

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW DIVISION

(1) Agency

Department of State, Bureau of Professional and
Occupational Affairs, State Board of Landscape Architects

(2) I.D. Number (Governor's Office Use)

16A-618

IRRC Number: 2470

(3) Short Title

General Revisions

(4) PA Code Cite

49 Pa. Code, Chapter 15, §§15.2,
15.11, 15.14, 15.16, 15.18-15.20,
15.32-15.34, 15.36, 15.37, 15.41,
15.54, 15.56, 15.72, 15.73, 15.76
and 15.79

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Herbert Abramson, Counsel**
State Board of Landscape Architects
(717)783-7200
Secondary Contact: **Joyce McKeever, Deputy Chief**
Counsel, Regulatory Review
(717)783-7200

(6) Type of Rulemaking (check one)

Proposed Rulemaking
 Final Order Adopting Regulation
 Final, Proposed Omitted

(7) Is a 120-Day Emergency Certification
Attached?

No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

These regulations would amend Chapter 15 by amending its registration without examination provisions to clarify the types of work samples an applicant must submit, by updating regulatory language and by making general editorial changes.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulation is authorized by section 4(9) of the Landscape Architects' Registration Law (63 P.S. §904(9)).

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The current regulatory provisions are outdated and do not reflect current practice. Also, the Board wishes to clarify what it expects from applicants for registration without examination. Currently, the Board requires an interview for these candidates. These regulations would include a list of work samples that an applicant would be required to bring to the interview. The Board believes that this list would allow the Board to determine whether an applicant has a sufficiently well rounded background in landscape architecture so that he would be able to perform all aspects of landscape architecture permitted through licensure.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Nonregulation would be a risk to public health and safety in that the public would be receiving services from landscape architects who may not have adequate training. Nonregulation would result in applicants for licensure and renewal of licensure getting misinformation due to outdated requirements.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Members of the public who receive landscape architectural services will benefit because the regulations will assure that licensees who are registered without examination have the adequate experience and training to perform all aspects of landscape architecture. Licensees will benefit from the regulation by having regulatory provisions that more clearly reflect modern practice.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Applicants for landscape architect registration without examination may be adversely affected because these regulations would require them to provide a wide array of work samples demonstrating their abilities to perform all types of landscape architectural projects. However, the Board believes that any adverse affect is outweighed by safety to the public receiving landscape architectural services.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All applicants for registration with or without examination would be required to comply with theses regulations as well as all registrants. There are currently 821 currently registered landscape architects in the Commonwealth.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Board sent draft revisions to landscape architecture associations and the State Registration Board for Professional Engineers, Land Surveyors and Geologists who have asked the Board to inform them of draft proposals and asked for public input. The Board did not receive any responses to its request. The following is a list of all organizations that were contacted: the American Society of Landscape Architects and its Pennsylvania and Delaware chapters, the Council of Landscape Architectural Registration Boards, the Pennsylvania Landscape and Nursery Association, and the State Registration Board for Professional Engineers, Land Surveyors and Geologists. Following the publication of proposed rulemaking, the Board received a comment from the American Society of Landscape Architects.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

There will be no costs and/or savings to the regulated community.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The regulation will not result in costs and/or savings to local government.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The regulation will not result in costs and/or savings to state government.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue						

(20a) Explain how the cost estimates listed above were derived.

N/A

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY 02-03 ACTUAL	FY 03-04 ACTUAL	FY 04-05 ACTUAL	FY 05-06 BUDGET
State Board of Landscape Architects	\$48,672.74	\$56,503.98	\$72,339.06	\$66,000.00

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulatory alternatives were not considered because the only way to update and clarify the pertinent regulatory provisions is through regulations.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

N/A

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

These regulations will not put Pennsylvania at a competitive disadvantage with other states. New Jersey, New York, Ohio, and Maryland do not even provide for registration without examination other than when an applicant is already licensed by examination in another state. N.J.A.C. 45:3A-14, N.Y.S.C.L.: 148.7324, O.R.C. 4703.34-35, A.C.Md. 9-302 and 9-306.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board has already entertained comments from the public on draft regulations. No further public hearings or informational meetings are scheduled. The Board continually discusses regulations at regularly scheduled Board meetings held bi-monthly at 2601 N. Third Street, Harrisburg, PA. A schedule of Board meeting dates is available on the Department of State's website at www.dos.state.pa.us/bpoa.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No. The regulation does, however, clarify that when a licensee applies for renewal, the licensee must certify whether he or she has completed the required continuing education courses and eliminates the implication that the licensee has to provide further information regarding the courses at the time of renewal.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Because the Board has determined no special needs of any subset or group, no special provisions have been developed to meet particular needs of affected groups or persons.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon publication of Final Rulemaking in the Pennsylvania Bulletin. Compliance will be required as of that date.

(31) Provide the schedule for continual review of the regulation.

The Board continuously reviews its regulations, periodically communicates with licensees through newsletters and obtains information and feedback from its licensees on a frequent basis.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT AGENCIES
FILED

DO NOT WRITE IN THIS SPACE

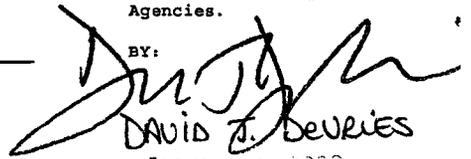
Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Landscape Architects
(AGENCY)

BY: 
DAVID J. DEVRIES

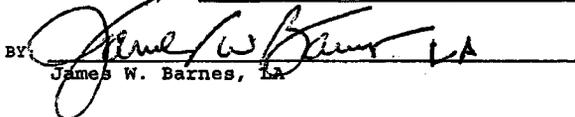
DOCUMENT/FISCAL NOTE NO. 16A-618

APR 12 2006

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: 
James W. Barnes, IA

EXECUTIVE
(Deputy General Counsel
(Chief Counsel))

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if applicable. No Attorney General approval or objection within 30 day after submission.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF LANDSCAPE ARCHITECTS
49 PA. CODE, CHAPTER 15
GENERAL REVISIONS

The State Board of Landscape Architects (Board) amends §§ 15.2, 15.11, 15.16, 15.18, 15.32-15.34, 15.36, 15.41, 15.54, 15.56, 15.72, 15.73, 15.76 and 15.79 and deletes §§ 15.14, 15.19, 15.20 and 15.37, to read as set forth in Annex A.

Notice of proposed rulemaking was published at 35 Pa.B. 2404 (April 23, 2005). Publication was followed by a 30-day public comment period. The Board received one comment from the American Society of Landscape Architects, which generally supported the changes and specifically approved of the changes to §§ 15.36 and 15.76 (relating to permitted practices; and sources of continuing education courses). The House Professional Licensure Committee (HPLC) submitted comments and questions June 7, 2005, and the Independent Regulatory Review Commission (IRRC) submitted comments and questions June 22, 2005, pertaining to the proposed rulemaking. The Senate Consumer Protection and Professional Licensure Committee did not comment on the proposed rulemaking.

Effective Date

The amendments will be effective upon publication of final-form regulations in the Pennsylvania Bulletin.

Statutory Authority

The amendments are authorized under section 4(9) of the Landscape Architects' Registration Law (act)(63 P.S. §904(9)).

Summary of Comments and Responses to Proposed Rulemaking

§ 15.2 (relating to Board proceedings and meetings)

IRRC noted that the Board was amending subsection (b) to state that Board meetings "may," rather than "will," be conducted using Robert's Rules of Order. IRRC suggested that if the use of Robert's Rules were no longer required, the second sentence in the subsection should be deleted, that is, the sentence making the use of Robert's Rules a matter of Board discretion. Upon consideration, the Board declines to adopt this suggestion. The Board believes that the amended subsection still provides useful information about Board meeting procedures by informing that Robert's Rules may still be consulted as a source of authority.

§ 15.14 (relating to retention of documents)

The proposed rulemaking deleted the second sentence of this section, which authorized an applicant to submit photocopies of original documents for documentary evidence if the photocopies were notarized as true copies. HPLC pointed out that under statutory construction principles the

deletion of this language would indicate the Board's intent to require the applicant to submit original documents, but that applicants might not discern this intent. HPLC recommended that the Board state clearly that the applicant must submit original documents. IRRC pointed out that the preamble to proposed rulemaking indicated that the documents being spoken about were work samples of the applicant. In reviewing the comments to this section, it became apparent to the Board that this section was in part outdated and in part misplaced. Applicants who apply after having completed, among other things, the licensing examination (see, 63 P.S. §§ 906 (b) (i) - (iii)) do not submit work samples. All of the documents submitted by them or on their behalf, including official transcripts, letters of reference and letters with employment information are original documents or documents bearing original certifications regarding their authenticity. These documents are retained by the Board as part of the application and are never returned to the applicant. Under section 6 of the act (63 P.S. § 906), applicants who apply without having taken the examination are required to show at least 10 and as many as 15 years of experience in the practice of landscape architecture. These applicants in fact bring work samples to the Board so that they can demonstrate "experience of such grade and character as to fit the person to assume responsible charge of work involved in the practice of landscape architecture." (63 P.S. § 906(c)(ii)) The Board believes that rules pertaining to landscape architecture documents that are submitted in support of an application without examination are best moved to § 15.56 (relating to registration without examination). In final rulemaking the Board adds § 15.56 (b)(2), pertaining to submission of work samples. This paragraph indicates that the applicant must submit original work samples in support of an application without examination unless the Board agrees to accept photocopies for good cause shown by the applicant and that the work samples will be returned to the applicant at the conclusion of all proceedings related to the application.

§ 15.16 (relating to references)

Proposed rulemaking added a sentence to subsection (b) that stated, "The Board will return completed reference forms sent by the applicant." IRRC noted that the intent of this provision was to require reference forms to be submitted directly to the Board from the person providing the reference and that the proposed sentence lacked clarity. The Board agrees and adopted IRRC's suggestion that the sentence state, "the Board will not accept completed reference forms that are sent by the applicant."

Proposed rulemaking deleted the language from subsection (d) that required letters of recommendation to address the applicant's moral character. HPLC questioned the Board's decision to remove this language and asked how the Board would know that the applicant possessed the good moral character required by section 6(b) of the act (63 P.S. § 906(b)). The Board agrees and concludes that the letter of reference does provide useful evidence that the applicant possesses good moral character. The Board therefore restores the language requiring references to comment on the applicant's moral character.

§ 15.18 (relating to certification)

Proposed rulemaking deleted subsection (b), which indicated that prior to the issuance of a permanent certificate, a letter would be issued advising the landscape architect that he has been granted registration and that the letter would serve as a temporary certificate of registration. The Board proposed deleting the provision because once a license is approved, it is automatically considered active and is listed on the Board's website and the licensee receives the permanent certificate within 2 weeks following approval. IRRC, in the interest of clarity, suggested that the Board replace the provision with one that stated that the licensee could practice once the notification of approval is listed on the website. The Board largely adopts this suggestion and the amended subsection states that a license may begin practicing when he or she is identified as a licensee on the Board's website or receives a license from the Board.

§ 15.23 (relating to practice by out-of-State landscape architects.)

Proposed rulemaking deleted the requirement of subsection (a) that out-of-State landscape architects seeking to practice in the Commonwealth for up to 30 days in 1 year obtain approval from the Board before practicing. HPLC noted that a landscape architect licensed in another jurisdiction would still have to submit proof of address and licensure, asked where the out-of-State firms would send the proof required by the remaining paragraphs of this subsection, and asked if the Board should retain the policy choice that out-of-State landscape architects seek Board approval before practicing. Upon review, the Board determined that it would adopt the suggestion of HPLC and not make any change to the current § 15.23.

§ 15.33 (relating to seals.)

Proposed rulemaking deleted subsection (d), which indicated that a license would not be renewed unless the registrant had obtained a seal or stamp. HPLC asked the Board to provide information as to why it chose to delete the language of subsection (d). The Board's rationale in proposed rulemaking for deleting this requirement was that it was difficult to enforce. The current rulemaking would require the license not to be renewed if the registrant did not have a seal. The decision not to renew would have to occur in the comparatively short period from the time renewal applications became available to the date when the old license expired, without significant time for the licensee to respond or for a hearing. Upon reviewing HPLC's concern regarding the loss of an enforcement mechanism that would ensure that licensees obtained a seal or stamp, the Board concluded that it could both facilitate renewals and provide an enforcement mechanism by stating in final rulemaking that a licensee who fails to obtain a seal or rubber stamp will be subject to disciplinary action and penalties under section 11(b) of the act (63 P.S. § 911(b)).

§ 15.36 (relating to permitted practices)

Proposed rulemaking deleted subsections (b) and (d) and most of subsection (c), which generally required licensees to file copies of articles of incorporation and fictitious name registrations with the Board as well as the Corporation Bureau if they practiced as part of a corporation or used a fictitious name and required licensees to sign documents arising out of professional services and to have their name appear on association documents when they did not sign the document. HPLC and IRRC asked why the Board sought to delete subsection (d), which requires that a landscape architect sign documents that arise out of the rendering of professional services and, if he practices in association with others, that his name appear with the name of the association on documents not signed by him. Upon review of these questions, the Board concluded that it should keep the requirement that a landscape architect sign documents that arise out of the rendering of professional services. This requirement now appears as subsection (c) in final rulemaking. The Board, however, declines to keep the requirement that a landscape architect who practices in association with others have his name appear with the name of the association on documents not signed by him. The Board notes that there could be a large number of people in the firm, resulting in a long list of people who might have nothing to do with a project, who are nevertheless identified on project documents. The Board does not believe that such lists of names help it to regulate landscape architects or promote public protection. HPLC also asked why the Board sought to delete the requirement at subsection (c)(3) that requires a licensee to notify the Board of changes of ownership of a business and to seek the Board's approval before practicing under a new name or owner. These pieces of information do not assist the Board in its enforcement activities. Unlike the State Board of Accountancy; the State Board of Pharmacy; the State Board of Vehicle Manufacturers, Dealers and Salespersons; and the State Real Estate Commission, the State Board of Landscape Architects does not have statutory authority to issue licenses, permits or registrations for businesses or corporations. The Board only licenses natural persons who meet the statutory qualifications for a landscape architect license. The Board's computerized licensing records record individual licensees, but do not record or register landscape architecture businesses or firms and do not record fictitious names. Such records are available at the Corporation Bureau.

§ 15.37 (relating to public information)

Proposed rulemaking deleted this section. HPLC asked whether the Board intended to cease providing information regarding names of licensees, whether a licensee was in good standing, and test results, or whether all such requests for information would have to be made via formal requests under the Right-to-Know Law. HPLC also asked whether the effect of deleting this section meant the Board would no longer provide such information to applicants and the licensing boards of other states. The Board does not intend to cease providing any information that it currently provides. On the contrary, the Board provides more information to licensees and the public than ever before. Information concerning licensees is now readily and immediately available on the Department of State website, www.dos.state.pa.us. Any interested person with access to the Internet can instantly look up a licensee, his city, state, postal zip code, whether the license is in good standing, and whether there has been prior disciplinary action against the licensee. The website further instructs

the visitor how to access further information about any prior disciplinary action. The same information may also be obtained by calling or writing to the Board. The Board administrative staff routinely provides information regarding a licensee's test results to the administrative staffs of other states. It is also routine for licensees to obtain verification of their licensure status and certification of their licensure for matters such as seeking employment or a license in another state. See §15.12 (relating to fees). The website also tells licensees how to request certification of licensure and examination scores, among other things. It should be pointed out that the Board and candidates for licensure by examination only learn whether they passed or failed the examination. The Board and examinees do not receive numerical scores. Other information may be available upon written request under and in accordance with the Right-to-Know Law.

§ 15.72 (relating to requirement for biennial renewal)

Proposed rulemaking added subsection (b), indicating that the Board would exempt from the continuing education requirement a licensee who received a license within 2 years preceding the licensee's first application for biennial renewal. Both IRRC and HPLC raised questions regarding this subsection. HPLC asked the Board to clarify whether the policy choice of this subsection conflicted with section 9.1(b) of the act (63 P.S. § 909.1(b)), which states that "each person licensed under this act shall be required to obtain ten hours of mandatory continuing education during each two-year license period." IRRC questioned why the Board would allow a blanket waiver for any licensee who was licensed within 2 years preceding the biennial renewal and recommended that the Board reduce or waive the required continuing education for licensees who obtained their licenses just before a renewal. The Board does not believe that there is a policy conflict between this subsection and the act, but believes strongly that new licensees should be exempt from the continuing education requirements if they became licensed within the 2 years prior to the first renewal. The new licensee would not have the full statutory "two-year license period" to complete the 10 hours of continuing education, unlike the licensee who already has renewed his license at least one time. The Board also notes in this regard that CPAs are exempt from the continuing education requirement for the biennial period during which the applicants completed the examination. See, § 11.62(d) (relating to credit hour requirements). Similarly, pharmacists who are newly graduated are exempt from the continuing education requirements for the license renewal immediately following licensure. See, § 27.32(e) (relating to continuing education). Funeral directors are not required to complete continuing education during the renewal period in which the funeral director is first issued a license. See, § 13.401(a) (relating to credit hour requirements). IRRC also suggested that the Board use the word "waive" rather than "exempt" in this subsection. Exemption, however, is a word that has taken root in the *Pennsylvania Code* for releasing new licensees from a continuing education obligation when they lack the full 2 years to accumulate the necessary hours. See, §§ 11.62(d) and 27.32(e).

§ 15.73 (relating to acceptable continuing education courses)

Currently, subsection (c) authorizes a licensee to meet up to 5 of the 10-hour continuing education requirement with satellite seminars and electronic presentations. Proposed rulemaking amended subsection (c) to add correspondence courses to the types of non-traditional-classroom courses that may be used for up to 5 hours of the continuing education requirement. IRRC called attention to the phrase “electronic presentations” and suggested that clarity would be improved by providing examples of these types of presentations. The phrase “electronic presentations” is already defined at § 15.71 (relating to definitions) as “[t]ransmittal of information by means of applications such as computer technology, telecommunications, television, and the like.” The Board believes that this definition clarifies the phrase.

In final rulemaking the Board is changing “[a] maximum of 5 clock hours . . .” of subsection (c) to read “[a] maximum of ½ of the required clock hours . . .” This change will not currently alter the number of hours of continuing education that may be satisfied by satellite seminars, electronic presentations and correspondence courses, but will clarify, in the event the act is modified to require more than 10 hours of continuing education, that the Board intends to keep the principle that half of the requirement may be met through these types of programs. Senate Bill 200, referred to the Senate Committee on Consumer Protection and Professional Licensure on February 7, 2005, for example, would increase the continuing education requirement to 20 hours, if enacted.

§ 15.79 (relating to reporting of hours spent in continuing education)

Proposed rulemaking deleted the phrase “on Board-provided forms” from this section which described how and what licensees were supposed to report regarding the hours they spent in continuing education. HCPL asked the Board to provide information regarding the type of proof acceptable to the Board in terms of attendance and asked how, given the proposed deletion of the phrase “on Board-provided forms,” the Board would be able to sufficiently verify attendance.

In reviewing this section, both in its current form and in the proposed rulemaking, the Board realized that the section caused confusion among licensees and did not accurately reflect the procedures used to renew licenses and to verify attendance at continuing education courses. When a licensee renews a license, the renewal application only asks the licensee to verify whether the licensee has taken 10 hours of Board-approved continuing education courses. The renewal application does not ask the licensee to provide certificates of attendance, transcripts or other documentation. Records and documentation of course completion are only requested when the Board conducts a random audit of continuing education after the license renewal as indicated in § 15.80 (relating to retention of records), which describes the acceptable types of proof of attendance at courses: certificates, transcripts or other documents prepared by the course provider. The continuing education audit is, in fact, the Board’s means of verifying attendance.

In final rulemaking the Board revises § 15.79 to conform to the actual practice and states that an applicant for license renewal shall certify on the renewal application whether the applicant has completed the required number of hours of Board-approved continuing education courses.

Fiscal Impact

The amendments will have no fiscal impact on the Board or its licensees. The amendments should have no fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The final rulemaking should not create additional paperwork for the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 29, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2404, to IRRC and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, the final-form rulemaking was approved by the HPLC. On _____, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Terrie Kocher, Board Administrator, State Board of Landscape Architects, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The State Board of Landscape Architects finds that:

- (1) Public notice of intention to adopt these amendments has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201-1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1-7.2.
- (2) A public comment period was provided as required by law and comments were received.

- (3) That the amendments made to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking as published at 35 Pa.B. 2404.
- (4) This final-form rulemaking is necessary and appropriate for the administration of the Landscape Architects' Registration Law.

Order

The Board therefore ORDERS that:

- (A) The regulations of the Board, 49 Pa. Code Chapter 15, are amended by amending §§ 15.2, 15.11, 15.14, 15.16, 15.18-15.20, 15.32-15.34, 15.36, 15.37, 15.41, 15.54, 15.56, 15.72, 15.73, 15.76, and 15.79 to read as set forth in Annex A.
- (B) The Board shall submit a copy of this order and Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.
- (C) The Board shall certify this order and Annex and shall deposit them with the Legislative Reference Bureau as required by law.
- (D) This order shall take effect immediately upon publication in the Pennsylvania Bulletin.

James W. Barnes, Chairperson
State Board of Landscape Architects

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 15. STATE BOARD OF LANDSCAPE ARCHITECTS

GENERAL PROVISIONS

§15.2. Board proceedings and meetings.

* * *

(b) Five members of the Board constitute a quorum. Board meetings [will] may be conducted according to Roberts' Rules of Order.

* * *

APPLICATION PROCEDURES

§ 15.11. Filing procedures.

(a) An application for registration shall be submitted to the State Board of Landscape Architects, Box 2649, Harrisburg, Pennsylvania 17105-2649.

* * *

§ 15.14. Retention of documents- (RESERVED).

~~The Board reserves the right to retain as a permanent part of the application documents submitted which shall be properly marked for identification and ownership. [Photocopies of original documents may be submitted for documentary evidence if notarized as true copies.]~~

§ 15.16. References.

* * *

(b) The applicant shall provide three references on the application and shall forward forms to the references to be completed and mailed directly to the Board by the references. The Board will ~~return~~ NOT ACCEPT completed reference forms THAT ARE sent by the applicant.

* * *

(d) A reference shall attest that [he] the reference is familiar with the applicant's professional work [and the applicant's moral character. The Board will accept additional references pertaining to the applicant's moral character from individuals who are not design professionals if the professional references do not have personal knowledge of the applicant's moral character.]

§ 15.18. Certification.

{(a)} An applicant granted registration will be issued a permanent certificate of registration.

{(b)} [Prior to issuance of a permanent certificate, the letter from the Board advising the landscape architect that he has been granted registration will serve as a temporary certificate of registration.] **THE APPLICANT MAY BEGIN PRACTICING AS A LANDSCAPE ARCHITECT WHEN THE APPLICANT IS IDENTIFIED AS A LICENSEE ON THE BOARD'S WEBSITE OR RECEIVES THE LICENSE FROM THE BOARD.**

§ 15.19. [Consideration and approval of application.] (Reserved).

[Applications shall be considered individually by the Board and passed or rejected on a roll call vote. Approval of an application shall be by a majority vote of the Board.]

§ 15.20. [Recording Board action.] (Reserved).

[The action taken by the Board on an application will be recorded in the minutes.]

§ 15.23. Practice by out-of-State landscape architects.

(a) An out-of-State landscape architect may {obtain approval from the Board to} practice landscape architecture in this Commonwealth for a period not exceeding 30 days in the aggregate in 1 calendar year by submitting proof that:

* * *

ADMINISTRATION

§ 15.32. Change of name or address[; fee].

* * *

§ 15.33. Seals

* * *

(c) A registrant shall be required to obtain the authorized seal or a rubber stamp [and to furnish the Board with an imprint of the stamp or an impression of the seal]. A sample seal is as



Land Arch Seal.doc

follows:

{(d) [Renewal of a license will not be granted unless this requirement is fulfilled.] A LICENSEE WHO FAILS TO OBTAIN A SEAL OR RUBBER STAMP WILL BE SUBJECT TO DISCIPLINARY ACTION AND PENALTIES UNDER SECTION 11(b) OF THE ACT (63 P.S. §911(b)).

* * *

§ 15.34. Biennial registration, inactive status and expired certificates.

* * *

(b) *Inactive status and registration renewal.* A landscape architect who is not engaged in the practice of landscape architecture may request the Board, in writing, to place the landscape architect's name on inactive status. The landscape architect shall notify the Board, in writing, of the landscape architect's desire to reregister. The landscape architect shall comply with the requirements for the renewal of a license that exist at the time the landscape architect applies to become currently registered. There is no fee or penalty for preceding biennial periods in which the landscape architect did not engage in practice in this Commonwealth. The landscape architect applying to return to active status shall submit to the Board an application form prescribed by the Board[, a notarized affidavit] stating that the applicant has not practiced landscape architecture in this Commonwealth during inactive status[,] and the current renewal fee.

* * *

§ 15.36. Permitted practices.

* * *

(b) [When landscape architecture is practiced through a corporation, a copy of the articles of incorporation and registry statement of the proposed corporation shall be filed with the Board at the time of filing with the Corporation Bureau of the Department of State.

(1) If a name is chosen which does not contain the names of all the licensed professionals with an ownership interest in the practice, the Board shall be supplied with the list of these persons.

(2) A landscape architect incorporating under the terms of this section shall notify the Board of any changes in the name or ownership of the corporation.

(c)] A landscape architect, partnership, professional corporation, association or other group practice may do business under a fictitious name and advertise in any medium if the name and

the advertisement are not misleading, deceptive or fraudulent [on their face by inference or by actual effect.

(1) A copy of the fictitious name registration shall be filed with the Board at the time of submission to the Corporation Bureau.

(2) A fictitious name will be approved by the Board. A list of the landscape architects with ownership interest in the practice shall be submitted to the Board concurrently with the fictitious name registration. The Board will notify the landscape architect of its approval or disapproval, and this notice shall be submitted to the Corporation Bureau, together with the documents and fees required by that agency for filing a fictitious name registration.

(3) A landscape architect practicing under the terms of this section shall notify the Board of changes in the name or ownership of the business, and shall seek Board approval of these changes prior to practicing under a new name or ownership structure.

(d) (c) A landscape architect shall sign documents which arise out of the rendering of professional services. [If the landscape architect practices in association with others, his name shall appear with the name of the association on documents not signed by him.]

§ 15.37. Public information (Reserved).

[The following information may be released by the Board:

(1) Whether or not a person is registered and in good standing, and the date of original registration of each person.

(2) The address of record of the registrant.

(3) Whether registration was granted by examination, reciprocity or by statutory exemption.

(4) Information the Board determines is required to release under the act of June 21, 1957 (P.L. 390, No. 212) (65 P.S. §§ 66.1-66.4), known as the Right-to-Know Act.

(5) Grades as requested by CLARB, other state registration boards or by examinees requesting their own test results.]

EXPERIENCE

§ 15.41. General requirements.

* * *

(d) Professional experience gained while pursuing an undergraduate degree in landscape architecture or first professional degree will not be considered by the Board as an acceptable experience.

EXAMINATIONS

* * *

§ 15.54. Registration by examination.

[(a) Registration may be granted to an applicant who has successfully passed the examination as prescribed by the Board.

(b) An applicant who meets one or more of the following requirements is eligible [to sit for the] for licensure by written examination:

* * *

§ 15.56. Registration without examination.

* * *

(b) *Procedure.*

(1) Prior to issuing a license without examination, the Board will require the applicant to appear before representatives of the Board for an interview. The applicant will be required to submit the following work samples to the representatives during the interview:

(i) Site and development plans.

- (ii) Specifications and drawings.
- (iii) Grading and drainage plans.
- (iv) Layout plans.
- (v) Planting plans.
- (vi) Stormwater management plans and calculations.
- (vii) Site construction details and specifications.
- (viii) Photographs of completed projects.
- (ix) Evidence of cost estimating and supervision of construction.
- (x) A variety of project types including experience with residential subdivision, commercial land developments, environmental projects and park and recreation projects.

(2) *SUBMISSION OF WORK SAMPLES.*

(i) THE APPLICANT SHALL SUBMIT ORIGINAL WORK SAMPLES IN SUPPORT OF AN APPLICATION FOR REGISTRATION WITHOUT EXAMINATION, UNLESS THE BOARD AGREES TO ACCEPT PHOTOCOPIES FOR GOOD CAUSE SHOWN BY THE APPLICANT.

(ii) THE WORK SAMPLES WILL BE RETURNED TO THE APPLICANT AT THE CONCLUSION OF ALL PROCEEDINGS RELATED TO THE APPLICATION.

(3) Prior to issuing a license without examination, the Board will review the applicant's qualifications, and by a majority vote approve or disapprove the application.

[(2)] (4) * * *

CONTINUING EDUCATION

§15.72. Requirement for biennial renewal.

- (a) As a condition of biennial renewal commencing with the 2003 biennium and continuing thereafter, licensees shall have completed during the preceding biennium 10 clock hours of continuing education in acceptable courses approved under this subchapter.
- (b) The Board will exempt from the continuing education requirement a licensee who received a license within 2 years preceding the licensee's first application for biennial renewal.
- (c) A licensee who wishes to reactivate a lapsed license or who has been on inactive status shall have completed 10 hours of continuing education in the 2-year period immediately prior to reactivation.

§ 15.73 Acceptable continuing education courses.

* * *

- (c) A maximum of $5\frac{1}{2}$ OF THE REQUIRED clock hours per biennium will be accepted in courses consisting of satellite seminars [and], electronic presentations and correspondence courses.

§ 15.76. Sources of continuing education courses.

The Board finds the courses provided, approved, sponsored or co-sponsored by the following entities meet the standards of the act and this subchapter:

- (1) The American Society of Landscape Architects and its [affiliates] chapters.
- (2) [The American Nurserymen's Association] The American Nursery & Landscape Association and its [affiliates] chapters.
- (3) The American Planning Association and its [affiliates] chapters.
- (4) The American Institute of Architects and its [affiliates] chapters.

(5) The National Society of Professional Engineers and its [affiliates] chapters.

(6) The National Recreation and Parks Association and its [affiliates] chapters.

* * *

(9) Accredited landscape architect programs or programs in fields related to landscape architecture in colleges and universities [which offer courses in landscape architecture or related fields].

* * *

(11) The Council of Landscape Architects Registration Boards (CLARB) or its successor.

§ 15.79. Reporting of hours spent in continuing education.

An applicant for license renewal shall ~~provide the following information for each course attended~~ [on Board-provided forms]:

~~(1) The date attended.~~

~~(2) The clock hours claimed.~~

~~(3) The title of course.~~

~~(4) The course provider.~~

~~(5) The location of course.~~ CERTIFY ON THE RENEWAL APPLICATION

WHETHER THE APPLICANT HAS COMPLETED THE REQUIRED NUMBER OF HOURS OF BOARD APPROVED CONTINUING EDUCATION COURSES.

Biennial renewal of nursing home administrators license \$[108] 297

* * * * *

[Pa.B. Doc. No. 05-766. Filed for public inspection April 22, 2005, 9:00 a.m.]

STATE BOARD OF LANDSCAPE ARCHITECTS

[49 PA. CODE CH. 15]

General Revisions

The State Board of Landscape Architects (Board) proposes to amend §§ 15.2, 15.11, 15.14, 15.16, 15.18, 15.23, 15.32—15.34, 15.36, 15.41, 15.54, 15.56, 15.72, 15.73, 15.76 and 15.79 and to delete §§ 15.19, 15.20 and 15.37 (relating to consideration and approval of application; Recording Board action; and public information) to read as set forth in Annex A. The proposed rulemaking amends registration without examination provisions and makes general editorial changes.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The proposed rulemaking is authorized under section 4(9) of the Landscape Architects' Registration Law (act) (63 P. S. § 904(9)).

Background and Purpose

The purpose of the proposed rulemaking is to amend the existing regulations to do the following: delete references to the specific Board approved licensure examination; amend provisions regarding Board procedures to conform to actual Board procedures; delete unnecessary provisions and clarify existing provisions; and clarify the Board's process regarding issuing licenses without examination.

Description of Proposed Amendments

Section 15.2 (relating to Board proceedings and meetings) would be amended by making the conduct of Board meetings according to Roberts' Rules of Order permissive rather than mandatory.

Section 15.11(a) (relating to filing procedures) would be amended by deleting the reference to the Board's address. The Board's address has changed recently and including the address in the regulations is unnecessary since the application itself will provide the Board's address.

Section 15.14 (relating to retention of documents) would be amended to delete the option of an applicant to submit copies of documents rather than the original documents. To evaluate an applicant for licensure, the Board believes that the original document is the best display of the applicant's work product.

Section 15.16(b) (relating to references) would add a sentence clarifying that the references should be sent to the Board by the individual writing the reference rather than by the applicant. Subsection (d) would delete the requirement that a reference attest to the applicant's moral character since the accuracy of an individual attesting to one's moral character is hard to measure.

Section 15.18 (relating to certification) would be amended to delete the temporary certification process, as it is no longer necessary. Currently, once a license is approved, it is automatically considered active and notification of the approval is listed on the Board's website. In addition, the licensee receives the permanent certificate in about 2 weeks following approval.

The Board is proposing to delete §§ 15.19 and 15.20 because, under 65 Pa.C.S. Chapter 7 (relating to Sunshine Act), all formal action is required to be voted on in public session. Also, all formal action is required to be recorded in the Board's minutes. Therefore, these provisions are unnecessary.

Section 15.23(a) (relating to practice by out-of-State landscape architects) would be amended by reflecting the exact language of the act.

Section 15.32 (relating to change of name or address; fee) would delete the reference to "fee" in the title because this section does not address a fee.

Section 15.33(c) and (d) (relating to seals) would be amended by deleting the requirement that a registrant provide the Board with an imprint of the stamp or an impression of the seal. The Board has found that this requirement is difficult to enforce. Rather, the Board will provide a sample seal, as part of this rulemaking, to use as an example of the kind of stamp or seal to be used by registrants.

Subsection 15.34(b) (relating to biennial registration, inactive status and expired certificates) would be amended by deleting the requirement that an applicant who wishes to return to active status after being inactive must provide a notarized affidavit of nonpractice. The Board has not been requiring a notarized affidavit. Instead, the Board's application requires the applicant to indicate whether the applicant has practiced landscape architecture in this Commonwealth during inactive status.

Section 15.36 (relating to permitted practices) would be amended by deleting the procedures for filing papers regarding establishing a corporation. Because subsection (a) already states that a landscape architect may practice with other persons through the formation of an association or corporation so long as the arrangement is permitted by law, and because the Corporation Law dictates the requirements for filing these arrangements, the Board's regulations are unnecessary.

Section 15.37 would be deleted because the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.9), known as the Right-to-Know Law, already covers what information is considered to be public.

Section 15.41(d) (relating to general requirements) would clarify that professional experience gained while pursuing an undergraduate degree in landscape architecture or first professional degree will not be considered acceptable experience for purposes of becoming licensed. The Board adds the term "first professional degree" because some landscape architect programs are a combination of undergraduate and master's degree programs.

Section 15.54(a) (relating to registration by examination) would be deleted because it merely restates the requirement in the act. Also, subsection (b) would be amended to make the provision more readable.

Section 15.56(b) (relating to registration without examination) would be amended to provide notice to applicants for registration without examination as to what the Board is looking for by way of an interview. The Board has

developed a list of work samples that an applicant would be required to bring to the interview. The Board believes that this list would allow the Board to determine whether an applicant has a sufficiently well-rounded background in landscape architecture so that he would be able to perform all aspects of landscape architecture permitted through licensure.

Section 15.72 (relating to requirement for biennial renewal) would be amended to permit the Board to exempt from the continuing education requirement a licensee who received a license within 2 years preceding the licensee's first application for biennial renewal because the licensee may not have adequate time to complete the continuing education. Subsection (c) would be added to require a licensee who wishes to reactivate a lapsed license or who has been on inactive status to have completed 10 hours of continuing education in the 2-year period immediately prior to reactivation.

Section 15.73(c) (relating to acceptable continuing education courses) would be amended by permitting up to 5 clock hours per biennium of continuing education courses to be acquired through correspondence courses.

Section 15.76 (relating to sources of continuing education courses) would be amended by clarifying that the Board's list of acceptable entities for providing continuing education courses are those entities where the courses are provided, approved, sponsored or co-sponsored by the entity. This list would be amended to reflect the accurate names of these entities and that the chapters of these entities would also be approved. Paragraph (9) would be amended to clarify that the only courses in accredited landscape architect programs or programs in fields related to landscape architecture in colleges and universities would be deemed approved. The Council of Landscape Architects Registration Board or its successor would also be added to the list of sources of continuing education courses.

Section 15.79 (relating to reporting of hours spent in continuing education) would be amended by deleting the reference to "Board-provided forms" pertaining to submission of continuing education hours.

Fiscal Impact

The proposed rulemaking will have no fiscal impact on the Board or its licensees. The proposed rulemaking should have no fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed rulemaking should not create additional paperwork for the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 29, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory

Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Shirley Klinger, Administrative Assistant, State Board of Landscape Architects, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days of publication of this proposed rulemaking. Reference No. 16A-618 (General Revisions) when submitting comments.

RICHARD G. STAUFFER,
Chairperson

Fiscal Note: 16A-618. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 15. STATE BOARD OF LANDSCAPE ARCHITECTS

GENERAL PROVISIONS

§ 15.2. Board proceedings and meetings.

* * * * *

(b) Five members of the Board constitute a quorum. Board meetings [**will**] may be conducted according to Roberts' Rules of Order.

* * * * *

APPLICATION PROCEDURES

§ 15.11. Filing procedures.

(a) An application for registration shall be submitted to the State Board of Landscape Architects [, Box 2649, Harrisburg, Pennsylvania 17105-2649] .

* * * * *

§ 15.14. Retention of documents.

The Board reserves the right to retain as a permanent part of the application documents submitted which shall be properly marked for identification and ownership. [**Photocopies of original documents may be submitted for documentary evidence if notarized as true copies.**]

§ 15.16. References.

* * * * *

(b) The applicant shall provide three references on the application and shall forward forms to the references to be completed and mailed directly to the Board by the references. **The Board will return completed reference forms sent by the applicant.**

* * * * *

(d) A reference shall attest that [**he**] the reference is familiar with the applicant's professional work [**and the applicant's moral character.** The Board will accept additional references pertaining to the applicant's moral character from individuals who are

not design professionals if the professional references do not have personal knowledge of the applicant's moral character]

§ 15.18. Certification.

[(a)] An applicant granted registration will be issued a permanent certificate of registration.

[(b) Prior to issuance of a permanent certificate, the letter from the Board advising the landscape architect that he has been granted registration will serve as a temporary certificate of registration.]

§ 15.19. [Consideration and approval of application] (Reserved).

[Applications shall be considered individually by the Board and passed or rejected on a roll call vote. Approval of an application shall be by a majority vote of the Board.]

§ 15.20. [Recording Board action] (Reserved).

[The action taken by the Board on an application will be recorded in the minutes.]

§ 15.23. Practice by out-of-State landscape architects.

(a) An out-of-State landscape architect may [obtain approval from the Board to] practice landscape architecture in this Commonwealth for a period not exceeding 30 days in the aggregate in 1 calendar year by submitting proof that:

* * * * *
ADMINISTRATION

§ 15.32. Change of name or address [; fee].

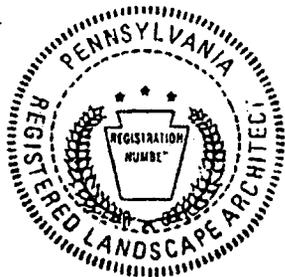
* * * * *

§ 15.33. Seals.

* * * * *

(c) A registrant shall be required to obtain the authorized seal or a rubber stamp [and to furnish the Board with an imprint of the stamp or an impression of the seal]. A sample seal is as follows:

[(d) Renewal of a license will not be granted unless this requirement is fulfilled.]



Landscape Architect

§ 15.34. Biennial registration, inactive status and expired certificates.

* * * * *

(b) *Inactive status and registration renewal.* A landscape architect who is not engaged in the practice of landscape architecture may request the Board, in writing, to place the landscape architect's name on inactive status. The landscape architect shall notify the Board, in writing, of the landscape architect's desire to reregister. The landscape architect shall comply with the requirements for the renewal of a license that exist at the time the landscape architect applies to become currently registered. There is no fee or penalty for preceding biennial periods in which the landscape architect did not engage in practice in this Commonwealth. The landscape architect applying to return to active status shall submit to the Board an application form prescribed by the Board [, a notarized affidavit] stating that the applicant has not practiced landscape architecture in this Commonwealth during inactive status [,] and the current renewal fee.

* * * * *

§ 15.36. Permitted practices.

* * * * *

(b) [When landscape architecture is practiced through a corporation, a copy of the articles of incorporation and registry statement of the proposed corporation shall be filed with the Board at the time of filing with the Corporation Bureau of the Department of State.

(1) If a name is chosen which does not contain the names of all the licensed professionals with an ownership interest in the practice, the Board shall be supplied with the list of these persons.

(2) A landscape architect incorporating under the terms of this section shall notify the Board of any changes in the name or ownership of the corporation [.

[(c)] A landscape architect, partnership, professional corporation, association or other group practice may do business under a fictitious name and advertise in any medium if the name and the advertisement are not misleading, deceptive or fraudulent [on their face by inference or by actual effect.

(1) A copy of the fictitious name registration shall be filed with the Board at the time of submission to the Corporation Bureau.

(2) A fictitious name will be approved by the Board. A list of the landscape architects with ownership interest in the practice shall be submitted to the Board concurrently with the fictitious name registration. The Board will notify the landscape architect of its approval or disapproval, and this notice shall be submitted to the Corporation Bureau, together with the documents and fees required by that agency for filing a fictitious name registration.

(3) A landscape architect practicing under the terms of this section shall notify the Board of changes in the name or ownership of the business, and shall seek Board approval of these changes prior to practicing under a new name or ownership structure.

(d) A landscape architect shall sign documents which arise out of the rendering of professional services. If the landscape architect practices in association with others, his name shall appear with the name of the association on documents not signed by him.]

§ 15.37. [Public information] (Reserved).

[The following information may be released by the Board:

(1) Whether or not a person is registered and in good standing, and the date of original registration of each person.

(2) The address of record of the registrant.

(3) Whether registration was granted by examination, reciprocity or by statutory exemption.

(4) Information the Board determines is required to release under the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1-66.4), known as the Right-to-Know Act.

(5) Grades as requested by CLARB, other state registration boards or by examinees requesting their own test results.]

EXPERIENCE

§ 15.41. General requirements.

* * * * *

(d) Professional experience gained while pursuing an undergraduate degree in landscape architecture or first professional degree will not be considered by the Board as an acceptable experience.

EXAMINATIONS

§ 15.54. Registration by examination.

[(a) Registration may be granted to an applicant who has successfully passed the examination as prescribed by the Board.

(b)] An applicant who meets one or more of the following requirements is eligible [to sit for the] for licensure by written examination:

* * * * *

§ 15.56. Registration without examination.

* * * * *

(b) Procedure.

(1) Prior to issuing a license without examination, the Board will require the applicant to appear before representatives of the Board for an interview. The applicant will be required to submit the following work samples to the representatives during the interview:

- (i) Site and development plans.
- (ii) Specifications and drawings.
- (iii) Grading and drainage plans.
- (iv) Layout plans.
- (v) Planting plans.
- (vi) Stormwater management plans and calculations.
- (vii) Site construction details and specifications.
- (viii) Photographs of completed projects.

(ix) Evidence of cost estimating and supervision of construction.

(x) A variety of project types including experience with residential subdivision, commercial land developments, environmental projects and park and recreation projects.

(2) Prior to issuing a license without examination, the Board will review the applicant's qualifications, and by a majority vote approve or disapprove the application.

[(2)](3) * * *

CONTINUING EDUCATION

§ 15.72. Requirement for biennial renewal.

(a) As a condition of biennial renewal commencing with the 2003 biennium and continuing thereafter, licensees shall have completed during the preceding biennium 10 clock hours of continuing education in acceptable courses approved under this subchapter.

(b) The Board will exempt from the continuing education requirement a licensee who received a license within 2 years preceding the licensee's first application for biennial renewal.

(c) A licensee who wishes to reactivate a lapsed license or who has been on inactive status shall have completed 10 hours of continuing education in the 2-year period immediately prior to reactivation.

§ 15.73 Acceptable continuing education courses.

* * * * *

(c) A maximum of 5 clock hours per biennium will be accepted in courses consisting of satellite seminars [and], electronic presentations and correspondence courses.

§ 15.76. Sources of continuing education courses.

The Board finds the courses provided, approved, sponsored or co-sponsored by the following entities meet the standards of the act and this subchapter:

- (1) The American Society of Landscape Architects and its [affiliates] chapters.
- (2) [The American Nurserymen's Association] The American Nursery & Landscape Association and its [affiliates] chapters.
- (3) The American Planning Association and its [affiliates] chapters.
- (4) The American Institute of Architects and its [affiliates] chapters.
- (5) The National Society of Professional Engineers and its [affiliates] chapters.
- (6) The National Recreation and Parks Association and its [affiliates] chapters.
- * * * * *
- (9) Accredited landscape architect programs or programs in fields related to landscape architecture in colleges and universities [which offer courses in landscape architecture or related fields].
- * * * * *
- (11) The Council of Landscape Architects Registration Boards (CLARB) or its successor.

§ 15.79. Reporting of hours spent in continuing education.

An applicant for license renewal shall provide the following information for each course attended [on Board-provided forms]:

* * * * *

[Pa.B. Doc. No. 05-767. Filed for public inspection April 22, 2005, 9:00 a.m.]

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

[49 PA. CODE CH. 19]
Protest Proceedings

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) proposes to amend § 19.3 (relating to applicability of general rules) and to add §§ 19.31—19.38 (relating to protest proceedings) to read as set forth in Annex A.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The proposed rulemaking is authorized under sections 4(a)(9), 8, 11, 13 and 27 of the Board of Vehicles Act (act) (63 P. S. §§ 818.4(a)(9), 818.8, 818.11, 818.13 and 818.27).

Background and Need for the Amendment

The act authorizes a dealer holding a franchise with a manufacturer or distributor to file a protest with the Board of the manufacturer/distributor's termination of the dealer's franchise under section 13 of the act, the establishment or relocation of a franchise for the same line-make within the dealer's relevant market area under section 27 of the act or any alleged violation of the act by the manufacturer/distributor under section 8(d) of the act. Section 8(b) of the act requires the Board to follow 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) (GRAPP) in conducting hearings and existing § 19.3 incorporates the GRAPP into all proceedings before the Board. Because the GRAPP cannot completely set forth all procedures that are appropriate for the Board to follow in protest matters, the orderly administration of justice requires that the Board set forth rules of procedure. Currently, the Board's protest counsel issues an order setting forth procedures in each protest matter that is filed with the Board. The adoption of regulations regarding protest proceedings will provide uniform rules of procedure and give needed guidance to affected dealers and their representatives who anticipate filing protests with the Board and to manufacturers, distributors and their representatives.

Description of the Proposed Amendments

Under current practice, because of the strict time limitation in adjudicating protest matters under section 8(a) of the act, all papers are filed with the Board's protest counsel. By contrast, all papers in all other

matters that the Board adjudicates are filed with the prothonotary for the Department of State. Because the parties generally waive that time limitation until a date certain to permit timely adjudication by the Board, the Board has found that any time saved by filing papers in a protest matter with protest counsel is negligible. Therefore, to be consistent and to provide for greater assurance of the integrity of filed papers, proposed § 19.31 (relating to filing of papers) would require that all papers to be filed in a protest matter be filed with the prothonotary and that a copy be served upon the Board's protest counsel.

Because a protest by definition is a complaint by a dealer about an action taken by the manufacturer/distributor, proposed § 19.32 (relating to initiation of a protest) would require the dealer to append to its protest petition a copy of any notice of the manufacturer's/distributor's action and to serve a copy of the protest on the representative of the manufacturer/distributor who provided that notice. In general and in the absence of an entry of appearance by counsel, the Board will serve its order for stay and mediation under section 11(a)(3) of the act upon the person who provided the notice and upon whom the protesting dealer served a copy of the protest.

In matters protesting the establishment or relocation of a franchise, the dealer who is to be awarded the franchise or relocate generally has an interest in the outcome of that protest that would qualify that dealer for intervenor status. Proposed § 19.33 (relating to intervention) would permit that dealer to intervene upon the filing of a notice of intervention. All other parties seeking to intervene will have to continue to follow the procedures of the GRAPP in 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Section 11(a) of the act requires a dealer to demand mediation prior to bringing a protest matter, except for dealers of motorcycles, and the Board must stay proceedings in a protest matter for the parties to engage in mediation. Because the majority of protest matters are resolved during mediation, the Board has not required a manufacturer/distributor to answer the protest during mediation. Instead, unless mediation is not required, the Board has waited until it is notified by the parties that mediation has been unsuccessful before issuing a scheduling order. Proposed § 19.34 (relating to time for adjudication) would continue this practice, with the Board setting the scheduling order so that it will be able to issue its adjudication within the time limitations of section 8 of the act. The parties may waive these time limitations, and the Board will treat a waiver as a request for a continuance. Proposed § 19.34 will also require a party requesting a continuance or extension of time to file a waiver of the time limitations sufficient to permit the Board to adjudicate the matter consistent with the requested extension. Because the time limitations are for the benefit of the manufacturer/distributor, the Board cannot grant a request for extension of time or continuance for which the manufacturer does not sign the waiver, but the Board may grant a request for which the protesting dealer does not sign the waiver.

Additionally, while the parties engage in mediation, there is no need for the respondent to file an answer to the protest. Under proposed § 19.35 (relating to subsequent pleadings), the Board's scheduling order will direct the respondent, and an intervenor on behalf of the respondent, when to file an answer. The protestant, and an intervenor on behalf of the protestant, may reply to the new matter within 10 days of service of the answer.

List of Commentators

American Society of Landscape Architects
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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF LANDSCAPE ARCHITECTS

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May 25, 2006

The Honorable Alvin C. Bush, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Landscape Architects
16A-618: General Revisions

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Landscape Architects pertaining to general revisions.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Barnes".

James W. Barnes, LA, Chairperson
State Board of Landscape Architects

JWB/HA:kmh

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Herbert Abramson, Counsel
State Board of Landscape Architects
State Board of Landscape Architects

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: 16A-618
SUBJECT: State Board of Landscape Architects: General Revisions
AGENCY: DEPARTMENT OF STATE

2006 MAY 25 AM 11: 15

INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
5/25/06	Sandra J. Harper	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
5/25/06	Jim Lippman	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
5/25/06	Kathy A. Cooper	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

April 18, 2006