete the reexamination fee.

Rule 0120-01-.27 Mailing Addresses is repealed and the new language requires registrants and applicants for registration to notify the Board in writing within thirty (30) days of any change of address or other contact

information in residence, and are encouraged to report and change in employment information.

Rule 0120-02-.02 Proper Conduct of Practice is amended to clarify what is expected from registrants possessing knowledge of an applicant's qualifications.

Rule 0120-02-.05 Conflicts of Interest is amended to delete duplicate language for misconduct that appears in rule 0120-02-.07 in order to make the rule more gender neutral.

Rule 0120-02-.07 Misconduct is amended by deleting the provision that delinquency in child support payments constitutes professional misconduct in order to make the rule more gender neutral.

Rule 0120-02-.08 Seals is amended by clarifying that a registrant may not affix his or her seal to any documents that are not produced under the registrant's responsible charge. The rule is also amended to clarify sealing requirements for documents amended after the documents are sealed and final.

Rule 0120-04-.05 Experience Requirements is amended to increase the number of applicants for registration as a registered interior designer from three to five, and clarifies the requirements for submitting these references. The rule is also amended to move this requirement under Chapter 120-04 [Interior Designers] and to duplicate the language provided for the Board's licensed registrants.

Rule 0120-04-.10 Professional Conduct is amended by adding identical provisions for registrants possessing knowledge of a registered interior designer applicant.

Proposed rule 0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers is added to provide specific guidelines for the submission of alternative methods of obtaining continuing education with is acceptable to the Board.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners are made pursuant to Tenn. Code Ann. §§ 62-2-203(c) and 62-2-203(d).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners will affect holders in good standing of registration certificates in architecture, engineering, landscape architecture and interior design and also applicants for registration as engineers. There was one written and one oral comment made in connection with this rulemaking hearing, primarily in support of the proposed changes to the rules, with one concern expressed as to the requirement that registrants must notify the Board of any change in employment. The Board modified this requirement to make it elective.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are expected to have no fiscal impact on the Department.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

John Cothron, Executive Director of the Tennessee State Board of Architectural and Engineering Examiners, and I as attorney for the Board have substantial knowledge and understanding of these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Mr. Cothron or I will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

I may be reached at the Department of Commerce and Insurance, Office of Legal Counsel, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243, (615) 741-9461.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Department of State
 Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Fax: 615-741-5133
 Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 11-18-14
 Rule ID(s): 5876
 File Date: 11/12/14
 Effective Date: 2/15/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission: Tennessee State Board of Architectural and Engineering Examiners
Division: Division of Regulatory Boards, Department of Commerce and Insurance
Contact Person: Robert Herndon, Assistant General Counsel
Address: 500 James Robertson Parkway
 Nashville, Tennessee
Zip: 37243
Phone: (615) 741-9461
Email: robert.herndon@tn.gov

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

| Chapter Number | Chapter Title |
|----------------|---|
| 0120-01 | Registration Requirements and Procedures |
| Rule Number | Rule Title |
| 0120-01-03 | Residency Requirements |
| 0120-01-04 | Applications – General |
| 0120-01-05 | Applications – Engineer |
| 0120-01-06 | Applications – Engineer Intern |
| 0120-01-08 | Applications – Landscape Architect |
| 0120-01-09 | References |
| 0120-01-10 | Education and Experience Requirements – Engineer |
| 0120-01-11 | Education and Experience Requirements – Architect |
| 0120-01-14 | Examinations – Engineer, Engineer Intern |
| 0120-01-17 | Postponement of Examinations – General |
| 0120-01-19 | Postponement of Examinations – Engineer Intern |
| 0120-01-20 | Reexamination – Engineer |
| 0120-01-21 | Reexamination – Engineer Intern |
| 0120-01-26 | Fee for Transfer of Examination Grades |
| 0120-01-27 | Mailing Addresses |

| Chapter Number | Chapter Title |
|----------------|-------------------------------|
| 0120-02 | Rules of Professional Conduct |
| Rule Number | Rule Title |
| 0120-02-02 | Proper Conduct of Practice |
| 0120-02-05 | Conflicts of Interest |
| 0120-02-07 | Misconduct |

| | |
|------------|-------|
| 0120-02-08 | Seals |
|------------|-------|

| Chapter Number | Chapter Title |
|-----------------------|---------------------------|
| 0120-04 | Interior Designers |
| Rule Number | Rule Title |
| 0120-04-.05 | Experience Requirements |
| 0120-04-.10 | Professional Conduct |
| 0120-04-.12 | Notification to the Board |

| Chapter Number | Chapter Title |
|-----------------------|---|
| 0120-05 | Continuing Education |
| Rule Number | Rule Title |
| 0120-05-.14 | Alternative Continuing Professional Development Option for Architects and Registered Interior Designers |

Chapter 0120-01
Registration Requirements and Procedures

Repeal/Amendments/New

Table of Contents is amended by deleting 0120-01-.27 Mailing Addresses and substituting instead 0120-01-.27 Notification to the Board so that, as amended, the Table of Contents shall read as follows:

TABLE OF CONTENTS

| | |
|---|---|
| 0120-01-.01 Definitions | 0120-01-.14 Examinations – Engineer, Engineer Intern |
| 0120-01-.02 Applicability | 0120-01-.15 Examinations – Architect |
| 0120-01-.03 Residency Requirements <u>Repealed</u> | 0120-01-.16 Examinations – Landscape Architect |
| 0120-01-.04 Applications – General | 0120-01-.17 Postponement of Examinations – General <u>Repealed</u> |
| 0120-01-.05 Applications – Engineer | 0120-01-.18 Repealed |
| 0120-01-.06 Applications – Engineer Intern | 0120-01-.19 Postponement of Examinations – Engineer Intern <u>Repealed</u> |
| 0120-01-.07 Applications – Architect | 0120-01-.20 Reexamination – Engineer |
| 0120-01-.08 Applications – Landscape Architect | 0120-01-.21 Reexamination – Engineer Intern |
| 0120-01-.09 References | 0120-01-.22 Reexamination – Architect |
| 0120-01-.10 Education and Experience Requirements – Engineer | 0120-01-.23 Reexamination – Landscape Architect |
| 0120-01-.11 Education and Experience Requirements – Architect | 0120-01-.24 Duplicate Certificates of Registration |
| 0120-01-.12 Education and Experience Requirements – Landscape Architect | 0120-01-.25 Renewal of Registration |
| 0120-01-.13 Examinations – General | 0120-01-.26 Fees for Transfer of Examination Grades <u>Repealed</u> |
| | 0120-01-.27 Mailing Addresses <u>Notification to the Board</u> |

Authority: T.C.A. § 62-2-203(c).

Rule 0120-01-.03 Residency Requirements is repealed in its entirety.

- (1) ~~In order to be eligible to take an examination, an applicant must:~~
- (a) ~~Be a resident of Tennessee; or~~
 - (b) ~~Have his principal place of business in Tennessee; or~~
 - (c) ~~Be registered to practice in the state where he resides; or~~
 - (d) ~~Have passed the required examination for engineer intern certificate while a resident of Tennessee.~~

Authority: T.C.A. § 62-2-203(c).

Rule 0120-01-.06 Applications – Engineer Intern is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0120-01-.06 Applications – Engineer Intern

- (1) An application for certification as an engineer intern shall be accompanied by a nonrefundable fee of fifty dollars ~~(\$50.00)~~ fifteen dollars (\$15.00). ~~This fee shall entitle the applicant to take one (1) examination, and receive a certificate upon passing such examination and meeting the other legal requirements. The application and fee must be submitted each time an applicant sits for the required examination. An applicant shall receive a certificate upon passing the required examination and meeting the other legal requirements.~~
- (2) ~~The deadlines for receipt of applications from candidates for certification as an engineer intern for the spring and fall examinations shall be set annually by the Board.~~

Authority: T.C.A. §§ 62-2-203(c), 62-2-402(b), and 62-2-404(c)(2).

Rule 0120-01-.17 Postponement of Examinations – General is repealed in its entirety.

~~Any applicant who postpones and requests to reschedule an examination after the date in which the examination is ordered shall pay a processing fee of twenty-five dollars (\$25.00) upon making the request to be rescheduled.~~

Authority: T.C.A. § 62-2-203(c).

Rule 0120-01-.19 Postponement of Examinations – Engineer Intern is repealed in its entirety.

~~Senior students applying for certification as an engineer intern may not postpone the scheduled examination.~~

Authority: T.C.A. § 62-2-203(c).

Rule 0120-01-.26 Fee for Transfer of Examination Grades is repealed in its entirety.

~~The fee for each requested transfer of architectural or landscape architectural grades to another state board shall be in the amount of twenty dollars (\$20.00).~~

Authority: T.C.A. §§62-2-203(c).

Rule 0120-01-.27 Mailing Addresses is amended by changing the title to Notification to the Board and repealing the text of the rule in its entirety and substituting instead the following language so that the new rule in its entirety shall read:

0120-01-.27 Mailing Addresses Notification to the Board

- (1) A registrant or applicant for registration shall notify the Board in writing within thirty (30) calendar days of any change in of name, mailing address, e-mail address, or phone number. Registrants and applicants are encouraged to notify the Board of a change of employment.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-207.Amendments

Rule 0120-01-.04 Applications – General is amended by deleting the text of paragraph (1) in its entirety and substituting instead the following language so that, as amended, the rule in its entirety shall read:

0120-01-.04 Applications – General

- (1) Applications for registration and certification are available on the Board website and upon request from the office of the Board; ~~except, however, that applications for certification as an engineer intern may be obtained at various schools of engineering within the State of Tennessee.~~
- (2) Any application submitted which lacks required information or reflects a failure to meet any requirement will be held in "pending" status until satisfactorily completed within a reasonable period of time, not to exceed five (5) years from the date of application.
- (3) Any application submitted may be withdrawn; provided, however, that the application fee will not be refunded.

Authority: T.C.A. §62-2-203(c).

Rule 0120-01-.05 Applications – Engineer is amended by deleting the text of paragraph (1) in its entirety and substituting instead the following language so that, as amended, the rule in its entirety shall read:

0120-01-.05 Applications – Engineer

- (1) An applicant for registration as an engineer shall submit with the application a nonrefundable application fee of thirty dollars (\$30.00). ~~Upon notification to the applicant of approval to take any~~

~~required examination(s), the applicant shall pay to the Board the cost of the current examination(s), administration of the examination(s) and scoring. An applicant who has passed the required examination(s) shall also pay a biennial registration fee of one hundred forty dollars (\$140.00) and shall receive a certificate of registration.~~

- (2) An applicant for registration as an engineer by comity shall pay a nonrefundable application fee of fifty-five dollars (\$55.00) and, if approved, a biennial registration fee of one hundred forty dollars (\$140.00) and shall receive a certificate of registration.
- (3) The deadline for receipt of applications from candidates who must be examined prior to registration as an engineer shall be determined annually by the Board after the Board receives notification from the National Council of Examiners for Engineers and Surveyors (NCEES) of the dates of the examinations.

Authority: T.C.A. §§ 62-2-203(c), 62-2-301(a) and 62-2-404(b).

Rule 0120-01-.08 Applications – Landscape Architect is amended by deleting paragraph (3) in its entirety so that, as amended, the rule in its entirety shall read:

0120-01-.08 Applications – Landscape Architect

- (1) An applicant for registration as a landscape architect shall submit with the application a nonrefundable application fee of thirty dollars (\$30.00). An applicant who has passed the required examination(s) shall also pay a biennial registration fee of one hundred forty dollars (\$140.00) and shall receive a certificate of registration.
- (2) An applicant for registration as a landscape architect by comity shall pay a nonrefundable application fee of fifty-five dollars (\$55.00) and, if approved, a biennial registration fee of one hundred forty dollars (\$140.00) and shall receive a certificate of registration.
- ~~(3) The deadline for receipt of applications from candidates who must be examined prior to registration as a landscape architect shall be determined annually by the Board after the Board receives notification from the CLARB of the dates of the examinations.~~

Authority: T.C.A. §§ 56-1-302(b), 56-1-302(h), 62-2-203(c), 62-2-307, 62-2-301(a), and 62-2-804(d) and (e).

Rule 0120-01-.09 References is amended by deleting the text of paragraph (1) in its entirety and substituting instead the following language, so that, as amended, the rule in its entirety shall read:

0120-01-.09 References

- (1) References named in applications for registration must be acquainted with the technical ability of the applicant, but need not be residents of the State of Tennessee. A minimum of five (5) references for architect, engineer, and landscape architect ~~and interior designer~~ applicants shall be submitted. References from relatives will not be considered. No reference will be considered if prepared more than two (2) years prior to the date of application.
- (2) Three (3) such references must be registered architects or engineers with registration and experience in the applicant's field(s) of experience; except, however, that applicants for registration as a landscape architect may use references who are registered engineers, architects or landscape architects.
- (3) A maximum of three (3) references shall be obtained from the employer listed by the applicant. References are required from both the applicant's current employer/supervisor and a past employer/supervisor (if applicable).
- (4) If a reference reply is uncomplimentary, derogatory, or unfavorable of the applicant, the applicant may be required to furnish additional references. If subsequent replies are unfavorable, the applicant will be scheduled for an interview with the Board for further consideration.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-301(a).

Rule 0120-01-.10 Education and Experience Requirements – Engineer is amended by deleting the text of subparagraphs (1)(f) and (1)(g) in their entirety and substituting instead the following language, so that, as amended, the rule in its entirety shall read:

0120-01-.10 Education and Experience Requirements – Engineer

- (1) (a) Accredited engineering programs. An engineering curriculum of four (4) years or more which was accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET) (or its predecessor) at the time of graduation, or graduation was not more than two (2) academic years prior to accreditation, may be approved by the Board as being satisfactory.
- (b) Nonaccredited engineering programs. An engineering curriculum of four (4) years or more which is a non-ABET accredited program shall be referred at the applicant's expense to a person or entity approved by the Board and qualified to evaluate equivalency to an ABET accredited engineering program for evaluation and recommendation. If the curriculum for the degree at the time of the applicant's graduation is substantially equivalent to ABET accreditation requirements, the application shall be reviewed in accordance with the requirements for applicants holding engineering degrees from institutions which do not have ABET accredited engineering programs in consideration of the factors outlined below.
- (c) In reviewing applicants holding degrees from nonaccredited engineering programs, whether obtained in the United States or otherwise, which are substantially equivalent to degrees from ABET accredited programs, the Board may consider the following factors:
 1. Evidence of having obtained the statutory minimum acceptable progressive professional experience of a grade and character which indicates to the Board that the applicant may be competent to practice engineering; and
 2. At least five (5) references from individuals having knowledge of the applicant's technical competence as an engineer on projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering.
- (d) Applicants meeting the above requirements shall be reviewed by the Board for determination of eligibility for either the Fundamentals of Engineering examination or the Principles and Practice of Engineering examination or for registration by comity.
- (e) An engineering technology program, whether four (4) or two (2) years in length, is not considered by the Board to be an acceptable curriculum.
- (f) ~~Master's degree programs. A master's degree program in engineering which was either accredited by the EAC of the ABET (or its predecessor) at the time of graduation, or graduation was not more than two (2) academic years prior to accreditation, or which was offered by an institution with an undergraduate engineering program in the same discipline which was either accredited by the EAC of the ABET (or its predecessor) at the time of graduation, or graduation was not more than two (2) academic years prior to accreditation, may be approved by the Board as being satisfactory. Applicants meeting this requirement shall be reviewed by the Board for determination of eligibility for the Principles and Practice of Engineering examination or for registration by comity. Programs taught strictly by distance education or correspondence, or that allow credit for work experience and experiential learning (with the exception of cooperative education programs), or which are not part of an institution that is accredited or recognized as a degree-granting institution of higher learning within a national territory or in the United States, are not considered by the Board to be acceptable curricula.~~
- (g) ~~Programs taught strictly by distance education or correspondence, or that allow credit for work experience and experiential learning (with the exception of cooperative education programs), or which are not part of an institution that is accredited or recognized as a~~

degree-granting institution of higher learning within a national territory or in the United States, are not considered by the Board to be acceptable curricula. Engineering degrees from programs accredited by the Canadian Engineering Accreditation Board (CEAB) that were awarded in or after 1980 are considered substantially equivalent and do not require evaluation.

- (2) In general, "progressive experience in the practice of engineering" consists of engineering experience which is supervised by a registered professional engineer. The Board may grant toward experience requirements for registration as an engineer one (1) year of credit for graduation with a Master's degree (or higher) in engineering from an approved curriculum or up to one (1) year of qualified experience obtained in an established cooperative education program, which is carried out within the framework of an approved engineering curriculum, and which has been approved by the Board. At least one (1) year of engineering experience must be completed in the United States. Unless otherwise noted above, an applicant's engineering experience must be obtained after graduation with the qualifying degree and completed by the date of the examination.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-401.

Rule 0120-01-.11 Education and Experience Requirements – Architect is amended by adding the following language as a new subparagraph (3)(d), so that, as amended, the rule in its entirety shall read:

0120-01-.11 Education and Experience Requirements – Architect

- (1) For purposes of evaluating the education and experience of applicants for examination and registration as an architect, the Board will utilize the "Table of Equivalents" contained in Appendix "A" to Circular of Information No. 1, published in July 1983 by the National Council of Architectural Registration Boards (NCARB), except to the extent that such document conflicts with any applicable statute.
- (2) Accredited architecture programs. An architecture program which was accredited by the National Architectural Accrediting Board (NAAB) at the time of graduation, or graduation was not more than two (2) academic years prior to accreditation, may be approved by the Board as being satisfactory. For purposes of this paragraph, a state-supported school of architecture approved by the Tennessee Higher Education Commission is deemed to have an accredited degree curriculum.
- (3) (a) Non-accredited architecture programs. For purposes of T.C.A. §§62-2-501(2) and 62-2-502(b), an architectural curriculum of four (4) years or more which is a non-NAAB accredited program shall be referred at the applicant's expense to a person or entity approved by the Board and qualified to evaluate equivalency to an NAAB accredited program for evaluation and recommendation. If the curriculum for the degree at the time of the applicant's graduation is equivalent to NAAB accreditation requirements, the application shall be reviewed in accordance with the requirements for applicants holding architecture degrees from institutions which do not have NAAB accredited architecture programs in consideration of the factors outlined below.
 - (b) In reviewing a non-accredited architectural curriculum, the Board may approve either an architectural curriculum of not less than four (4) years offered by a school of architecture as part of an architectural curriculum toward a NAAB accredited degree or its equivalent.
 - (c) In reviewing applicants holding degrees from non-accredited architecture programs, whether obtained in the United States or otherwise, which are substantially equivalent to degrees from NAAB accredited programs, the Board may consider the following factors:
 1. Evidence of having obtained the statutory minimum acceptable practical experience in architectural work, and
 2. At least five (5) references from individuals having knowledge of the applicant's technical competence as an architect.

(d) For purposes of this paragraph, an architectural degree from a program accredited by the Canadian Architectural Certification Board (CACB), or from a program deemed substantially equivalent by the NAAB, is deemed to be equivalent to a degree from a NAAB-accredited program.

- (4) For purposes of Tenn. Code Ann. § 62-2-501(3), an approved "architecture-related curriculum" is an architectural engineering or architectural engineering technology curriculum accredited by the Accreditation Board for Engineering and Technology (ABET).
- (5) Effective December 1, 1984, an applicant for the required examination for registration as an architect must have completed the Intern-Architect Development Program (IDP) of the NCARB prior to registration.
- (6) An applicant for registration by comity shall submit proof acceptable to the Board of having obtained the practical experience in architectural work required by Tenn. Code Ann. §§ 62-2-501 and 62-2-502.
- (7) In general, "practical experience in architectural work" consists of architectural experience which is supervised by a registered architect and meets the requirements of Tenn. Code Ann. § 62-2-503.
- (8) Applicants meeting the above requirements shall be reviewed by the Board for determination of eligibility for either the Architect Registration Examination prepared by the National Council of Architectural Registration Boards or for registration by comity.

Authority: T.C.A. §§ 62-2-203(c), 62-2-501, 62-2-502 and 62-2-503.

Rule 0120-01-.14 Examinations – Engineer, Engineer Intern is amended by deleting paragraph (4) in its entirety so that, as amended, the rule in its entirety shall read:

0120-01-.14 Examinations – Engineer, Engineer Intern

- (1) The NCEES prepares the examinations administered to candidates for registration as an engineer or certification as an engineer intern. The use of materials, reference books, notes, calculators and equipment in such examinations shall be in accordance with instructions by the NCEES.
- (2) The passing score on both the "Fundamentals of Engineering" and "Principles and Practice of Engineering" examinations shall be determined by the NCEES and shall be reported as "pass" or "fail."
- (3) A candidate who passes either the "Fundamentals of Engineering" examination or the "Principles and Practice of Engineering" examination may retain credit for passing such examination indefinitely.
- ~~(4) Any senior student applicant for certification as an engineer intern who fails to report for the required examination as scheduled must reapply for examination.~~

Authority: T.C.A. §§ 62-2-203(c), 62-2-401(a) and 62-2-405.

Rule 0120-01-.20 Reexamination – Engineer is amended by deleting paragraph (2) in its entirety so that, as amended, the rule in its entirety shall read:

0120-01-.20 Reexamination – Engineer

- (4) The "Principles and Practice of Engineering" examination is graded as a whole. A candidate for registration as an engineer who fails the examination must retake the examination in its entirety.

- (2) ~~The fee for reexamination shall be the cost to the Board of the current NCEES examination, administration of the examination and scoring.~~

Authority: T.C.A. §§ 62-2-203(c) and 62-2-405(c).

Rule 0120-01-.21 Reexamination – Engineer Intern is amended by deleting paragraph (2) in its entirety so that, as amended, the rule in its entirety shall read:

- (4) The “Fundamentals of Engineering” examination is graded as a whole. A candidate for certification as an engineer intern who fails the examination must retake the examination in its entirety.

- (2) ~~The nonrefundable fee for reexamination shall be fifty dollars (\$50.00).~~

Authority: T.C.A §§ 62-2-203(c), 62-2-404, and 62-2-405(c).

Chapter 0120-02
Rules of Professional Conduct

Amendments

Rule 0120-02-.02 Proper Conduct of Practice is amended by deleting the text of paragraph (5) in its entirety and substituting instead the following language, so that, as amended, the rule in its entirety shall read:

0120-02-.02 Proper Conduct of Practice

- (1) The registrant shall at all times recognize the primary obligation to protect the safety, health and welfare of the public in the performance of the registrant’s professional duties.
- (2) If the registrant becomes aware of a decision taken by an employer, client, or contractor, against the registrant’s advice, which violates applicable Federal, State or Local building Laws and Regulations or which may affect adversely the safety to the public, the registrant shall:
 - (a) Report the decision to the local building inspector or other public official charged with the enforcement of the applicable Federal, State or Local building Laws and Regulations;
 - (b) Refuse to consent to the decision; and
 - (c) In circumstances where the registrant reasonably believes that other such decisions will be taken notwithstanding the registrant’s objections, terminate services with reference to the project.
- (3) A registrant possessing knowledge of a violation of T.C.A. Title 62, chapter 2, or this chapter, shall report such knowledge to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as it may require.
- (4) The registrant shall maintain the continuing education records required by rule 0120-05-.10 “Records” for a period of four (4) years and shall furnish such records to the Board for audit verification purposes within thirty (30) days of the Board’s request.
- (5) A registrant possessing knowledge of an applicant’s qualifications for registration shall respond in writing to the Board regarding those qualifications when requested to do so by the Board. A registrant possessing knowledge of an applicant’s qualifications for registration shall cooperate with the applicant and/or the Board by responding appropriately regarding those qualifications when requested to do so. A registrant shall provide timely verification of employment and/or experience earned by an applicant under his or her supervision if there is reasonable assurance that the facts to be verified are accurate. A registrant shall not knowingly sign any verification document that contains false or misleading information.

- (6) A registrant may not enter into a contract for professional services on any basis other than direct negotiation with any governmental entity that is prohibited by T.C.A. § 12-4-106(a)(2)(A) from making a selection or awarding a contract on the basis of competitive bids, thereby precluding participation in any system requiring a comparison of compensation. Upon selection, a registrant may state compensation to a prospective client in direct negotiation where architectural, engineering, or landscape architectural services necessary to protect the public health, safety, and welfare have been defined.

Authority: T.C.A. §§ 62-2-203(c) and (d) and 62-204.

Rule 0120-02-.05 Conflicts of Interest is amended by deleting paragraph (5) in its entirety and renumbering the subsequent paragraphs. The rule is further amended by adding the words "or her" to paragraphs (1) and (2) and the words "the registrant" to paragraphs (2), (5), (6) and (7) so that, as amended, the rule in its entirety shall read as follows:

0120-02-.05 Conflicts of Interest

- (1) The registrant shall conscientiously strive to avoid conflicts of interest with his or her employer or his client; but, when such conflict is unavoidable, the registrant shall forthwith disclose the circumstances to his or her employer or client in writing.
- (2) The registrant shall avoid all known conflicts of interest with his or her employer or client, and shall promptly inform his or her employer or client in writing of any business association, interests or circumstances which could influence his the registrant's judgment or the quality of his the registrant's services.
- (3) The registrant shall not accept compensation (financial or otherwise) from more than one (1) party for services on or pertaining to the same project unless the circumstances are agreed to in writing by all interested parties prior to the acceptance of any such compensation.
- (4) The registrant shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- ~~(5) A registrant may be deemed by the Board to be guilty of misconduct in his professional practice if:~~
- ~~(a) He has pleaded guilty or nolo contendere to or is convicted in a court of competent jurisdiction of a felony;~~
- ~~(b) His license or certificate of registration to practice architecture, engineering or landscape architecture in another jurisdiction is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings;~~
- ~~(c) He has been certified by the department of human services as not being in compliance with an order of support pursuant to T.C.A. §§36-5-705 – 36-5-709; or~~
- ~~(d) He has been delinquent in the payment of the professional privilege tax pursuant to T.C.A. §§67-4-1702 – 67-4-1704.~~
- (6) When in public service as a member, advisor or employee of a governmental body or department, the registrant shall not participate in considerations or actions with respect to services provided by him the registrant or his the registrant's organization in private professional practices.
- (7) The registrant shall not solicit or accept any contract from a governmental body on which he the registrant, or a principal or officer of his the registrant's organization, serves as a member.
- (8) When acting as the interpreter of construction contract documents and the judge of construction contract performance, the registrant shall render decisions impartially, favoring neither party to the construction contract.

Authority: T.C.A. §§ 62-2-203(c), and 62-2-308.

Rule 0120-02-.07 Misconduct is amended by adding the words "or her" to paragraph (1) and by deleting subparagraph (5)(c) in its entirety and renumbering the subsequent subparagraphs. The rule is further amended so that all remaining subparagraphs of paragraph (5) shall begin with the words "The registrant" instead of "He" and "His," so that, as amended, the rule in its entirety shall read as follows:

0120-02-.07 Misconduct

- (1) The registrant shall not knowingly associate with, or permit the use of his or her name or firm name in, a business venture by any person or firm which ~~he~~ the registrant knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.
- (2) The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:
 - (a) Federal, State and Local building laws and regulations, including building permit requirements; or
 - (b) Registration requirements of T.C.A. Title 62, chapter 2.
- (3) The registrant may not take over, review, revise, or sign or seal drawings or revisions thereof when such plans are begun by persons not properly registered and qualified; or do any other act to enable either such persons or the project owners, directly or indirectly, to evade the registration requirements of T.C.A. Title 62, Chapter 2.
- (4) The registrant may not make or promise to make contributions of money for the purpose of securing a commission or influencing the engagement or employment of the registrant for a project.
- (5) A registrant may be deemed by the Board to be guilty of misconduct in ~~his~~ the registrant's professional practice if:
 - (a) ~~He~~ The registrant has pleaded guilty or nolo contendere to or is convicted in a court of competent jurisdiction of a felony or fails to report such action to the Board in writing within sixty (60) days of the action;
 - (b) ~~His~~ The registrant's license or certificate of registration to practice architecture, engineering or landscape architecture in another jurisdiction is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings or ~~he~~ the registrant fails to report such action to the Board in writing within sixty (60) days of the action;
 - ~~(c) He has been certified by the department of human services as not being in compliance with an order of support pursuant to T.C.A. §§ 36-5-705 – 36-5-709; or~~
 - ~~(d)~~ (e) ~~He~~ The registrant has been delinquent in the payment of the professional privilege tax pursuant to T.C.A. §§ 67-4-1702 – 67-4-1704;
 - ~~(e)~~ (f) ~~He~~ The registrant fails to respond to Board requests and investigations within thirty (30) days of the mailing of communications, unless an earlier response is specified; or
 - ~~(f)~~ (g) ~~He~~ The registrant fails to comply with a lawful order of the Board.

Authority: T.C.A. §§ 62-2-203(c), 62-204, 62-212, and 62-2-308.

Rule 0120-02-.08 Seals is amended by deleting the text of paragraphs (5) and (6) in their entirety and substituting instead the following language so that, as amended, paragraphs (5) and (6) shall read as follows:

0120-02-.08 Seals

- (5) (a) ~~Except as provided by rule 0120-02-.08(5) and (6), n~~No registrant shall affix his or her seal or signature to sketches, working drawings, specifications or other documents developed by others not under his the registrant's responsible charge and not subject to the authority of that registrant in critical professional judgments.
- (b) In circumstances where a registrant can no longer provide services on a project (such as death, retirement, disability, contract termination, etc.), a successor registrant may perform work on a set of plans originally prepared by another registrant. If the plans are incomplete (are at a stage prior to submittal to a reviewing official), the successor registrant may not seal the set of drawings prepared by the original registrant; rather, the successor registrant must take all steps necessary to ensure that the drawings were prepared under his or her responsible charge before sealing them. If the plans are complete and have been submitted to a reviewing official, the successor registrant may prepare and seal addenda sheets or document and seal changes to the original sheets if revisions are necessary.
- (6) (a) Responsible Charge. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a registrant only when:
1. The client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or to the registrant's employee at the time initial client contact is made, so long as the registrant has the right to control and direct the employee in the material details of how the work is to be performed;
 2. The registrant supervises and is involved in the preparation of the plans, specifications, drawings, reports or other documents and has input into and full knowledge of their preparation prior to their completion;
 3. The registrant reviews the final plans, specifications, drawings, reports or other documents; and
 4. The registrant has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents; and
 5. Contributions of information or predrawn detail items or detail units that are incidental to and intended to be integrated into a registrant's technical submissions are from trusted sources (including, but not limited to, manufacturers, installers, consultants, owners, or contractors), are subject to appropriate review, and are then coordinated and integrated into the design by the registrant.
- (b) Except as provided by Rule 0120-02-.08(5)(b), Any changes made to the final plans, specifications, drawings, reports or other documents after final revision and sealing by the registrant are prohibited by any person other than the registrant, including but not limited to owners/clients, contractors, subcontractors, other design professionals, or any of their agents, employees or assigns.
- (c) Mere review of work prepared by another person, even if that person is the registrant's employee, does not constitute responsible charge unless the registrant has met the criteria set out above.
- (d) The intent of the definition of responsible charge may be met if all provisions of the definition are met using remote electronic or other communication means.

Authority: T.C.A. §§ 62-2-203(c), 62-2-306, and 62-2-306(d).

Amendments/New

Table of Contents is amended by adding 0120-04-.13 Notification to the Board so that, as amended, the Table of Contents shall read as follows:

TABLE OF CONTENTS

| | |
|--|--|
| 0120-04-.01 Definitions | 0120-04-.08 Renewal of Registration |
| 0120-04-.02 Applicability | 0120-04-.09 Registration Without Examination |
| 0120-04-.03 Applications | 0120-04-.10 Professional Conduct |
| 0120-04-.04 Education Requirements | 0120-04-.11 Civil Penalties |
| 0120-04-.05 Experience Requirements | 0120-04-.12 Other Enforcement Actions |
| 0120-04-.06 Initial Registration | <u>0120-04-.13 Notification to the Board</u> |
| 0120-04-.07 Duplicate Certificates of Registration | |

Authority: T.C.A. § 62-2-203(c).

Rule 0120-04-.05 Experience Requirements is amended by deleting the text of paragraph (4) in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

0120-04-.05 Experience Requirements

- (4) Diversified interior design experience shall be demonstrated to the Board by the applicant who shall furnish the following:
- (a) An affidavit by the applicant attesting that the applicant has engaged in the practice of interior design for the number of years for which the applicant is claiming experience; and
 - (b) Three (3) references ~~A minimum of five (5) references~~, on forms supplied by the Board, certifying that the applicant has provided interior design services for the period of experience claimed by the applicant. References from relatives will not be considered. No reference will be considered if prepared more than two (2) years prior to the date of application. ;such references to be submitted from the following:
 - 1. ~~Prior to January 1, 1994:~~
 - ~~(i) Interior designers who have passed the NCIDQ examination;~~
 - ~~(ii) Registered architects; and/or~~
 - ~~(iii) Professional members of one of the professional organizations specified in subsection (3)(c)1 of rule 0120-04-.09;~~
 - 2. ~~As of January 1, 1994 and thereafter:~~
 - ~~(i) Registered interior designers; and/or~~
 - ~~(ii) Registered architects.~~
 - (c) Three (3) such references must be registered interior designers and/or registered architects. In addition, one (1) client reference and one (1) employer reference are required. A client reference may be substituted for the employer reference if an applicant is self-employed.
 - (d) If a reference reply is uncomplimentary, derogatory, or unfavorable of the applicant, the applicant may be required to furnish additional references. If subsequent replies are unfavorable, the applicant will be scheduled for an interview with the Board for further consideration.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-904(a).

Rule 0120-04-.10 Professional Conduct is amended by deleting the text of paragraph (17) in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

0120-04-.10 Professional Conduct

- (17) A registrant possessing knowledge of an applicant's qualifications for registration shall cooperate with the applicant and/or the Board by responding appropriately regarding those qualifications when requested to do so. A registrant shall provide timely verification of employment and/or experience earned by an applicant under his or her supervision if there is reasonable assurance that the facts to be verified are accurate. A registrant shall not knowingly sign any verification document that contains false or misleading information.

Authority: T.C.A. § 62-2-203(c).

Rule 0120-04-.13 Notification to the Board is added to Chapter 0120-04, and shall read as follows:

0120-04-.13 Notification to the Board

A registrant or applicant for registration shall notify the Board in writing within thirty (30) calendar days of any change of name, mailing address, e-mail address, or phone number. Registrants and applicants are encouraged to notify the Board of a change of employment.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-207.

Chapter 0120-05
Continuing Education

New Rule

Table of Contents is amended by adding 0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers so that, as amended, the Table of Contents shall read as follows:

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| | |
|--|--|
| 0120-05-.01 Purpose | 0120-05-.08 Exemptions |
| 0120-05-.02 Definitions | 0120-05-.09 Certification |
| 0120-05-.03 Continuing Education Review | 0120-05-.10 Records |
| 0120-05-.04 Basic Requirements | 0120-05-.11 Disallowances |
| 0120-05-.05 Conversion Table | 0120-05-.12 Noncompliance |
| 0120-05-.06 Types of Acceptable Continuing Education | 0120-05-.13 Reciprocity |
| 0120-05-.07 Credits | <u>0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers</u> |

Authority: T.C.A. § 62-2-203(c).

Rule 0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers is added to Chapter 0120-05, and shall read as follows:

0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers

- (1) As an alternative to the requirements of Rule 0120-05-.04 Basic Requirements, a registered architect or registered interior designer may meet the continuing education requirement for renewal by obtaining twelve (12) Continuing Education Hours (CEH) per calendar year. All twelve (12) Continuing Education Hours must be completed in Health, Safety, and Welfare subjects acquired in structured educational activities. Continuing Education Hours may be acquired at any location. Excess Continuing Education Hours may not be credited to a future calendar year.

- (2) For the purposes of this rule, CEH means one continuous instructional hour (no less than 50 minutes of contact) spent in structured educational activities intended to increase or update the architect's or registered interior designer's knowledge and competence in Health, Safety, and Welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity, then such prescribed time shall, unless the Board finds the prescribed time to be unreasonable, be accepted as the architect's or registered interior designer's time for Continuing Education Hour purposes irrespective of actual time spent on the activity. Registrants will not receive credit for activities less than one (1) CEH in duration.
- (3) For purposes of this rule, a structured educational activity is one (1) in which at least seventy-five percent (75%) of an activity's content and instructional time must be devoted to Health, Safety, and Welfare subjects related to the practice of architecture or interior design, including courses of study or other activities under the areas identified as Health, Safety and Welfare subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.
- (4) For purposes of this rule, health, safety, and welfare subjects are technical and professional subjects that the Board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

Building Systems: Structural, Mechanical, Electrical, Plumbing, Communications, Security, Fire Protection

Construction Contract Administration: Contracts, Bidding, Contract Negotiations

Construction Documents: Drawings, Specifications, Delivery Methods

Design: Urban Planning, Master Planning, Building Design, Site Design, Interiors, Safety and Security Measures

Environmental: Energy Efficiency, Sustainability, Natural Resources, Natural Hazards, Hazardous Materials, Weatherproofing, Insulation

Legal: Laws, Codes, Zoning, Regulations, Standards, Life Safety, Accessibility, Ethics, Insurance to Protect Owners and Public

Materials and Methods: Construction Systems, Products, Finishes, Furnishings, Equipment

Pre-Design: Land Use Analysis, Programming, Site Selection, Site and Soils Analysis, Surveying

Preservation: Historic, Reuse, Adaptation

Authority: T.C.A. § 62-2-203(d).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|-----------------------------|-----|----|---------|--------|-------------------------|
| Susan K. Ballard, RID | X | | | | |
| Hal Balthrop, PE | X | | | | |
| Wilson Borden | X | | | | |
| Robert G. Campbell, Jr., PE | X | | | | |
| Jerome M. Headley, RA | X | | | | |
| Philip K. S. Lim, PE | X | | | | |
| Paul W. Lockwood, RLA | X | | | | |
| Richard D. Thompson, RA | X | | | | |
| Frank W. Wagster, RA | X | | | | |

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee State Board of Architectural and Engineering Examiners on 08/14/2013, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/21/13

Rulemaking Hearing(s) Conducted on: (add more dates). 08/14/13

Date: _____

Signature: _____

Name of Officer: Robert E. Herndon

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery, III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Please see attached documentation for copies of letters that the Board sent in response to public comments.

0120-01-.27 Notification to the Board

Candy Toler, representing the American Council of Engineering Companies of Tennessee and the Tennessee Society of Professional Engineers, expressed that the rule asking for any change of status for registrants seemed to be overreaching. The Board members explained that this was necessary in order to maintain current contact information on registrants rather than receive updated information only at renewal times.

0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers

A written comment was received from Julie Harse, P.E., Environmental Protection Specialist 3, Department of Environment and Conservation, Division of Water Resources, remarking that this rule establishing that only 12 professional development hours are allowed in one calendar year and excess hours may not be credited for future years is burdensome and would prevent employers from financing classes over 12 hours. The Board explained that this rule applies only to architects and interior designers, not engineers.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

1. Types of small businesses directly affected:

These amendments would not impact small businesses because the Board licenses individuals, not entities.

2. Projected reporting, recordkeeping, and other administrative costs:

There are no projected administrative costs as a result of these amendments.

3. Probable effect on small businesses:

There is no expected adverse impact on small businesses as a result of these amendments.

4. Less burdensome, intrusive, or costly alternative methods:

The Board knows of no other alternative method to achieve the goals exhibited by these rules.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these rules.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

The Board of Architectural and Engineering Examiners licenses only individuals and foresees no financial impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 0120-01-.03 Residency Requirements is repealed. There is no practical need to require applicants for examination to be physically in the state to take national examination under the new computerized scheme.

Rule 0120-01-.17 Postponement of Examinations – General is repealed. The Board will no longer oversee or administrate the costs of taking the examination, and scheduling a time to take the computerized examination is the responsibility of the applicant.

Rule 0120-01-.19 Postponement of Examinations – Engineering Intern is repealed; the Board no longer oversees this examination.

Rule 0120-01-.26 Fee for Transfer of Examinations is repealed; the Board no longer oversees examinations.

Rule 0120-01-.04 Applications – General is amended to provide that certification as well as registration is available on the Board's website, and deletes the provision that applications for engineering intern are available at the various schools of engineering.

Rule 0120-01-.05 Applications – Engineer is amended to remove the Board from the approval process to take examinations or managing the costs of taking an examination.

Rule 0120-01-.06 Applications – Engineer Intern is amended by reducing the cost of application for certification fee from fifty dollars (\$50.00) to fifteen dollars (\$15.00), which must be submitted with another application each time an applicant sits for the examination; the rule is also amended to remove the Board's requirement to set deadlines for receipt of applications for Spring and Fall examinations since computer-based examinations may be taken at any time during the year.

Rule 0120-01-.08 Applications – Landscape Architect is amended by deleting the Board's requirement to set deadlines for applications in conformance with the examination provider's responsibility for administering and reporting examination results to the Board.

Rule 0120-01-.09 References is amended by deleting the requirement for interior design applicants to provide the Board with five (5) references.

Rule 0120-01-.10 Education and Experience Requirements is amended to delete the acceptability of a master's degree in engineering for applicants to meet the educational requirement and to clarify that accredited programs that allow experience learning, other than cooperative program experience, will not be acceptable, nor will degrees obtained from non-accredited institutions within the United States or its territories. The rule is also amended to allow engineering degrees accredited by the Canadian Engineering Accreditation Board (CEAB), awarded after 1980, to not require evaluation.

Rule 0120-01-.11 Education and Experience Requirements – Architects is amended to allow Canadian accredited degrees to be considered substantially equivalent to those accredited by the National Architectural Accrediting Board (NAAB).

Rule 0120-01-.14 Examinations – Engineer, Engineer Intern is amended to delete the requirement that a senior student who fails to report for a required examination must reapply for the examination.

Rule 0120-01-.20 Reexamination – Engineer is amended to delete the requirement that the Board receive the costs of examination from the applicant for registration.

Rule 0120-01-.21 Reexamination – Engineer Intern is amended to delete the reexamination fee.

Rule 0120-01-.27 Mailing Addresses is repealed and the new language requires registrants and applicants for registration to notify the Board in writing within thirty (30) days of any change of address or other contact

information in residence, and are encouraged to report and change in employment information.

Rule 0120-02-.02 Proper Conduct of Practice is amended to clarify what is expected from registrants possessing knowledge of an applicant's qualifications.

Rule 0120-02-.05 Conflicts of Interest is amended to delete duplicate language for misconduct that appears in rule 0120-02-.07 in order to make the rule more gender neutral.

Rule 0120-02-.07 Misconduct is amended by deleting the provision that delinquency in child support payments constitutes professional misconduct in order to make the rule more gender neutral.

Rule 0120-02-.08 Seals is amended by clarifying that a registrant may not affix his or her seal to any documents that are not produced under the registrant's responsible charge. The rule is also amended to clarify sealing requirements for documents amended after the documents are sealed and final.

Rule 0120-04-.05 Experience Requirements is amended to increase the number of applicants for registration as a registered interior designer from three to five, and clarifies the requirements for submitting these references. The rule is also amended to move this requirement under Chapter 120-04 [Interior Designers] and to duplicate the language provided for the Board's licensed registrants.

Rule 0120-04-.10 Professional Conduct is amended by adding identical provisions for registrants possessing knowledge of a registered interior designer applicant.

Proposed rule 0120-05-.14 Alternative Continuing Professional Development Option for Architects and Registered Interior Designers is added to provide specific guidelines for the submission of alternative methods of obtaining continuing education with is acceptable to the Board.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners are made pursuant to Tenn. Code Ann. §§ 62-2-203(c) and 62-2-203(d).

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners will affect holders in good standing of registration certificates in architecture, engineering, landscape architecture and interior design and also applicants for registration as engineers. There was one written and one oral comment made in connection with this rulemaking hearing, primarily in support of the proposed changes to the rules, with one concern expressed as to the requirement that registrants must notify the Board of any change in employment. The Board modified this requirement to make it elective.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are expected to have no fiscal impact on the Department.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

John Cothron, Executive Director of the Tennessee State Board of Architectural and Engineering Examiners, and I as attorney for the Board have substantial knowledge and understanding of these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Mr. Cothron or I will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

I may be reached at the Department of Commerce and Insurance, Office of Legal Counsel, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243, (615) 741-9461.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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Sequence Number: 01-14-15
 Rule ID(s): NA
 File Date: 1/27/15
 Effective Date: 1/27/15

Filing Form for Stay of Effective Date on Rules, Withdrawal of Stay, and Withdrawal of Rules

| | |
|---------------------------------|---|
| Agency/Board/Commission: | Tennessee State Board of Architectural and Engineering Examiners |
| Division: | Division of Regulatory Boards, Department of Commerce and Insurance |
| Contact Person: | Ellery Richardson, Assistant General Counsel |
| Address: | 500 James Robertson Parkway Nashville, Tennessee |
| Zip: | 37243 |
| Phone: | (615) 741-3072 |
| Email: | Ellery.Richardson@tn.gov |

Type of Action on Rule:

Stay of Effective Date of Rules

Rule Filing Date: 11/17/14
 Rule Original Effective Date: 2/15/15
 Length of Stay (not to exceed 75 days): 75 days
 New Effective Date of Rule Filing: 5/1/15

Notice of Withdrawal of Stay

Stay Filing Date: _____
 Stay Effective Date: _____
 New Effective Date of Rule Filing: _____

Notice of Withdrawal of Rules

Rule Filing Date: _____
 Rule Effective Date: _____

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/RuleTitle per row)

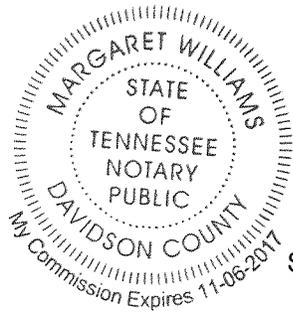
| Chapter Number | Chapter Title |
|----------------|--|
| 0120-01 | Registration Requirements and Procedures |
| Rule Number | Rule Title |
| 0120-01-.03 | Residency Requirements |
| 0120-01-.04 | Applications – General |
| 0120-01-.05 | Applications – Engineer |
| 0120-01-.06 | Applications – Engineer Intern |

| | |
|-------------|---|
| 0120-01-.08 | Applications – Landscape Architect |
| 0120-01-.09 | References |
| 0120-01-.10 | Education and Experience Requirements – Engineer |
| 0120-01-.11 | Education and Experience Requirements – Architect |
| 0120-01-.14 | Examinations – Engineer, Engineer Intern |
| 0120-01-.17 | Postponement of Examinations – General |
| 0120-01-.19 | Postponement of Examinations – Engineer Intern |
| 0120-01-.20 | Reexamination – Engineer |
| 0120-01-.21 | Reexamination – Engineer Intern |
| 0120-01-.26 | Fee for Transfer of Examination Grades |
| 0120-01-.27 | Mailing Addresses |

| | |
|-----------------------|-------------------------------|
| Chapter Number | Chapter Title |
| 0120-02 | Rules of Professional Conduct |
| Rule Number | Rule Title |
| 0120-02-.02 | Proper Conduct of Practice |
| 0120-02-.05 | Conflicts of Interest |
| 0120-02-.07 | Misconduct |
| 0120-02-.08 | Seals |

| | |
|-----------------------|---------------------------|
| Chapter Number | Chapter Title |
| 0120-04 | Interior Designers |
| Rule Number | Rule Title |
| 0120-04-.05 | Experience Requirements |
| 0120-04-.10 | Professional Conduct |
| 0120-04-.12 | Notification to the Board |

| | |
|-----------------------|---|
| Chapter Number | Chapter Title |
| 0120-05 | Continuing Education |
| Rule Number | Rule Title |
| 0120-05-.14 | Alternative Continuing Professional Development Option for Architects and Registered Interior Designers |



Date: 1-27-15

Signature: Elley

Name of Officer: Elley Richardson

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: JANUARY 27, 2015

Notary Public Signature: Margaret Williams

My commission expires on: 11/6/17

Department of State Use Only

Filed with the Department of State on: 1/27/15

Tre Hargett
Tre Hargett
Secretary of State

SECRETARY OF STATE
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