

**MISSISSIPPI STATE BOARD OF ARCHITECTURE  
RULES AND REGULATIONS**

Final Rules Proposed February 12, 2018; Effective March 11, 2019

**CLEAN**

**Title 30 Part 201 Chapter 3: General Rules**

*Rule 3.1 Records of the Board.*

All records of the Board which deal with applications, examinations, ongoing investigations, personnel files and NCARB Certificates shall be kept confidential in view of the sensitive nature of the material contained therein.

Public records shall be made available, pursuant to the Mississippi Public Records Act, by written request with the Board responding to requests within fourteen (14) working days. Appropriate administrative costs in relation to the processing of such requests will apply and will be due from the requesting party prior to delivery of any public records.

Email addresses of registrants are not shared as public information. This is in conformance with opinions issued by the Mississippi Attorney General which opine that certain personal information is the type of information that should not be made public through responses to public records requests. (See MS AG Opinions Turner (March 27, 2015); (Neyman (January 31, 2014); Smith (July 2, 1984); and Stanton (November 7, 2014).)

Source: *Miss. Code Ann.* §25-61-1

*Rule 3.2 Practice Procedures.*

3.2.6 A licensed architect can combine with a duly licensed general contractor or a professional engineer in order to participate in a “Design/Build” undertaking whereby the architect prepares plans and specifications through individual or collective agreements with the owner or contractor in order to meet the owner’s requirements for unified control in the design and construction services rendered under the following conditions:

- A. that nothing herein shall be construed so as to allow the offering or other performance of any architectural services by anyone who is not duly licensed as an architect in this state; and
- B. that full disclosure is made in writing to the owner as to the duties and responsibilities of each of the participating parties in such agreements; and
- C. the architect shall not furnish any services in such a manner as to enable a contractor, owner or others to perform architectural services or to evade the public health and safety requirements; and
- D. the architect shall not be an employee of a licensed contractor or a person not licensed to practice architecture or engineering in Mississippi and must have a separate contract for architectural services either with the contractor or the owner; and the architect shall not sign or seal drawings, specifications, reports or other professional

work which was not prepared by or under the responsible control of the architect as defined in Rule 4.5.2; and

- E. nothing in this rule shall prevent the administration of construction contracts by a licensed contractor or architect.

*Commentary - An architect must always maintain responsible control over the design of a project to ensure all applicable federal, state and local building laws and codes are incorporated into the design and construction of a project. In order to comply with the responsible control requirements, the architect must be able to act independently and not be subject to the control of others. Where the architect is the employee of a contractor, the potential exists for the contractor to exert financial pressure on the architect to forgo compliance with certain building code requirements in order to provide a financial benefit to the contractor to the exclusion of the health, safety and welfare of the individuals occupying the built environment.*

3.2.9 All architects holding ownership or supervisory positions in an architectural firm or other entity through which architectural services are offered or rendered shall be responsible for the conduct of all non-registered employees (and non-registered associates and contracted persons) under the control of the firm regarding acts, representations and services of the non-registrants, related to the practice of architecture and while acting for, or on behalf of, the firm, if said conduct constitutes a violation of Miss. Code Ann. §73-1-1 or the Professional Code of Conduct. Such architects shall maintain responsible control of all representations made by, or in reference to, unlicensed individuals employed by the firm in order to ensure that the unlicensed individuals are not presented in a manner that may lead the public to assume they are licensed.

*Commentary - It is common practice for architects to provide professional services in the setting of a firm consisting of other architects, other design professionals, and non-registered individuals such as draftspersons, marketers, clerical staff, construction administrators, intern architects, licensure candidates and others. The Board recognizes that many such non-registered individuals perform many acts and services for the firm that constitute or support the practice of architecture, such as marketing, design, detailing, specification writing, client contact, and contract administration. In the interest of protecting the health, safety and welfare of the public, it is incumbent upon the registered professionals to maintain responsible control of the firm and its staff persons regarding their acts, duties and work product relating to the practice of architecture. The Board has long held that "responsible control" (previously "direct supervision") of the preparation of drawings and specifications was required in order for the architect to place the architect's seal thereon. This rule clarifies that "responsible control" of other activities of the practice is required as well, such as firm marketing and representation of qualifications, pre-design activities, etc. The architect is not expected to be responsible for conduct or acts committed by non-registrants under the architect's employ or control when said conduct is related to activities or services performed outside of the firm (e.g. "moonlighting" by a draftsperson).*

3.2.10 Architects shall seek employment as follows:

- A. with respect to public projects, requirements for seeking professional employment on public projects are governed by a qualifications-based selection procedure as defined 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.
- 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 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 believes the qualifications-based selection procedure 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.*

3.2.11 No person may use the title “architect” or any form thereof without having have secured a license from the Board, except as provided in rule 2.6 as pertains to an intern architect. In architectural practice, the person or persons licensed as architect(s) in Mississippi shall maintain responsible control of all work performed in Mississippi. This shall include, but is not limited to, signing contracts, sealing documents, and all services as described in *Miss. Code Ann.* §73-1-3.

3.2.16 In regard to construction administration, if, under Mississippi law, an architect must prepare, or supervise and control the preparation of the contract documents for a new building or the alteration of or an addition to an existing building, construction administration services of an architect on the architectural aspects of the project are deemed necessary to protect the life, health and property of the public. In such event, construction administration for the project shall be conducted by an architect or by a person working under the responsible control of an architect. Construction administration as defined herein constitutes the practice of architecture as defined by the Board.

- A. for purposes of this rule, “construction administration” means the administration of the portion of the construction contract described and documented in the contract documents, including, but not necessarily limited to, the following services:
1. visiting the construction site at intervals appropriate to the contractor's operations to determine that the work is proceeding generally in accordance with the technical submissions submitted to the owner and/or the building official at the time the building permit was issued; and
  2. processing shop drawings, samples, and other submittals required of the

- contractor by the terms of construction contract documents; and
  3. notifying an owner and any building official of any code violations; changes which affect code compliance; the use of any materials, assemblies, components, or equipment prohibited by a code; major or substantial changes between such technical submissions and the work in progress; or any deviation from the technical submissions which the architect identifies as constituting a hazard to the public, which the architect observes in the course of performing the architect's duties.
- B. on a project where the architect of record has not been engaged, or is no longer engaged, to perform construction administration services, as defined above, the architect of record shall report in writing that the architect has not been engaged or is no longer engaged to perform construction administration services, to the following parties:
1. the building official; and
  2. the owner; and
  3. the client; and
  4. the contractor.

*Commentary - In order to assure a project which is required by law to be designed by an architect is constructed in accordance with the plans and specifications, the architect of record should provide construction administration services as part of the protection of the life, health and property of the individuals using the built environment. Where the architect of record was not originally contracted or is no longer engaged to perform construction administration, the architect is required to give the notice outlined above to assure that all parties to the construction project are aware that construction administration is not being performed by the architect of record. This specifically provides the building official with notice so the building official may compel the owner to provide someone to perform those services if the building official so chooses.*

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), 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:

1. the overall building is 10,000 square feet or greater; and/or
  2. the space to be erected, enlarged or altered is within a building that is 10,000 square feet or greater; and/or
  3. a building that is less than 10,000 square feet prior to an alteration or enlargement will measure 10,000 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 a two (2) story building will exceed two (2) stories after the proposed alteration or enlargement.
- 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.

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

#### **Title 30 Part 201 Chapter 4: Professional Code of Conduct**

*(Some commentaries provided by the NCARB Professional Conduct Committee (PCC))*

##### *Rule 4.1 Competence.*

4.1.1 In practicing architecture, 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.*

4.1.3 An architect shall undertake to perform professional services only when the architect, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.

*Commentary - While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations on the architect's own education, training and experience. Where an architect lacks the necessary experience for a particular project, e.g. a multi-story hospital, the rule supposes the architect will retain consultants who can appropriately supplement the architect's own experience. If an architect undertakes to do a project where the architect lacks the requisite education, training and experience and does not seek supplementing consultants, the architect has violated the rule.*

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.

*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.*

4.1.5 A licensed architect shall practice in accordance with the laws, rules and regulations governing the practice of architecture in the State of Mississippi at all times and on all projects, regardless of the size or dollar value of the project in question.

*Comment: Miss. Code Ann. §73-1-39 exempts certain projects from requiring an architect, e.g., any building containing less than 5,000 square feet and is less than three stories in height. In most instances, unlicensed individuals preparing plans and specifications for buildings meeting this exemption are not under the jurisdiction of the Board and are not held to the same standard of care as an architect. However, an architect is held to the professional standard of care and that standard of care is not diminished by the fact the building may fall under one of the exemptions in Miss. Code Ann. §73-1-39. Accordingly, regardless of the type, size or dollar value of the project, a Mississippi licensed architect will follow all laws, rules and regulations governing the practice of architecture in the State of Mississippi including, but not limited to, those applicable to responsible control, use of the architect's seal, prototypical documents and construction administration.*

Source: Miss. Code Ann. §73-1-29(1)

#### *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.

*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.*

Source: Miss. Code Ann. §73-1-29(1)

#### *Rule 4.3 Compliance with Laws.*

4.3.1 An architect shall not knowingly violate any state or federal criminal law.

*Commentary – Miss. Code Ann. Section 73-1-29(1) provides that the Board is authorized to take disciplinary action against any architect registered in this state upon conviction of “any felony except culpable negligent manslaughter”. This rule is not limited to the violation of a state or federal criminal law while in the conduct of the registrant's professional practice as in some*

*jurisdictions.*

4.3.3 An architect shall neither offer nor make any payments or gifts of substantial value to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

*Commentary – Rule 4.3.3 tracks a typical bribe statute. It is covered by the general language of Rule 4.3.1, but is more explicitly set out in this Rule. Note that all of the rules under this section look to the conduct of the architect and not to whether or not the architect has actually been convicted under a criminal law. An architect who bribes a public official is subject to discipline by the Board, whether or not the architect has been convicted under the state criminal procedure.*

Source: *Miss. Code Ann. §73-1-29(1)*

*Rule 4.4 Full Disclosure.*

4.4.2 An architect shall accurately represent to a prospective or existing client or employer the architect's qualifications and the scope of the architect's responsibility in connection with work for which the architect is claiming credit.

- A. it shall be the responsibility of each registered architect to clearly and appropriately state prior professional experience of the architect and/or the firm the architect is representing in presenting qualifications to prospective clients, both public and private. If an architect uses visual representations of prior projects or experience, all architects-of-record must be clearly identified. Architect-of-record means persons or entities whose seal appear on plans, specifications and/or contract documents.
- B. an architect who has been an employee of another architectural practice may not claim unconditional credit for projects contracted for in the name of the previous employer. The architect shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee, the time frame in which the project was performed, and identify the previous architectural firm. The architect shall also describe the nature and extent of the architect's participation in the project.
- C. an architect who was formerly a principal in a firm may legitimately make additional claims provided the architect discloses the nature of ownership in the previous architectural firm (e.g. stockholder, director or officer) and identifies with specificity the architect's responsibilities for that project.
- D. an architect who presents a project that has received awards recognition must comply with the requirements of Rule 4.4.2 with regard to project presentation to the public and prospective clients.
- E. projects which remain unconstructed and which are listed as credit shall be listed as "unbuilt" or a similar designation.

*Commentary - Many important projects require a team of architects to do the work. Regrettably, there has been some conflict in recent years when individual members of that team have claimed greater credit for the project than was appropriate to their actual work performed by them. It*

*should be noted that a young architect who develops experience working under a more senior architect has every right to claim credit for the work which the young architect actually performed. On the other hand, the public must be protected from believing that the younger architect's role was greater than was the fact. If a brochure represents an employee's involvement on a specific project, while employed by another firm, the brochure provided shall include the employee's specific responsibilities on the project and the architect of record for the project.*

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 state or municipal building laws and regulations and which will, in the architect's judgment, materially and adversely affect the safety to 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.

*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.*

4.4.8 A licensee who has knowledge or reasonable grounds for believing that another individual or another member of the profession has violated any statute or rule regulating the practice of architecture shall have the duty of presenting such information to the Board. Failure to report such acts may result in disciplinary action by the Board.

*Commentary - This rule has its analogue in the Code of Professional Responsibility and/or Rules of Professional Conduct for lawyers. Its thrust is consistent with the special responsibility which the public expects from architects. The public expects that professions will be guided in their conduct by a commonly accepted standard of conduct and that architects will assume a primary role in ensuring ethical conduct by their colleagues. This principle is the foundation of the requirements to report violations found in Rule 4.4.8. An architect's accountability in this regard extends to the actions of parties external to their practice and to their practice*



colleagues.

4.4.9 For the purposes of these Rules of Conduct, any registered architect who, alone or with others, is in charge of a firm's architectural practice shall be deemed to have violated these rules if the firm has violated these rules.

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

*Rule 4.5 Professional Conduct.*

4.5.1 Each office maintained for the preparation of drawings, specifications, reports or other professional work shall have an architect in that office having direct knowledge and supervisory control of such work.

Any office which is advertised or promoted as an architectural office must have an architect employed in responsible control of that office who is in responsible control of work produced in that location.

*Commentary - This rule addresses the subject of main, branch or satellite offices of an architectural firm and protects the public in that such offices are continually supervised by an architect registered in the jurisdiction where the office is located.*

4.5.4 An architect shall not engage in conduct involving fraud or wanton disregard for the rights of others.

*Commentary - Violation of this rule may involve criminal conduct not covered by Rule 4.3.1, or other reprehensible conduct which the Board believes should warrant discipline. The PCC believes that a state board must, in any disciplinary matter, be able to point to a specific rule which has been violated. The PCC believes that serious misconduct, even though not related to professional practice, may well be grounds for discipline. To that end, The PCC recommends this rule. Many persons who have reviewed and commented on the draft rules were troubled by the sententious character of Rule 4.5.4. The PCC has, however, found that lawyers commenting on the rules had little trouble with the standard set in Rule 4.5.4: it applies to conduct which would be characterized as wicked, as opposed to minor breaches of the law.*

4.5.11 An architect, acting individually or through a firm, association or corporation should not request, propose, or accept an agreement, contract, or commission for professional services on a "contingency basis" under which the architect's professional judgment may be compromised or when a contingency provision is used as a device for promoting or securing an agreement, contract, or commission, either for additional commissions or projects or for performing further services on the project involved unless the architect can commit resources sufficient to meet the standard of care and performance required under any other commission. For purposes of adjudging the provisions of this section "contingency basis" will also be interpreted to include the preparation of preliminary reports and/or applications for funds or for reviewing for approval where the fee involved is to be paid only after such submission or approval, or in an amount substantially below the cost of performing the services.

*Commentary - This provision reflects directly on the increasing practice of soliciting submittals from architects with compensation to the architect contingent upon the occurrence of a particular event, i.e.: the passage of a bond issue or funding of the project. The architect is requested to provide services with the possibility of receiving no, or a substantially reduced, fee. If this occurs, selection of the architect is based upon conditions other than qualifications. Additionally, this type of arrangement can place the architect in the position of paying less attention to the project in question while devoting more resources to projects on which payment is guaranteed. This can result in the performance of substandard or inadequate work which may endanger the life, health or safety of the public.*

4.5.12 In a Design/Build arrangement:

- A. it shall be deemed unprofessional conduct for an architect, through employment by building contractors, or by another not holding a license to practice architecture issued by the Board, to enable the employer to offer or perform architectural services, except as provided in Rule 3.2.6.
- B. in design/build arrangements, the architect shall not be an employee of a person not licensed to practice architecture or engineering in Mississippi. The architect shall not be an employee of a licensed contractor or a person not licensed to practice architecture or engineering in Mississippi and must have a separate contract for architectural services either with the contractor or with the owner.
- C. it shall be deemed unprofessional conduct for an architect to furnish limited services in such a manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of the Mississippi Code.
- D. When building plans are begun or contracted for by persons not properly licensed and qualified, it shall be deemed unprofessional conduct for an architect to take over, review, revise, or sign or seal such drawings or revisions thereof for such persons, or do any act to enable either such persons or the project owners, directly or indirectly, to evade the requirements of the Mississippi Code and/or the Rules and Regulations of the Board.

*Commentary – Refer to the commentary of Rule 3.2.6.*

4.5.13 In serving as an expert witness, an architect shall not make a statement the architect knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of another architect, engineer or landscape architect including, but not limited to, the standard of care performed with respect to a particular project, or knowingly misrepresent the law and rules of the Board.

*Commentary: Architects are often asked to render expert opinions in civil litigation to assist the trier of fact in understanding the evidence or to determine a fact issue. The qualification of any architect as an expert is governed by the Mississippi Rules of Evidence. Regardless, the architect is expected to testify truthfully and impartially and not be bound to testify in one way solely because the architect is being paid to do so. This also mandates the architect not testify contrary to the law and rules of the Board.*

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.

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 (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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- A. that nothing herein shall be construed so as to allow the offering or other performance of any architectural services by anyone who is not duly licensed as an architect in this state; and
- B. that full disclosure is made in writing to the owner as to the duties and responsibilities of each of the participating parties in such agreements; and
- C. the architect shall not furnish any services in such a manner as to enable a contractor, owner or others to perform architectural services or to evade the public health and safety requirements; and
- D. the architect shall not be an employee of a licensed contractor or a person not licensed to practice architecture or engineering in Mississippi and must have a separate contract for architectural services either with the contractor or the owner; and the architect shall not sign or seal drawings, specifications, reports or other professional

work which was not prepared by or under the responsible control of the architect as defined in Rule 4.5.2; and

- E. nothing in this rule shall prevent the administration of construction contracts by a licensed contractor or architect.

Commentary - An architect must always maintain responsible control over the design of a project to ensure all applicable federal, state and local building laws and codes are incorporated into the design and construction of a project. In order to comply with the responsible control requirements, the architect must be able to act independently and not be subject to the control of others. Where the architect is the employee of a contractor, the potential exists for the contractor to exert financial pressure on the architect to forgo compliance with certain building code requirements in order to provide a financial benefit to the contractor to the exclusion of the health, safety and welfare of the individuals occupying the built environment.

3.2.9 All architects holding ownership or supervisory positions in an architectural firm or other entity through which architectural services are offered or rendered shall be responsible for the conduct of all non-registered employees (and non-registered associates and contracted persons) under the control of the firm regarding acts, representations and services of the non-registrants, related to the practice of architecture and while acting for, or on behalf of, the firm, if said conduct constitutes a violation of Miss. Code Ann. §73-1-1 or the Professional Code of Conduct. Such architects shall maintain responsible control of all representations made by, or in reference to, unlicensed individuals employed by the firm in order to ensure that the unlicensed individuals are not presented in a manner that may lead the public to assume they are licensed.

*Commentary - It is common practice for architects to provide professional services in the setting of a firm consisting of other architects, other design professionals, and non-registered individuals such as draftspersons, marketers, clerical staff, construction administrators, intern architects, licensure candidates and others. The Board recognizes that many such non-registered individuals perform many acts and services for the firm that constitute or support the practice of architecture, such as marketing, design, detailing, specification writing, client contact, and contract administration. In the interest of protecting the health, safety and welfare of the public, it is incumbent upon the registered professionals to maintain responsible control of the firm and its staff persons regarding their acts, duties and work product relating to the practice of architecture ~~as defined by this act~~. The Board has long held that "responsible control" (previously "direct supervision") of the preparation of drawings and specifications was required in order for the architect to place the architect's seal thereon. This rule clarifies that "responsible control" of other activities of the practice is required as well, such as firm marketing and representation of qualifications, pre-design activities, etc. The architect is not expected to be responsible for conduct or acts committed by non-registrants under the architect's employ or control when said conduct is related to activities or services performed outside of the firm (e.g. "moonlighting" by a draftsperson).*

3.2.10 Architects shall seek employment as follows:

- A. with respect to public projects, requirements for seeking professional employment on public projects are governed by a qualifications-based selection procedure as defined

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.

- 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 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 believes the qualifications-based selection procedure 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.

3.2.11 No person may use the title “architect” or any form thereof without having have secured a license from the Board, except as provided in rule 2.6 as pertains to an intern architect. In architectural practice, the person or persons licensed as architect(s) in Mississippi shall maintain responsible control of all work performed in Mississippi. This shall include, but is not limited to, signing contracts, sealing documents, and all services as described in Miss. Code Ann. §73-1-3.

3.2.16 In regard to construction administration, if, under Mississippi law, an architect must prepare, or supervise and control the preparation of the contract documents for a new building or the alteration of or an addition to an existing building, construction administration services of an architect on the architectural aspects of the project are deemed necessary to protect the life, health and property of the public. In such event, construction administration for the project shall be conducted by an architect or by a person working under the responsible control of an architect. Construction administration as defined herein constitutes the practice of architecture as defined by the Board.

A. for purposes of this rule, “construction administration” means the administration of the portion of the construction contract described and documented in the contract documents, including, but not necessarily limited to, the following services:

1. visiting the construction site at intervals appropriate to the contractor's operations to determine that the work is proceeding generally in accordance with the technical submissions submitted to the owner and/or the building official at the time the building permit was issued; and

2. processing shop drawings, samples, and other submittals required of the contractor by the terms of construction contract documents; and
  3. notifying an owner and any building official of any code violations; changes which affect code compliance; the use of any materials, assemblies, components, or equipment prohibited by a code; major or substantial changes between such technical submissions and the work in progress; or any deviation from the technical submissions which the architect identifies as constituting a hazard to the public, which the architect observes in the course of performing the architect's duties.
- B. on a project where the architect of record has not been engaged, or is no longer engaged, to perform construction administration services, as defined above, the architect of record shall report in writing that the architect has not been engaged or is no longer engaged to perform construction administration services, to the following parties:
1. the building official; and
  2. the owner; and
  3. the client; and
  4. the contractor.

Commentary - In order to assure a project which is required by law to be designed by an architect is constructed in accordance with the plans and specifications, the architect of record should provide construction administration services as part of the protection of the life, health and property of the individuals using the built environment. Where the architect of record was not originally contracted or is no longer engaged to perform construction administration, the architect is required to give the notice outlined above to assure that all parties to the construction project are aware that construction administration is not being performed by the architect of record. This specifically provides the building official with notice so the building official may compel the owner to provide someone to perform those services if the building official so chooses.

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), 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:

1. the overall building is 10,000 square feet or greater; and/or
2. the space to be erected, enlarged or altered is within a building that is 10,000 square feet or greater; and/or
3. a building that is less than 10,000 square feet prior to an alteration or enlargement will measure 10,000 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 a two (2) story building will exceed two (2) stories after the proposed alteration or enlargement.

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.

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

## **Title 30 Part 201 Chapter 4: Professional Code of Conduct**

*(Some commentaries provided by the NCARB Professional Conduct Committee (PCC))*

### *Rule 4.1 Competence.*

4.1.1 In practicing architecture, 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 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. ~~While some courts have stated that an architect, like the manufacturer of goods, impliedly warrants that the architect's design is fit for its intended use, this rule specifically rejects the minority standard in favor of the standard applied in the vast majority of jurisdictions that the architect need be careful but not always right. In an age of national television, national universities, a national registration examination, and the like, the reference to the skill and knowledge applied in the same locality may be less significant than it was in the past when there was a wide disparity across the face of the United States in the degree of skill and knowledge which an architect was expected to bring. Nonetheless, the courts have still recognized this portion of the standard, and it is true that what may be expected of an architect in a complex urban setting may vary from what is expected in a more simple, rural situation.~~*

4.1.3 An architect shall undertake to perform professional services only when the architect, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.

*Commentary - While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations on the architect's own ~~capacity and knowledge~~ education, training and experience. Where an architect lacks the necessary experience for a particular project, e.g. a multi-story hospital, the rule supposes ~~that~~ the architect will retain consultants who can appropriately supplement the architect's own ~~capacity~~ experience. If an architect undertakes to do a project where the architect lacks ~~knowledge~~ the requisite education, training and experience and ~~where the architect~~ does not seek supplementing consultants, the architect has violated the rule.*

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.

*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.*

4.1.5 A ~~Mississippi~~ licensed architect shall practice in accordance with the laws, rules and regulations governing the practice of architecture in the State of Mississippi at all times and on all projects, regardless of the size or dollar value of the project in question.

*Comment: Miss. Code Ann. §73-1-39 exempts certain projects from requiring an architect, e.g., any building containing less than 5,000 square feet and is less than three stories in height. In most instances, unlicensed individuals preparing plans and specifications for buildings meeting this exemption are not under the jurisdiction of the Board and are not held to the same standard of care as an architect. However, an architect is held to the professional standard of care and that standard of care is not diminished by the fact the building may fall under one of the exemptions in Miss. Code Ann. §73-1-39. Accordingly, regardless of the type, size or dollar value of the project, a Mississippi licensed architect will follow all laws, rules and regulations governing the practice of architecture in the State of Mississippi including, but not limited to, those applicable to responsible control, use of the architect's seal, prototypical documents and construction administration.*

Source: Miss. Code Ann. §73-1-29(1)

#### *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.

*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.*

Source: Miss. Code Ann. §73-1-29(1)

#### Rule 4.3 Compliance with Laws.

4.3.1 An architect shall not, ~~in the conduct of the architect's architectural practice,~~ knowingly violate any state or federal criminal law.

*Commentary – Miss. Code Ann. Section 73-1-29(1) provides that the Board is authorized to take disciplinary action against any architect registered in this state upon conviction of “any felony except culpable negligent manslaughter”. This rule is not limited to ~~concerned with the~~ violation of a state or federal criminal law while in the conduct of the registrant's professional practice ~~as in some jurisdictions~~. Thus, it does not cover criminal conduct entirely unrelated to the registrant's architectural practice. It is intended, however, that Rule 4.5.5 will cover reprehensible conduct on the part of the architect not embraced by Rule 4.3.1. At present, there are several ways in which member boards have dealt with this sort of rule. Some have disregarded the requirement that the conduct be related to professional practice and have provided for discipline whenever the architect engages in a crime involving “moral turpitude.” The PCC declined the use of that phrase, as its meaning is by no means clear or uniformly understood. Some member boards discipline for felony crimes and not for misdemeanor crimes. While the distinction between the two was once the distinction between serious crimes and technical crimes, that distinction has been blurred in recent years. Accordingly, the PCC specifies crimes in the course of the architect's professional practice, and, under Rule 4.5.4, gives to the member board discretion to deal other reprehensible conduct. Note that the rule is concerned only with violations of state or federal criminal law. The PCC specifically decided against the illusion of violations of the law of other nations. Not only is it extremely difficult for a member board to obtain suitable evidence of the interpretation of foreign laws, it is not unusual for such laws to be at odds with the laws, or, at least, the policy of the United States of America. For example, the failure to follow the dictates of the “anti-Israel boycott” laws found in most Arab jurisdictions is a crime under the laws of most of those jurisdictions; while the anti-Israel boycott is contrary to the policy of the government of the United States and following its dictates is illegal under the laws of the United States.*

4.3.3 An architect shall neither offer nor make any payments or gifts of substantial value to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

*Commentary – Rule 4.3.3 tracks a typical bribe statute. It is covered by the general language of Rule 4.3.1, but it was the PCC's view that Rule 4.3.3 should be is more explicitly set out in this Rule ~~the Rules of Conduct~~. Note that all of the rules under this section look to the conduct of the architect and not to whether or not the architect has actually been convicted under a criminal law. An architect who bribes a public official is subject to discipline by ~~the state registration~~ Board, whether or not the architect has been convicted under the state criminal procedure.*

Source: Miss. Code Ann. §73-1-29(1)

#### Rule 4.4 Full Disclosure.

4.4.2 An architect shall accurately represent to a prospective or existing client or employer the architect's qualifications and the scope of the architect's responsibility in connection with work for which the architect is claiming credit.

- A. it shall be the responsibility of each registered architect to clearly and appropriately state prior professional experience of the architect and/or the firm the architect is representing in presenting qualifications to prospective clients, both public and private. If an architect uses visual representations of prior projects or experience, all architects-of-record must be clearly identified. Architect-of-record means persons or entities whose seal appear on plans, specifications and/or contract documents.
- B. an architect who has been an employee of another architectural practice may not claim unconditional credit for projects contracted for in the name of the previous employer. The architect shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee, the time frame in which the project was performed, and identify the previous architectural firm. The architect shall also describe the nature and extent of the architect's participation in the project.
- C. an architect who was formerly a principal in a firm may legitimately make additional claims provided the architect discloses the nature of ownership in the previous architectural firm (e.g. stockholder, director or officer) and identifies with specificity the architect's responsibilities for that project.
- D. an architect who presents a project that has received awards recognition must comply with the requirements of Rule 4.4.2 with regard to project presentation to the public and prospective clients.
- E. projects which remain unconstructed and which are listed as credit shall be listed as "unbuilt" or a similar designation.

*Commentary - Many important projects require a team of architects to do the work. Regrettably, there has been some conflict in recent years when individual members of that team have claimed greater credit for the project than was appropriate to their actual work performed by them. It should be noted that a young architect who develops experience working under a more senior architect has every right to claim credit for the work which the young architect actually performed. On the other hand, the public must be protected from believing that the younger architect's role was greater than was the fact. If a brochure represents an employee's involvement on a specific project, while employed by another firm, the brochure provided shall include the employee's specific responsibilities on the project and the architect of record for the project.*

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 state or municipal building laws and regulations and which will, in the architect's judgment, materially and adversely affect the safety to 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.

*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. ~~The rule goes on to provide that the architect shall not be liable for a termination made pursuant to clause (c). Such an exemption from contract liability is necessary if the architect is to be free to refuse to participate on a project in which such decisions are being made.~~*

4.4.8 A licensee who has knowledge or reasonable grounds for believing that another individual or another member of the profession has violated any statute or rule regulating the practice of architecture shall have the duty of presenting such information to the Board. Failure to report such acts may result in disciplinary action by the Board.

*Commentary - This rule has its analogue in the Code of Professional Responsibility and/or Rules of Professional Conduct for lawyers. Its thrust is consistent with the special responsibility which the public expects from architects. The public expects that professions will be guided in their conduct by a commonly accepted standard of conduct and that architects will assume a primary role in ensuring ethical conduct by their colleagues. This principle is the foundation of the requirements to report violations found in Rule 4.4.8. An architect's accountability in this regard extends to the actions of parties external to their practice and to their practice colleagues.*

4.4.9 For the purposes of these Rules of Conduct, any registered architect who, alone or with others, is in charge of a firm's architectural practice shall be deemed to have violated these rules if the firm has violated these rules.

Source: Miss. Code Ann. §73-1-13, 29

#### *Rule 4.5 Professional Conduct.*

4.5.1 Each office maintained for the preparation of drawings, specifications, reports or other professional work shall have an architect ~~resident and regularly employed~~ in that office having direct knowledge and supervisory control of such work. ~~No architect shall advertise or represent as an architectural office a location in which there is no architect resident and regularly~~

employed.

Any office which is advertised or promoted as an architectural office must have an architect employed in responsible control of that office who is in responsible control of work produced in that location.

*Commentary - This rule addresses the subject of main, branch or satellite offices of an architectural firm and protects the public in that such offices are continually supervised by an architect registered in the jurisdiction where the office is located.*

4.5.4 An architect shall not engage in conduct involving fraud or wanton disregard for the rights of others.

*Commentary - Violations of this rule may involve criminal conduct not covered by Rule 4.3.1, or other reprehensible conduct which the Board believes should warrant discipline. The PCC believes that a state board must, in any disciplinary matter, be able to point to a specific rule which has been violated. ~~An architect who is continuously involved in nighttime burglaries (no connection to professional practice) is not covered by Rule 4.3.1 (crimes committed "in the conduct of architectural practice").~~ The PCC believes that serious misconduct, even though not related to professional practice, may well be grounds for discipline. To that end, The PCC recommends this rule. Many persons who have reviewed and commented on the draft rules were troubled by the sententious character of Rule 4.5.4. The PCC has, however, found that lawyers commenting on the rules had little trouble with the standard set in Rule 4.5.4: it applies to conduct which would be characterized as wicked, as opposed to minor breaches of the law. ~~While each board must "flesh out" the rule, the PCC assumes that murder, rape, arson, burglary, extortion, grand larceny, and the like, would be conduct subject to the rule, while disorderly conduct, traffic violations, tax violations, and the like, would not be considered subject to the rule.~~*

4.5.11 An architect, acting individually or through a firm, association or corporation should not request, propose, or accept an agreement, contract, or commission for professional services on a "contingency basis" under which the architect's professional judgment may be compromised or when a contingency provision is used as a device for promoting or securing an agreement, contract, or commission, either for additional commissions or projects or for performing further services on the project involved unless the architect can commit resources sufficient to meet the standard of care and performance required under any other commission. For purposes of adjudging the provisions of this section "contingency basis" will also be interpreted to include the preparation of preliminary reports and/or applications for funds or for reviewing for approval where the fee involved is to be paid only after such submission or approval, or in an amount substantially below the cost of performing the services.

*Commentary - This provision reflects directly on the increasing practice of soliciting submittals from architects with compensation to the architect contingent upon the occurrence of a particular event, i.e.: the passage of a bond issue or funding of the project. The architect is requested to provide services with the possibility of receiving no, or a substantially reduced, fee. If this occurs, selection of the architect is based upon conditions other than qualifications.*

*Additionally, this type of arrangement can place ~~encourages~~ the architect in the position of paying less attention to the project in question while devoting more resources to projects on which payment is guaranteed. ~~to perform~~ This can result in the performance of substandard or inadequate work which may endanger the life, health or safety of the public.*

4.5.12 In a Design/Build arrangement:

- A. it shall be deemed unprofessional conduct for an architect, through employment by building contractors, or by another not holding a license to practice architecture issued by the Board, to enable the employer to offer or perform architectural services, except as provided in Rule 3.2.6.
- B. in design/build arrangements, the architect shall not be an employee of a person not licensed to practice architecture or engineering in Mississippi. The architect shall not be an employee of a licensed contractor or a person not licensed to practice architecture or engineering in Mississippi and must have a separate contract for architectural services either with the contractor or with the owner.
- C. it shall be deemed unprofessional conduct for an architect to furnish limited services in such a manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of the Mississippi Code.
- D. When building plans are begun or contracted for by persons not properly licensed and qualified, it shall be deemed unprofessional conduct for an architect to take over, review, revise, or sign or seal such drawings or revisions thereof for such persons, or do any act to enable either such persons or the project owners, directly or indirectly, to evade the requirements of the Mississippi Code and/or the Rules and Regulations of the Board.

*Commentary – Refer to the commentary of Rule 3.2.6.*

4.5.13 In serving as an expert witness, an architect shall not make a statement the architect knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of another architect, engineer or landscape architect including, but not limited to, the standard of care performed with respect to a particular project, or knowingly misrepresent the law and rules of the Board.

*Commentary: Architects are often asked to render expert opinions in civil litigation to assist the trier of fact in understanding the evidence or to determine a fact issue. The qualification of any architect as an expert is governed by the Mississippi Rules of Evidence. Regardless, the architect is expected to testify truthfully and impartially and not be bound to testify in one way solely because the architect is being paid to do so. This also mandates the architect not testify contrary to the law and rules of the Board. ~~For example, an architect should not testify that an architect is required on single family residential projects as those projects are specifically exempted under Miss. Code Ann. §73-1-39 regardless of size.~~*

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

~~The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating the Law and Rules of the Board. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of the law. The disciplinary guidelines are based upon a single count violation of each provision listed. 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, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation, or reprimand which may be included in the final penalty at the Board's discretion.~~

~~The following minimum disciplinary 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 maximum penalty for any violation is a public reprimand, revocation, and a \$5,000 fine per violation.~~

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.

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.

### ~~Range of disciplinary penalties~~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

~~The above range of penalties is a guideline only and is not meant to address every disciplinary circumstance that might occur. The Board shall be able to add to or deviate from the above-mentioned guidelines upon showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of a final penalty. The maximum penalty for any violation is a public reprimand, revocation, and a \$5,000 fine per violation. 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 complete the state law/rules examination as a condition precedent to final resolution of the disciplinary action.~~

Source: *Miss. Code Ann. §73-1-29(4)*