

MISSISSIPPI STATE BOARD OF ARCHITECTURE
RULES AND REGULATIONS
Proposed Rule Revisions | Filed with MS SOS on August 7, 2019

CLEAN

Preamble

The Rules and Regulations shall be binding upon all registrants and applicants. All registrants and applicants are charged with having knowledge of the Rules and Regulations as well as amendments that are published on the Board's website.

Commentary is provided for some of the Rules, which is meant to clarify or elaborate the intent of the Rules. The commentary is not part of the Rules, and enforcement will be determined by application of the Rules alone. The commentary will assist those seeking to conform their conduct to the Rules and those charged with its enforcement.

Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of an architect's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

Violation of a Rule should not give rise to a cause of action nor should it create any presumption that a legal duty has been breached. The Rules are designed to provide guidance to architects and to provide a structure for regulating conduct through the disciplinary process. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for an architect's self-assessment, or for sanctioning an architect under the disciplinary process, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. However, the Rules do establish a standard of care and conduct for architects which if violated indicates a lack of professional responsibility on the part of the architect and should be considered in determining whether an architect has met the architect's obligations to the client or others.

Title 30, Part 201, Chapter 1: Examinations.

Rule 1.1 Applications for Examination.

1.1.1 Applicants shall apply directly to the National Council of Architectural Registration Boards (NCARB) for admittance to the Architect Registration Examination (the ARE). To qualify for admittance, an applicant must:

- A. have acquired a professional degree in architecture from a school or college of architecture on the list of accredited schools issued by the National Architectural

- Accrediting Board (NAAB) or be a student actively participating in a NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within a NAAB-accredited professional degree program in architecture; and
- B. be either actively enrolled in the Architect Experience Program (AXP) in accordance with NCARB guidelines and regularly reporting experience through hours or have met the experience requirements of AXP as defined in Rule 1.2.

1.1.2 An examination candidate who has completed the ARE after having been admitted by another jurisdiction, but who has not applied for initial licensure in another jurisdiction, may apply for Registration by Examination per the procedure outlined in Rule 2.1, with the additional requirement that any other jurisdiction which previously admitted the candidate to the ARE transfers a complete copy of the applicant's record to the Board.

Source: *Miss. Code Ann. §§ 73-1-13 & 17*

Rule 1.3 Format.

Through a test vendor, NCARB will administer the ARE to all candidates who have been approved in accordance with the training and education requirements pertaining to registration by examination. This examination will be administered in compliance with those methods and procedures recommended by NCARB and adopted by the Board.

Source: *Miss. Code Ann. § 73-1-17*

Rule 1.4 Schedules.

Upon admittance to the ARE, NCARB will provide an approved candidate with information on the procedure for scheduling a test session, the test content and instructions on taking the computer-based examination.

Source: *Miss. Code Ann. § 73-1-17*

Rule 1.10 Fees.

The examination fees for each division of the ARE will be paid to NCARB or the test vendor.

Source: *Miss. Code Ann. § 73-1-17*

Rule 1.12 REPEAL

Title 30, Part 201, Chapter 2: Registration Requirements.

Rule 2.4 Fee Schedule.

Fees are non-refundable except in the case of an error resulting in an incorrect charge or duplicate charges.

RESIDENTS	
Application/Registration	\$275.00
Reinstatement Fee	\$600.00
Biennial Renewal Fee	\$275.00
NON-RESIDENTS	
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OTHER FEES	
Late Renewal Penalty (per month or fraction of month)	\$5.00
Manual Renewal Application Processing	\$25.00
Electronic Download of Roster	\$50.00
Duplicate Certificate	\$10.00
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File Transfer Fee	\$25.00
Photo Copies (per single sided page)	\$.25
Laser Printed Pages (per single page)	\$.25

Source: *Miss. Code Ann. §§ 73-1-13, 17 & 27*

Title 30, Part 201, Chapter 3: General Rules.

Rule 3.2 Practice Procedures

3.2.10 Architects shall seek employment as follows:

- A. with respect to public projects, various public procurement statutes and regulations, including Miss. Code Ann. §31-7-13.2, require the use of a qualifications-based selection procedure for certain projects. In cases where qualifications-based selection is required, public entities must publicly announce requirements for architectural services and procure these services on the basis of demonstrated competence and qualifications, negotiating contracts at fair and reasonable prices after the most qualified firm has been selected.
- B. with respect to private projects, architects are encouraged to seek professional employment on the basis of qualifications and competence for proper accomplishment of the work. This procedure restricts the architect from submitting a price for services until the prospective client has selected, on the basis of qualifications and competence, one architect or firm for negotiations. However, competitive price proposals may be submitted or solicited for professional services if and when all of the following guidelines are met:
 1. the prospective client has first sought statements of qualifications from interested licensees; and
 2. those licensees chosen by the client on the basis of qualifications and competence for proper accomplishment of the work have received in writing a comprehensive and specific Scope of Work; and

3. assurances have been given by the prospective client that factors in addition to price will be considered in selecting the architect.

Commentary – The Board encourages the use of qualifications-based selection for all projects, as the Board believes it is the method of procurement of professional design services that is in the best interest of protection of the public’s life, health and property.

3.2.20 The following determines whether a project meets one of the exemptions provided in *Miss. Code Ann. §73-1-39*:

- A. pursuant to the exemptions established by *Miss. Code Ann. §73-1-39 (h)* for buildings other than farm buildings and one-family and two-family residences and domestic outbuildings, one must consider the overall building size in determining the application of the exemption, and not merely the size of the space within the building being erected, enlarged or altered. A project is not exempt if:
 1. the overall building is 5,000 square feet or greater; and/or
 2. the space to be erected, enlarged or altered is within a building that is 5,000 square feet or greater; and/or
 3. a building that is less than 5,000 square feet prior to an alteration or enlargement will measure 5,000 square feet or more after the proposed addition or enlargement; and/or
 4. the building is more than two (2) stories in height, regardless of size; and/or
 5. a two (2) story building will exceed two (2) stories after the proposed alteration or enlargement.
- B. pursuant to the exemptions established by *Miss. Code Ann. §73-1-39 (b)* which applies only to publicly-owned projects, one must consider the overall building size in determining the application of the exemption, and not merely the size of the space within the building being erected. A project is not exempt if:
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- C. A building, as defined by the Board, includes the total gross floor area, both heated and/or unheated, within the surrounding exterior walls. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above.
- D. Pursuant to *Miss. Code Ann. §73-13-45*, public works involving the practice of architecture or engineering in which the expenditure exceeds one hundred thousand dollars (\$100,000), and construction of public buildings using political subdivision work forces which involve the practice of architecture or engineering and in which the expenditure exceeds one hundred fifty thousand dollars (\$150,000), require the services of a registered architect or professional engineer.

Source: *Miss. Code Ann. §§ 73-1-1, 3, 13, 19, 29, & 35; 73-2-3; 73-13-45.*

Title 30, Part 201, Chapter 4: Professional Code of Conduct.

Rule 4.1 Competence.

4.1.1 In practicing architecture, an architect's primary duty is to protect the public's life, health, and property. In discharging this duty, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.

Commentary - Although many of the existing rules of conduct fail to mention standards of competence, it is clear that the public expects that incompetence will be disciplined and, where appropriate, will result in revocation of the license. Rule 4.1.1 sets forth the common-law standard of care which has existed in this country for a hundred years or more in judging the performance of architects as well as certain other professionals.

4.1.4 An architect shall not be permitted to practice architecture if, in the Board's judgment, the architect's professional competence is substantially impaired. The assessment of impairment should be performed by an appropriately qualified professional.

Commentary - This rule empowers the Board to act preemptively in the interest of public health, safety, and welfare when the Board becomes aware of an architect's impaired competence rather than waiting until the impaired competence causes harm.

Source: *Miss. Code Ann. § 73-1-29(1)(d)*

Rule 4.2 Conflict of Interest

4.2.4 An architect shall not solicit or accept compensation from contractors, or material or equipment suppliers, in return for specifying or endorsing their companies or products. As used herein, "compensation" shall not mean customary and reasonable business hospitality, entertainment, or product education.

Commentary - This rule appears in most of the existing state standards. It is absolute and does not provide for waiver by agreement. It assures an architect is not influenced to use companies or products which are not in the best interest of the client. Customary and reasonable business hospitality, entertainment, and product education may be determined by jurisdictional ethics laws, company policies, and tax guidelines.

Source: *Miss. Code Ann. § 73-1-29(1)*

Rule 4.4 Full Disclosure

4.4.1 An architect, making public statements on architectural questions, shall disclose when the

architect is being compensated for making such statement or has an economic interest in the issue.

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

4.4.4 If, in the course of the architect's work on a project, an architect becomes aware of a decision taken by the architect's employer or client against the architect's advice, which violates applicable federal, state or local building laws and regulations and which will, in the architect's judgment, materially and adversely affect the health and safety of the public, the architect shall:

- A. refuse to consent to the decision; and
- B. report the decision to the building inspector or other public official charged with enforcement of the applicable federal, state or local building laws and regulations; and
- C. terminate the architect's services with reference to the project unless the architect is able to cause the matter to be resolved to the architect's satisfaction.

Commentary - This rule holds the architect to the same standard of independence which has been applied to other professionals such as lawyers and accountants. In the circumstances described, the architect is compelled to report the matter to a public official even though to do so may substantially harm the architect's client. Note that the circumstances are a violation of building laws which adversely affect the safety to the public of the finished project. While a proposed technical violation of building laws (e.g., a violation which does not affect safety) will cause a responsible architect to take action to oppose its implementation, the PCC specifically does not make such a proposed violation trigger the provisions of this rule. The rule specifically intends to exclude safety problems during the course of construction which are traditionally the obligation of the contractor. There is no intent here to create a liability for the architect in this area. Clause (c) gives the architect the obligation to terminate services if the architect has clearly lost professional control.

4.4.7 An architect shall not knowingly sign any verification document related to licensure that contains false or misleading information and shall not assist in the application for licensure of a person known by the architect to be unqualified in respect to education, training, experience, or character.

4.4.10 An architect possessing knowledge of a licensure candidate's qualifications for licensure shall cooperate with the candidate, the Board, and/or NCARB by responding appropriately and in a timely manner regarding those qualifications.

Source: *Miss. Code Ann. § 73-1-13, 29*

Rule 4.5 Professional Conduct

4.5.6 All contract documents and technical submissions, including but not limited to contracts, drawings, addenda, change orders, and pay applications, shall be signed by an architect licensed in the State of Mississippi.

Source: *Miss. Code Ann. §§ 73-1-1, 13, 19, 29(1), 35*

Title 30, Part 201, Chapter 5: Disciplinary Guidelines, Range of Penalties, Aggravating and Mitigating Circumstances

Rule 5.1

Set forth below are guidelines from which disciplinary penalties will be imposed by the Board upon practitioners found guilty of violating the law and/or rules of the Board. One purpose of the guidelines is to give notice to licensees and others under the Board's jurisdiction of the range of penalties the Board may impose for violations of particular provisions of the law and/or rules. The guidelines are not meant to be all encompassing, are not meant to address every disciplinary circumstance that might occur and there may be other causes for the imposition of discipline not mentioned below upon which the Board may act.

The guidelines are based upon a single count violation of each provision listed and are a guideline only. Multiple counts of violations of the same provision of the law or the rules promulgated thereto, or other unrelated violations contained in the same administrative complaint, will be grounds for enhancement of penalties. The Board shall be able to add to or deviate from the guidelines upon showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of a final decision. The maximum penalty for any violation is revocation and a \$5,000 fine per violation.

In determining the penalty to be imposed, the Board may consider such factors as the following:

- A. Whether the penalty imposed will be a substantial deterrent to the violation
- B. The circumstances leading to the violation
- C. The severity of the violation and the risk of harm to the public
- D. The economic benefits gained by the violator as a result of non-compliance
- E. The interest of the public
- F. Consistency of the penalty with past penalties for similar offenses, or justification for the penalty imposed
- G. Prior disciplinary action in any jurisdiction or repeated violations
- H. Self-reporting of the offense, cooperation with the Board's investigation, and any corrective action taken

The guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees, applicants, intern architects, licensure candidates and examination candidates for violation of the above-mentioned statutes and rules. The Board shall have the right to collect any legal,

investigative, and/or administrative charges incurred by the Board during the course of the investigation. In addition to the above sanctions, the Board may also require the individual to take and successfully pass a state jurisprudence examination as a condition precedent to final resolution of the disciplinary action.

Disciplinary Penalties:

- A. Failure to stamp plans (4.5.5; 3.2.4):
Minimum Penalty-Letter of reprimand and \$500 fine
- B. Failure to sign over stamp (73-1-35; 3.2.4; 4.5.7):
Minimum Penalty-Same as (A) above
- C. Providing work not competent to perform (4.1.1; 4.1.3):
Minimum Penalty-Reprimand and \$2,500 fine
- D. "Plan Stamping" (73-1-35; 3.2.4; 4.5.2; 4.5.5; 4.5.9):
Minimum Penalty-Suspension and \$2,500 fine
- E. Attempting to procure a license by providing false, deceptive or misleading information (73-1-13diii; 73-1-29b; 4.4.5):
Minimum Penalty-Revocation and \$2,500 fine if licensed (denial of license if application in process)
- F. Licensee disciplined by another jurisdiction (4.3.1; 4.3.4):
Minimum Penalty-Board discretion
- G. Criminal conviction relating to architecture (73-1-29g; 4.3.1):
Minimum Penalty-Misdemeanor: reprimand and \$2,500 fine
Minimum Penalty-Felony: One (1) year suspension, one (1) year probation and \$2,500 fine
- H. Practice on suspended license resulting from disciplinary action by Board (73-1-29e):
Minimum Penalty-Revocation and \$5,000 fine
- I. Practice on inactive license (73-1-27; 73-1-29e; 2.3):
Minimum Penalty-Fine based on length of time in practice while inactive; \$1,000 per month (penalty will require licensee to renew license or cease practice)
- J. Practice on revoked license based on non-payment of renewal fee (73-1-27; 73-1-29e; 2.3):
Minimum Penalty-Fine based on length of time in practice while revoked; \$1,000 per month
- K. Fraudulent, false, deceptive or misleading advertising (73-1-1; 3.2.2; 3.2.3; 3.2.9; 3.2.11):
Minimum Penalty-Cease and desist letter and public reprimand
- L. Negligence (73-1-29c; 4.1.1; 4.1.3):
Minimum Penalty-Reprimand, one (1) year probation and \$2,500 fine
- M. Fraud or Deceit (73-1-29h; 4.5.4):
Minimum Penalty-Reprimand, one (1) year suspension, one (1) year probation and \$2,500 fine
- N. Incompetence (mental or physical impairment) (4.1.4):
Minimum Penalty-Suspension until ability to practice proved, followed by probation
- O. Bribery to obtain clients or commissions (4.3.3; 4.5.3):
Minimum Penalty-Revocation and \$5,000 fine

- P. Undisclosed conflict of interest (73-1-29i; 4.2.1):
Minimum Penalty-Reprimand, \$2,500 fine and one (1) year probation
- Q. Aiding unlicensed practice (3.2.6(c); 4.3.2; 4.4.7; 4.4.8):
Minimum Penalty-Probation and \$2,500 fine
- R. Practicing architecture without a license (73-1-1; 73-1-13d/v; 73-1-29a; 2.2):
Minimum Penalty-Reprimand and \$2,500 fine (denial of license if application in process)
- S. Practicing architecture through a business corporation or through a business entity that is not provided on the architect's record with the Board (73-1-19; 3.2.12):
Minimum Penalty-\$2,500 fine and test on Board laws and rules
- T. Violating the provisions of the construction administration rule (3.2.16):
Minimum Penalty-\$1,500 fine

Source: *Miss. Code Ann.* § 73-1-29(4)

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Commentary is provided for some of the Rules, which is meant to clarify or elaborate the intent of the Rules. The commentary is not part of the Rules, and enforcement will be determined by application of the Rules alone. The commentary will assist those seeking to conform their conduct to the Rules and those charged with its enforcement.

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Violation of a Rule should not give rise to a cause of action nor should it create any presumption that a legal duty has been breached. The Rules are designed to provide guidance to architects and to provide a structure for regulating conduct through the disciplinary process. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for an architect's self-assessment, or for sanctioning an architect under the disciplinary process, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. However, the Rules do establish a standard of care and conduct for architects which if violated indicates a lack of professional responsibility on the part of the architect and should be considered in determining whether an architect has met the architect's obligations to the client or others.

Title 30, Part 201, Chapter 1: Examinations.

Rule 1.1 Applications for Examination.

1.1.1 Applicants shall apply directly to the National Council of Architectural Registration Boards (NCARB) for admittance to the Architect Registration Examination (the ARE). To qualify for admittance, an applicant must:

- ~~A. submit the Mississippi Application for Admittance to the ARE; and~~
- ~~B. pay the application fee prescribed in Rule 2.4; and~~

~~C. submit an official record from the National Council of Architectural Registration Boards (NCARB) which sufficiently documents to the Board, in the Board's sole discretion, that the applicant:~~

- ~~1A. has have~~ acquired a professional degree in architecture from a school or college of architecture on the list of accredited schools issued by the National Architectural Accrediting Board (NAAB) or ~~that the applicant is~~ be a student actively participating in a NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within a NAAB-accredited professional degree program in architecture; and
- ~~2B. is~~ be either actively enrolled in the Architect Experience Program (AXP) in accordance with NCARB guidelines and ~~is~~ regularly reporting experience through hours or ~~has~~ have met the experience requirements of AXP as defined in Rule 1.2.

~~1.1.2 An examination candidate admitted to the ARE by another NCARB jurisdiction may apply to and transfer into Mississippi to complete the examination if:~~

- ~~A. the candidate meets the requirements of Rule 1.1.1 at the time the applicant submits the fee and Mississippi Application for Admittance to the ARE; and~~
- ~~B. the candidate has not successfully passed all sections of the ARE; and~~
- ~~C. any other jurisdiction which previously admitted the candidate to the ARE transfers a complete copy of the applicant's record to the Board.~~

1.1.32 An examination candidate who has completed the ARE after having been admitted by another jurisdiction, but who has not applied for initial licensure in another jurisdiction, may apply for Registration by Examination per the procedure outlined in Rule 2.1, with the additional requirement that any other jurisdiction which previously admitted the candidate to the ARE transfers a complete copy of the applicant's record to the Board.

Source: *Miss. Code Ann. §§ 73-1-13 & 17*

Rule 1.3 Format.

Through a test vendor, ~~the Board~~ NCARB will administer the ARE, ~~as prepared by NCARB,~~ to all candidates who have been approved ~~by the Board~~ in accordance with the training and education requirements pertaining to registration by examination. This examination will be administered in compliance with those methods and procedures recommended by NCARB and adopted by the Board.

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Rule 1.4 Schedules.

Upon admittance to the ARE ~~by the Board,~~ NCARB will provide an approved candidate with information on the procedure for scheduling a test session, the test content and instructions on taking the computer-based examination.

Source: *Miss. Code Ann. § 73-1-17*

Rule 1.10 Fees.

~~Each examination candidate shall pay a one-time examination application fee, as prescribed in~~

~~Rule 2.4, to the Board.~~ The examination fees for each division of the ARE will be paid to NCARB or the test vendor.

Source: *Miss. Code Ann. § 73-1-17*

~~Rule 1.12-Examination Candidates in Jurisdiction of the Board. REPEAL~~
Examination candidates, as applicants before the Board, are subject to the jurisdiction of the Board.

~~Source: *Miss. Code Ann. § 73-1-17*~~

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Rule 2.4 Fee Schedule.

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~~by various public procurement statutes such as Miss. Code Ann. §31-7-13.2. Public entities must publicly announce requirements for architectural services, and procure these services on the basis of demonstrated competence and qualifications, and negotiate contracts at fair and reasonable prices after the most qualified firm has been selected except that, with respect to any county board of supervisors, the authority to contract for professional services can be governed by Miss. Code Ann. §19-3-69 with respect to public projects, various public procurement statutes and regulations, including Miss. Code Ann. §31-7-13.2, require the use of a qualifications-based selection procedure for certain projects. In cases where qualifications-based selection is required, public entities must publicly announce requirements for architectural services and procure these services on the basis of demonstrated competence and qualifications, negotiating contracts at fair and reasonable prices after the most qualified firm has been selected.~~

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

architect shall not be permitted to practice architecture if, in the Board’s judgment, the architect’s professional competence is substantially impaired. The assessment of impairment should be performed by an appropriately qualified professional.

Commentary – ~~Here the Board is given the opportunity to revoke or suspend a license when the Board has suitable evidence that the license holder’s professional competence is impaired by physical or mental disabilities. Thus, the Board need not wait until a building fails in order to revoke the license of an architect whose addiction to alcohol, for example, makes it impossible for the architect to perform the architect’s professional services with the necessary standard of care. This rule empowers the Board to act preemptively in the interest of public health, safety, and welfare when the Board becomes aware of an architect’s impaired competence rather than waiting until the impaired competence causes harm.~~

Source: Miss. Code Ann. § 73-1-29(1)(d)

Rule 4.2 Conflict of Interest.

4.2.4 An architect shall not solicit or accept compensation from contractors, or material or equipment suppliers, in return for specifying or endorsing their companies or products. As used herein, “compensation” shall not mean customary and reasonable business hospitality, entertainment, or product education.

Commentary - This rule appears in most of the existing state standards. It is absolute and does not provide for waiver by agreement. It assures an architect is not influenced to use companies or products which are not in the best interest of the client. Customary and reasonable business hospitality, entertainment, and product education may be determined by jurisdictional ethics laws, company policies, and tax guidelines.

Source: Miss. Code Ann. § 73-1-29(1)

Rule 4.4 Full Disclosure.

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

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

4.4.4 If, in the course of the architect's work on a project, an architect becomes aware of a decision taken by the architect's employer or client against the architect's advice, which violates applicable federal, state or ~~municipal~~-local building laws and regulations and which will, in the architect's judgment, materially and adversely affect the health and safety ~~to~~of the public ~~of the finished project~~, the architect shall:

- ~~A. report the decision to the local building inspector or other public official charged with enforcement of the applicable state or municipal building laws and regulations; and~~
- ~~B. refuse to consent to the decision; and~~
- ~~C. in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding the architect's objection, terminate the architect's services with reference to the project.~~
- A. refuse to consent to the decision; and
- B. report the decision to the building inspector or other public official charged with enforcement of the applicable federal, state or local building laws and regulations; and
- C. terminate the architect's services with reference to the project unless the architect is able to cause the matter to be resolved to the architect's satisfaction.

Commentary - This rule holds the architect to the same standard of independence which has been applied to other professionals such as lawyers and accountants. In the circumstances described, the architect is compelled to report the matter to a public official even though to do so may substantially harm the architect's client. Note that the circumstances are a violation of building laws which adversely affect the safety to the public of the finished project. While a proposed technical violation of building laws (e.g., a violation which does not affect safety) will cause a responsible architect to take action to oppose its implementation, the PCC specifically does not make such a proposed violation trigger the provisions of this rule. The rule specifically intends to exclude safety problems during the course of construction which are traditionally the obligation of the contractor. There is no intent here to create a liability for the architect in this area. Clause (c) gives the architect the obligation to terminate services if the architect has clearly lost professional control. ~~The standard is that the architect reasonably believes that other such decisions will be taken notwithstanding the architect's objection.~~

4.4.7 ~~An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience, or character~~ An architect shall not knowingly sign any verification document related to licensure that contains false or misleading information and shall not assist in the application for licensure of a person known by the architect to be unqualified in respect to education, training, experience, or character.

4.4.10 An architect possessing knowledge of a licensure candidate's qualifications for licensure shall cooperate with the candidate, the Board, and/or NCARB by responding appropriately and in a timely manner regarding those qualifications.

Source: *Miss. Code Ann. § 73-1-13, 29*

Rule 4.5 Professional Conduct.

4.5.6 All contract documents and technical submissions, including but not limited to contracts, drawings, addenda, change orders, and pay applications, shall be signed by an architect licensed in the State of Mississippi.

Source: *Miss. Code Ann.* §§ 73-1-1, 13, 19, 29(1), 35

Title 30, Part 201, Chapter 5: Disciplinary Guidelines, Range of Penalties, Aggravating and Mitigating Circumstances

Rule 5.1

Set forth below are guidelines from which disciplinary penalties will be imposed by the Board upon practitioners found guilty of violating the law and/or rules of the Board. One purpose of the guidelines is to give notice to licensees and others under the Board's jurisdiction of the range of penalties the Board may impose for violations of particular provisions of the law and/or rules. The guidelines are not meant to be all encompassing, are not meant to address every disciplinary circumstance that might occur and there may be other causes for the imposition of discipline not mentioned below upon which the Board may act.

The guidelines are based upon a single count violation of each provision listed and are a guideline only. Multiple counts of violations of the same provision of the law or the rules promulgated thereto, or other unrelated violations contained in the same administrative complaint, will be grounds for enhancement of penalties. The Board shall be able to add to or deviate from the guidelines upon showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of a final decision. The maximum penalty for any violation is revocation and a \$5,000 fine per violation.

In determining the penalty to be imposed, the Board may consider such factors as the following:

- A. Whether the penalty imposed will be a substantial deterrent to the violation
- B. The circumstances leading to the violation
- C. The severity of the violation and the risk of harm to the public
- D. The economic benefits gained by the violator as a result of non-compliance
- E. The interest of the public
- F. Consistency of the penalty with past penalties for similar offenses, or justification for the penalty imposed
- G. Prior disciplinary action in any jurisdiction or repeated violations
- H. Self-reporting of the offense, cooperation with the Board's investigation, and any corrective action taken

The guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees, applicants, intern architects, licensure candidates and examination candidates for violation of the above-mentioned statutes and rules. The Board shall have the right to collect any legal, investigative, and/or administrative charges incurred by the Board during the course of the investigation. In addition to the above sanctions, the Board may also require the individual to take and successfully pass a state jurisprudence examination as a condition precedent to final resolution of the disciplinary action.

Disciplinary Penalties:

- A. Failure to stamp plans (4.5.5; 3.2.4):
Minimum Penalty-Letter of reprimand and \$500 fine
- B. Failure to sign over stamp (73-1-35; 3.2.4; 4.5.7):
Minimum Penalty-Same as (A) above
- C. Providing work not competent to perform (4.1.1; 4.1.3):
Minimum Penalty-Reprimand and \$2,500 fine
- D. "Plan Stamping" (73-1-35; 3.2.4; 4.5.2; 4.5.5; 4.5.9):
Minimum Penalty-Suspension and \$2,500 fine
- E. Attempting to procure a license by providing false, deceptive or misleading information (73-1-13diii; 73-1-29b; 4.4.5):
Minimum Penalty-Revocation and \$2,500 fine if licensed (denial of license if application in process)
- F. Licensee disciplined by another jurisdiction (4.3.1; 4.3.4):
Minimum Penalty-Board discretion
- G. Criminal conviction relating to architecture (73-1-29g; 4.3.1):
Minimum Penalty-Misdemeanor: reprimand and \$2,500 fine
Minimum Penalty-Felony: One (1) year suspension, one (1) year probation and \$2,500 fine
- H. Practice on suspended license resulting from disciplinary action by Board (73-1-29e):
Minimum Penalty-Revocation and \$5,000 fine
- I. Practice on inactive license (73-1-27; 73-1-29e; 2.3):
Minimum Penalty-Fine based on length of time in practice while inactive; \$1,000 per month (penalty will require licensee to renew license or cease practice)
- J. Practice on revoked license based on non-payment of renewal fee (73-1-27; 73-1-29e; 2.3):
Minimum Penalty-Fine based on length of time in practice while revoked; \$1,000 per month
- K. Fraudulent, false, deceptive or misleading advertising (73-1-1; 3.2.2; 3.2.3; 3.2.9; 3.2.11):
Minimum Penalty-Cease and desist letter and public reprimand
- L. Negligence (73-1-29c; 4.1.1; 4.1.3):
Minimum Penalty-Reprimand, one (1) year probation and \$2,500 fine
- M. Fraud or Deceit (73-1-29h; 4.5.4):
Minimum Penalty-Reprimand, one (1) year suspension, one (1) year probation and \$2,500 fine
- N. Incompetence (mental or physical impairment) (4.1.4):
Minimum Penalty-Suspension until ability to practice proved, followed by probation
- O. Bribery to obtain clients or commissions (4.3.3; 4.5.3):
Minimum Penalty-Revocation and \$5,000 fine
- P. Undisclosed conflict of interest (73-1-29i; 4.2.1):
Minimum Penalty-Reprimand, \$2,500 fine and one (1) year probation
- Q. Aiding unlicensed practice (3.2.6(c); 4.3.2; 4.4.7; 4.4.8):
Minimum Penalty-Probation and \$2,500 fine

- R. Practicing architecture without a license (73-1-1; 73-1-13d/v; 73-1-29a; 2.2):
Minimum Penalty-Reprimand and \$2,500 fine (denial of license if application in process)
- S. Practicing architecture through a business corporation or through a business entity that is not provided on the architect's record with the Board (73-1-19; 3.2.12):
Minimum Penalty-\$2,500 fine and test on Board laws and rules
- T. Violating the provisions of the construction administration rule (3.2.16):
Minimum Penalty-\$1,500 fine

Source: *Miss. Code Ann.* § 73-1-29(4)