

California Architects Board

Regulatory & Enforcement  
Committee Meeting

August 23, 2018  
Sacramento, California





CALIFORNIA ARCHITECTS BOARD  
PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

Edmund G. Brown Jr.  
GOVERNOR

**NOTICE OF MEETING**

**REGULATORY AND ENFORCEMENT  
COMMITTEE**

*Action may be taken  
on any item listed on  
the agenda.*

**Regulatory and Enforcement  
Committee Members**

Barry Williams, Chair  
Robert C. Pearman, Jr., Vice-Chair  
Fred Cullum  
Robert De Pietro  
Robert Ho  
Gary McGavin  
Matthew McGuinness  
Michael Merino  
Sheran Voigt

**August 23, 2018**

**Sequoia Room, Suite 109  
2420 Del Paso Road  
Sacramento, CA 95834  
(916) 574-7220**

The California Architects Board (Board) will hold a Regulatory and Enforcement Committee (Committee) meeting as noted above.

**Agenda**

**10:00 a.m. - 2:00 p.m.**

**(or until completion of business)**

- A. Call to Order / Roll Call / Establishment of a Quorum
- B. Public Comment on Items Not on the Agenda  
*The Committee may not discuss or take any action on any item raised during this public comment section, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting (Government Code sections 11125 and 11125.7(a)).*
- C. Review and Possible Action on August 24, 2017 Committee Meeting Minutes
- D. Update and Possible Action on Board's Enforcement Program and Complaint, Citation, and Disciplinary Action Statistical Data and Information
- E. Discuss and Possible Action on the Following 2017-2018 Strategic Plan Objectives to:
  1. Update the *Building Official Information Guide* to Better Educate Local Building Officials on the Architects Practice Act
  2. Educate Consumers on the Standard of Care so They Understand What to Expect From an Architect When Choosing to Hire One

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*(Continued on Reverse)*

3. Measure the Effectiveness of the Board’s Citation Collection Methods as a Means of Protecting Future Consumers
  4. Develop Educational Materials for Newly Licensed Architects to Provide More Information About the Requirements in Order to Avoid Future Violations
  5. Determine the Necessity and Implementation Alternatives of a Licensure Fingerprint Requirement as a Means of Protecting Consumers
- F. Discuss and Possible Action on Alternative Methods of Disclosure to Consumers That Architects are Licensed and Regulated by the Board
- G. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Committee Chair and may be taken out of order. The meeting will be adjourned upon completion of the agenda, which may be at a time earlier or later than posted in this notice. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Committee are open to the public. This meeting will not be webcast. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to the Committee taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Committee, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125 and 11125.7(a)).

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting:

**Person:** Kristin Walker

**Telephone:** (916) 575-7203

**Email:** kristin.walker@dca.ca.gov

**Telecommunications Relay Service:** Dial 711

**Mailing Address:**

California Architects Board

2420 Del Paso Road, Suite 105

Sacramento, CA 95834

Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

***Protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code section 5510.15).***

## **Agenda Item A**

### **CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF A QUORUM**

Roll is called by the Regulatory and Enforcement Committee Vice Chair, or in his or her absence, by a member designated by the Chair.

### **COMMITTEE MEMBER ROSTER**

Barry Williams, Chair

Robert C. Pearman, Jr., Vice Chair

Fred Cullum

Robert De Pietro

Robert Ho

Gary McGavin

Matthew McGuinness

Michael Merino

Sheran Voigt

## **Agenda Item B**

### **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Members of the public may address the Regulatory and Enforcement Committee (REC) regarding items not specified on the meeting agenda at this time. However, the REC may not discuss or take action on any item raised during this public comment session, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future REC meeting (Government Code sections 11125 and 11125.7(a)).

Public comments will also be taken on agenda items at the time the item is heard and prior to the REC taking any action on said items. Total time allocated for public comment may be limited at the discretion of the REC Chair.

## **Agenda Item C**

### **REVIEW AND POSSIBLE ACTION ON AUGUST 24, 2017 COMMITTEE MEETING MINUTES**

The Regulatory and Enforcement Committee (REC) is asked to review and take possible action on the minutes of the August 24, 2017 meeting.

Attachment:

August 24, 2017 REC Meeting Minutes (Draft)



Edmund G. Brown Jr.  
GOVERNOR

# CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

## MINUTES

### REGULATORY AND ENFORCEMENT COMMITTEE MEETING

**August 24, 2017**

California Architects Board, Sequoia Room  
2420 Del Paso Road, Suite 109, Sacramento, CA 95834

#### Committee Members Present

Barry L. Williams, Chair  
Robert C. Pearman, Jr., Vice Chair  
Fred Cullum (arrived at 1:18 p.m.)  
Michael Merino  
Sheran Voigt

#### Committee Members Absent

Robert De Pietro  
Robert Ho  
Gary McGavin

#### Board Staff Present

Doug McCauley, Executive Officer  
Vickie Mayer, Assistant Executive Officer  
Alicia Hegje, Program Manager, Administration/Enforcement  
Lauren James, Enforcement Analyst  
Kristin Walker, Enforcement Analyst  
Katie Wiley, Enforcement Technician  
Bob Carter, Architect Consultant  
Bob Chase, Architect Consultant

#### Guests

Mark Christian, Director of Legislative Affairs, The American Institute of Architects, California Council (AIACC)  
Linda Panattoni, California Legislative Coalition for Interior Design (CLCID)  
Roze Wiebe, Executive Director, California Council for Interior Design Certification (CCIDC)

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## **A. Call to Order/Roll Call/Establishment of a Quorum**

Regulatory and Enforcement Committee (REC) Chair Barry L. Williams called the meeting to order at 1:14 p.m. Mr. Williams welcomed everyone and requested self-introductions. Guests and Board staff introduced themselves.

Robert C. Pearman, Jr. called the roll and indicated four Committee members were present. Five members of the REC constitute a quorum. There being four at the time of roll, a quorum was not present, and the REC met as a subcommittee until a quorum was established with the arrival of the fifth member.

## **B. Public Comment on Items Not on Agenda**

Mr. Williams opened the floor for public comments on items not contained in the meeting agenda. No comments were received.

## **C. Review and Possible Action on November 8, 2016, REC Meeting Summary Report**

Mr. Williams asked if there were any questions, comments, or changes to the November 8, 2016, REC Meeting Summary Report. There were none.

*Michael Merino moved to approve the November 8, 2016, REC Meeting Summary Report.*

*Sheran Voigt seconded the motion.*

*Voting on the subcommittee's motion was deferred until a quorum was present.*

## **D. Update on Board's Enforcement Program and Complaint, Citation, and Disciplinary Action Statistical Data and Information**

Alicia Hegje provided the Enforcement Program update and highlighted items of interest to the REC, including the: 1) status of the California Architects Board's (Board) Business Modernization Plan, formerly known as BreEZe, to create a system that will combine multiple databases into one web-based application; 2) continuing education (CE) audits, including actions taken for violations; 3) staff's diligent efforts to open, investigate, and close enforcement cases quickly; 4) Board's newsletter, *California Architects*; and 5) Board's social media accounts, including the launch of the Board's Facebook account in June. She summarized the Enforcement Program data since the last REC meeting and reported a slight decrease in the amount of CE, settlement report, and unlicensed practice cases. Ms. Hegje also noted the majority of pending complaints are aged under 90 days and there are no pending complaints aged beyond 2 years.

Mr. Merino suggested that future reports include data from the previous report to better identify and understand trends. He also asked Ms. Hegje to explain why the "Types of Complaints Received" chart in the Report indicated 8.6 percent for CE complaints during

FY 2016/17 and the “Most Common Violations” table in the Report indicated 16 percent for CE violations during FY 2016/17. Doug McCauley clarified that CE complaints accounted for 8.6 percent of the total complaints received by Board during FY 2016/17, whereas CE violations accounted for 16 percent of the citations issued by the Board during that same period.

Mr. Merino specified while the other violations and issues are driven by the declining economy, currently the economy is improving, creating a potential decline in complaints. He recalled concerns when CE was initially required by the Legislature because staff is performing audits to search out violations. Mr. Merino also emphasized that CE violations accounted for 52 percent of all citations issued during FY 2015/16.

Mr. Merino inquired about the common excuses the Board has received from the architects for noncompliance. Ms. Hegje stated that some architects believe this is a one-time requirement or question why they must retake the training every two years when the Americans with Disabilities Act has not changed. Vickie Mayer stated the most common issue is architects will certify under penalty of perjury on their renewal forms that they have completed the requirement in the previous two years, but after they are selected for an audit, they submit coursework that was completed after the audit letter was sent. Ms. Mayer also explained that the renewal notices are mailed to licensees approximately 75 to 90 days prior to the license expiration date, which allows time for the licensee to complete the CE requirement, and there have been articles in the Board’s newsletter and on the website about the requirement. Mr. Merino asked if the citation violations are included in the newsletter. He stated that it would be helpful for licensees to know the circumstances regarding citations to put them on notice. Ms. Mayer responded that there are topics planned for the upcoming newsletters and that she can check those topics for reminders on the renewal to make sure an article references those points. Ms. Mayer mentioned that some newly licensed architects are unaware that they need to comply with the CE requirement because the first term of their license is not very long; however, she noted they are cautioned on their application for licensure that they must comply with the requirement.

Mr. Merino mentioned that he noticed that it is mainly the experienced architects receiving the citations for CE. Ms. Mayer replied that 20 years after the written contract requirement has been in law, there are many experienced architects that are not executing a proper written contract with their clients. Ms. Mayer did agree with Mr. Merino that it may ease the situation by continuing to educate licensees so fewer violations occur.

Mr. Merino expressed the importance of avoiding a perception from the public that the Board or staff has not exerted enough effort in preventing CE violations due the demand for the revenue from citations. Mr. McCauley assured Mr. Merino that staff is educating licensees about the CE requirement and indicated that currently there is a large amount of written contract cases although the requirement became effective over 20 years ago. Mr. Merino emphasized that those complaints come from the public whereas the CE audit comes from enforcement internally. Mr. Merino suggested that from the public’s perception, the CE audit could be another revenue stream for the Board and staff.

Ms. Mayer informed the REC that the Board staff only conducts a percentage of audits as required by law. She noted the Board is not creating the CE violations; the licensees are creating the violations by failing the audit. She also emphasized that if the audit failure rate went down and there were no violations, the Board would not be mandated to issue the citations. Mr. McCauley commented that the Board would be in a better place if there were fewer violations because the citations deplete enforcement resources and cost more than the fines assessed. Mr. Merino suggested that the public be aware that the CE citations are a distraction from the unlicensed practice issues. Mr. Cullum mentioned that he noticed that all International Code Council (ICC) Chapters have an increase in the number of architects that are taking educational courses and many of the classes are The American Institute of Architects (AIA) courses. He also stated that there is a significant increase in architects taking access, code update, and other similar classes. He advised this is leading to a delay in issuing certificates to the enrollees. Bob Carter explained when the CE requirement initially became effective, all architects were required to submit their coursework documentation to the Board with their license renewal applications, which required an extensive amount of staff time to review and process. He further explained that staff only audits a percentage of the renewal applications, which may impel some architects to feel they no longer need to take courses to fulfill the requirement and take the chance of an audit.

Mr. Williams mentioned that in the past few years he attended seminars for certification and this past year he viewed it online. He stated that most seminars indicate that the information in the course is approved by the Board, and he questioned the accuracy of this statement. Ms. Mayer clarified that the Board does not have the authority to approve coursework or providers; instead, staff informs the licensees to review the description of the course and check if it meets the criteria found in Business and Professions Code (BPC) section 5600.05(a)(3). She further explained that the licensee should read the provider's or trainer's biography to verify his or her knowledge and expertise in the subject and determine if the course meets the requirement.

Mr. Merino questioned if there is a reporting requirement to the Legislature for the acceptable coursework and the possibility of the Board being audited. Additionally, he inquired whether a third party from the Legislature would dictate the approved coursework for the Board. Ms. Mayer explained that there is a report due to the Legislature in 2019 and staff has been gathering statistics of the history of the audits and the outcomes to include in that report; however, the Board is not required to provide details of the courses that are accepted in the report. She advised the law is very specific in that it states that the Board shall issue a citation if the licensee has not fulfilled the coursework requirement. Ms. Mayer further explained how the Legislature is going to focus on the audits the Board conducted, the type of violations, the actions the Board took, the effectiveness of the training, and if there are differences in the types of complaints since the licensees took the training. Mr. Merino queried if the Board has a lot of accessibility-based complaints to which Ms. Mayer and Mr. McCauley replied that the Board did not. Ms. Mayer further stated that the legislation was tailored to require architects to complete the coursework as a resolution to the issue at the time.

**C. Review and Possible Action on November 8, 2016, REC Meeting Summary Report - Continued\***

Due to the arrival of a fifth Committee member during Agenda Item D, a quorum was present. Mr. Williams returned to Agenda Item C in order for the REC to review and take action on the subcommittee's prior motion.

*Michael Merino moved to approve the November 8, 2016, REC Meeting Summary Report.*

*Sheran Voigt seconded the motion.*

*Mr. Williams asked for any comments. No comments were received.*

*Members Cullum, Merino, Pearman, Voigt, and Committee Chair Williams voted in favor of the motion. The motion passed 5-0.*

**E. Discuss and Possible Action on the Following 2017–2018 Strategic Plan Objectives to:**

**1. Update the *Building Official Information Guide* to Better Educate Local Building Officials on the Architects Practice Act**

Kristin Walker presented this agenda item and informed the REC that the Board's *Building Official Information Guide (Guide)* was last published in 2000, and it is a compilation of responses to questions that the Board has received from building officials and general information that may be helpful for those enforcing local codes. She indicated staff and the architect consultants have reviewed the *Guide* and the guides from the Board for Professional Engineers, Land Surveyors, and Geologists and the Contractors State License Board and are in the process of making necessary updates and revisions to the Board's *Guide*. Ms. Walker explained that following an internal review, proposed changes to the *Guide* will be brought to the REC for review and discussion at its next meeting and she asked the Committee to provide any direction or input to assist staff in updating the *Guide*.

Ms. Voigt mentioned the Board needs to update the section in the *Guide* pertaining to the Board's examinations as the examination is no longer taken orally. Mr. Merino stated that there are some spelling errors and any changes to mechanics lien laws would be beneficial. He asked Ms. Mayer and staff if there are any changes that would increase awareness about unlicensed practice and if the *Guide* has served its purpose or proved to be an effective tool since 2000. Mr. Carter responded that every year he attends the California Building Officials' (CALBO) Annual Business Meeting and building officials come to his table to request more copies of the *Guide*. He expressed that building officials use the *Guide* to train their staff on how to interpret plans and understand which project belongs to which profession and asked Mr. Cullum if the *Guide* is useful to him as a building official. Mr. Cullum stated that it is useful because it covers areas about reciprocity, the ability of an engineer to do architectural work, and the architects' ability

to complete engineering work. He explained this information should be continually taught due to the amount of staff turnover.

Mr. Merino further queried if the *Guide* is a tool that assists building officials to identify unlicensed practice and if it instructs building officials to report suspected unlawful practices to the Board. He also inquired about the amount of calls the Enforcement Unit has received from building officials since 2000. Mr. Carter recalled only a few calls from building officials about individuals using stamps that do not belong to them. He clarified the building officials' responsibility is to verify the work was done by a licensed design professional and if it was not, then they would reject the application. Mr. Merino expressed his concerns regarding consumer protection if the building official rejects an application without notifying the Board of the violation. He commented that based on the issued citations, unlicensed practice is primarily identified through consumer complaints. He suggested that since the *Guide* is provided for the building officials, they should have identified the violation, advised the Board, and then a citation should be issued. Mr. Carter mentioned there would have to be an investigation because often there is an engineer in the background who is providing supervision. Mr. Merino questioned the effectiveness of the *Guide* if the Board received very few phone calls from building officials due to potential violations and commented the building officials should be using this tool and become an extension of the Board's enforcement capability. Bob Chase clarified that if building officials avoid those issues they are indemnified. Mr. Merino agreed and stated that it is not his intention to assess liability but that it seems problematic that there have been few calls since 2000; therefore, the *Guide* does not seem to be effective. Mr. Carter stated there are issues that are being resolved by the *Guide* on a daily basis that do not get reported to the Board or are not required to be reported so there is some validity to what the document does and the purpose it serves. Mr. Cullum explained that the job of a building official is to achieve compliance with the minimum requirements of the California Building Code and once the building official rejects the application for the permit then his or her duty is complete. Mr. Cullum reiterated that the building official's concern is compliance with the California Building Code, which means there is not an unlicensed individual doing the design work.

Mr. Merino appealed to the Chair to include a section in the *Guide* that states the submission of a document by someone who is identified as unlicensed is a violation of law, so the building official can understand it is enforceable by the Board if he or she receives documents in violation of the BPC. Mr. Merino asked Mr. Cullum if this proposed statement was in the *Guide*, would this make a building official reconsider not reporting a violation to the Board. Mr. Cullum stated that as a building official, he would not report the violation due to the amount of work he already has. Mr. Williams advised the REC that the Board may not want to be bothered with minor issues such as a project prepared by a student. Mr. Merino pointed out there is an issue between discretion and threshold. He stated these acts are in violation of the law and enforceable by the Board and the connection is not stated in the *Guide* as strongly as he would prefer. He expressed his concerns about unlicensed practice and consumer protection.

Mr. Williams invited additional comments and asked if any action or motion was needed to continue. Ms. Mayer reiterated the suggestions made by Ms. Voigt and Mr. Merino about the examination information, spelling errors, and the mechanics lien laws and asked for input on anything that was not covered or should be expanded. She emphasized staff's plan to review the *Guide* with the consultants for updates, then have legal counsel review the document, and present the updated *Guide* to the REC for review and input at the next meeting. Mr. McCauley explained that the Department of Consumer Affairs (DCA) Legal Office may recommend changes to the *Guide* based on its opinion regarding interpretations versus reiterations of the law.

Mr. Williams inquired if the *Guide* is only available in hard copy or if it is also in digital form. Ms. Mayer stated that previously it was printed and provided to the building officials, but the updated *Guide* would also be available online. Mr. Chase added that he recently received a request for 143 copies of the *Guide* from Los Angeles County and noted it would be more efficient and economical to be able to send a link to the *Guide*.

Mr. Williams asked if there were any additional comments from the Committee members or the public. Roze Wiebe with CCIDC inquired about the individual who will receive the changes and suggestions submitted from CCIDC. Ms. Mayer recommended that she contact Ms. Walker and provide the suggestions. Mark Christian with AIACC requested the section about the mechanics lien laws also reference the design professionals lien law. Mr. Carter explained that the mechanics lien law and design professionals lien law are grouped together; however, the Board should not repeat laws outside of its jurisdiction, as the Board has no control over them. He advised providing a link to the information would be appropriate. He also explained that the design professionals lien law was combined with the mechanics lien laws in 2012 and emphasized the importance of utilizing an expert to file a lien due to the complexity of the requirements.

Ms. Voigt requested a copy of the *Guide* with tracked changes of the updates and Ms. Mayer confirmed any proposed changes would be tracked for the Committee's review.

## **2. Educate Consumers on the Standard of Care so They Understand What to Expect From an Architect When Choosing to Hire One**

Ms. Walker presented this agenda item and reminded the REC that the Board currently provides outreach and education to consumers through a variety of different methods including the website, social media, publications, press releases, and direct responses to questions from consumers. She explained that in order to address this Strategic Plan objective, staff is exploring methods to further educate consumers about architects' services and professional obligations, such as updating the "Consumers" section of the Board's website, developing and sharing more consumer-oriented materials through social media, and promoting the Architect Consultants' Education and Information Program. Ms. Walker asked the REC to discuss this objective and provide feedback on the consumer education methods that have been identified.

Mr. McCauley stated staff has had an extensive conversation about consumer education and the “information gap” in understanding the architect’s role and obligations and defining the Board’s meaning and intention of “standard of care.” Mr. Carter commented the intent is to educate the consumer about the architect’s role, and the tasks and services provided by an architect. He specified the problem is with the improper use of the legal term “standard of care” which is used to judge the performance of tasks, not the tasks themselves. He referred to the *AIA Architect’s Handbook of Professional Practice* and how it defines the phases of a project and the types of services architects provide. Mr. Carter further explained the discussion about the “standard of care” refers to words about what reasonable architects would do in similar circumstances in the same jurisdiction and that language may have consumers assume the architect is attempting to evade the work.

Mr. Merino opined that the “standard of care” issue is about performance and expectations and expressed his fear that the Board will create a standard and provide it to the public which would create more litigation than it will resolve. He stated consumers still need to know they are receiving a complete set of documents, but he questioned the Board’s objective from the standpoint of protecting the consumer.

Mr. McCauley highlighted how Mr. Merino voiced that the objective was aligning consumer’s protection to the reality of the marketplace and for that reason, the focus realigned to articulating the architect’s services, professional responsibilities, the written contract requirement, and the rules of professional conduct. Mr. Merino reiterated the problem with establishing a “standard of care” and recommended contacting professional insurance liability carriers and AIA for recommendations.

Mr. Chase commented that staff’s intent is to inform consumers about the practice of architecture, including the architect’s role and how the architect can assist the consumer, not to deal with the legality of “standard of care.” Mr. Merino restated his concern with the use of the legal term “standard of care” in the objective. Mr. McCauley specified that more detail will be added, as well as information on the services. Mr. Carter implied that this was a misuse of the term because the discussion was not about “standard of care”; instead, it was about the practice of architecture, not liability. Mr. Merino commented that any misuse of terminology needs to be corrected, or if the term “standard of care” was not misused, there needs to be a different approach. Ms. Voigt advised staff to ask the Board for clarification on the intent of the objective. Mr. Williams recalled that the intent of the objective was to educate consumers on what an architect does, what to expect from the services of an architect, and the reasons to utilize an architect. Ms. Mayer suggested reviewing the Board’s discussion about this objective during its Strategic Planning session to better understand the intent before asking the Board to clarify. Mr. Pearman suggested researching whether any related professions provide similar documentation to the public. Mr. Merino added the REC may want to review the Council of American Structural Engineers’ white paper titled “Do You Know the Standard of Care?”

Mr. Williams asked if there were any comments from the public. There were no comments.

**3. Measure the Effectiveness of the Board's Citation Collection Methods as a Means of Protecting Future Consumers**

Ms. Walker presented this agenda item and informed the REC that the overall collection rate for citations in the past five years is 54 percent with collection rates of 78 percent for licensees and 41 percent for unlicensed individuals. She explained the current and most effective method to collect unpaid fines from licensees is to place a hold on their license pursuant to BPC section 125.9(b)(5), so they cannot renew until the fine is paid. She noted the majority of unpaid fines were against unlicensed individuals and stated the Board currently uses the Franchise Tax Board Intercept Program to collect those fines through state tax refunds, lottery proceeds, and unclaimed property. She also mentioned the Board has had success in offering payment plans. Ms. Walker explained in order to increase the effectiveness of the Board's citation collection methods, staff is in the process of securing a collection agency contract which would include skip-tracing, credit reporting, and filing legal actions and may be more impactful than the current process. She indicated the contract is planned to be presented to the Board in December with a start date of January 1, 2018. She informed the REC that staff will continue to track the citation collection rate, assess the effectiveness of the collection methods, and provide the Committee with updates throughout the duration of this Strategic Plan.

Mr. Merino commented that there has been incremental, but good, progress in obtaining another collection tool and congratulated staff for getting the collection contract this far.

Mr. Williams asked if there were any additional comments from the Committee members and the public. There were no comments.

**4. Develop Educational Materials for Newly Licensed Architects to Provide More Information About the Requirements in Order to Avoid Future Violations**

Ms. Walker presented this agenda item and indicated the following materials are currently provided to new licensees with the initial license and wall certificate: a Business Entity Report Form; information about the stamp requirements; and copies of the Board's *Consumer's Guide to Hiring an Architect*, *Consumer Tips for Design Projects*, Twitter card, and bookmark. She explained in order to address this Strategic Plan objective, staff suggests creating a checklist for new licensees that would outline: the license renewal process and CE requirements; how to file and update their mailing address and business entity information; and common violations of the Act. She stated the proposed checklist would be distributed with the initial license and posted on the Board's website where it would be accessible to all licensees and the public. She asked the REC to provide any additional direction or input in creating a new licensee checklist and other ways to inform new licensees of the requirements.

Mr. Merino expressed his enthusiasm about staff creating the checklist and suggested that it be shared with all licensees because this information is as valuable and beneficial to those who have been practicing for 20 to 30 years, as it is to new licensees. He also recommended the checklist be added to the renewal notices, which may assist in decreasing violations. Mr. Carter agreed with Mr. Merino and proposed adding the definition of the practice of architecture to the checklist, as many architects assume the practice of architecture only involves stamping and signing drawings. He commented that many architects do not file their business entity information with the Board as they incorrectly presume they are not providing architectural services through a firm if they are not stamping and signing drawings. Mr. Merino also suggested including the reporting requirements for convictions; disciplinary actions; and judgments, settlements, or arbitration awards in the proposed checklist.

Mr. Williams stated that it seemed the experienced architects are receiving more citations and suggested the Board create a user-friendly checklist that must be signed and returned when they renew their license. Mr. Merino agreed with Mr. Williams and stated that a signature would make it more serious.

Mr. Williams asked if there were any comments from the public. Mr. Christian inquired if AIACC can partner with the Board on the checklist or work with the Board on communicating the information that architects should know to its members.

Mr. Williams replied that the Board does welcome that suggestion. He asked for additional comments. There were no other comments.

#### **F. Review and Possible Action on Retention Schedule for Board's Complaint and Citation Records**

Ms. Walker presented this agenda item and explained the Board is required to manage its records according to the procedures established by DCA and the Department of General Services (DGS). She stated the Board's current records retention schedule expires in December 2018, and it requires complaint and citation records to be retained in the Board's office for five years and then be confidentially destroyed. She referred to the history within the packet and indicated citations were originally being retained and disclosed to the public for 100 years; however, the retention period for citations was then lowered to 20 years, and again lowered to 5 years in 2005. Ms. Walker explained in order to increase consumer protection, staff is requesting the REC consider proposed changes to the Board's records retention schedule to increase the retention and public disclosure period for citation records from 5 years to 10 years. She emphasized that staff has found that the current five-year retention period is relatively short and often prevents staff from being able to disclose information to consumers and/or establish a pattern of violations. Ms. Walker stated that if the retention period for citations was extended, it would allow additional time to collect outstanding fines from unlicensed individuals because the file would be retained longer. She also noted that under the current retention schedule, complaints that are closed with no action are kept in the Board's office for the same amount of time as complaints that result in citations. She asked the REC to review and discuss the proposed changes to the Board's records retention schedule and consider making a recommendation to the Board.

Mr. Merino asked for clarification regarding the five-year retention period. Ms. Mayer explained that the five-year period is for citations to be retained in the office, disclosed to the public, and used as an element of aggravation in a future case. Mr. Merino asked if extending the retention period could increase the seriousness of the CE violations if 2 violations occurred within 10 years. Ms. Mayer stated that an individual would have to be randomly selected for the audit. Mr. Merino expressed uncertainty with moving the retention period from 5 years to 10 years and opined it would be an extensive time for those with CE violations. He also stated there is much higher chance of violating the law again in 10 years rather than 5 years.

Ms. Mayer clarified that if the fine was paid then the licensee would not need to be concerned. She explained citations were originally considered a disciplinary action and the records were retained for 100 years to cover the licensee's lifetime, but since legal counsel has surmised that citations are no longer considered a disciplinary action, the retention period was lowered to 20 years. Ms. Mayer recalled that the Board eventually concluded that a 20-year retention period was too lengthy, so it was lowered to 5 years. She explained the current five-year retention period for citations often prevents staff from being able to establish a pattern of violations if the original violation(s) occurred just over five years ago and also noted the difficulty in collecting fines through the Franchise Tax Board Intercept Program when the related citation records are destroyed after five years. Mr. Merino countered that although he understands staff's concerns, he does not support extending the retention period for citations because it would result in the retention period for CE violations also being extended. Ms. Mayer suggested there might be ways to separate the citations into classes and have them on different types of schedules. She explained that staff can conduct additional research and review the procedures from other boards. Mr. Merino asked if other boards divide the citations. Ms. Mayer replied that research is needed to determine that. Mr. Williams asked when the retention period begins. Ms. Mayer indicated the retention period begins on the effective date of the citation, once all appeals have been exhausted. Ms. Voigt intervened and stated the extension should be approved.

*Sheran Voigt moved to recommend to the Board that it increase the retention period for citation records and related complaint files, and the public disclosure period for citations, to 10 years.*

*Robert Pearman seconded the motion.*

Mr. Williams asked if there are any comments on the motion. Mr. Merino reiterated his disapproval of the motion due his concern with extending the retention period for the CE citations. He also opined that a CE violation is a minor issue and a 10-year retention period is draconian.

Mr. Williams requested public comments. Mr. Christian inquired about the other boards' citation retention schedules. Ms. Mayer offered to research other boards' records retention policies. Ms. Voigt commented that the Department of Real Estate keeps them forever. Mr. Merino inquired if there is a CE requirement in real estate. Ms. Voigt responded affirmatively and added that licenses will not be renewed if the licensee does not meet the

requirement. Mr. Merino asked Ms. Voigt if the CE requirement for real estate is on a continual basis with an issued citation once the licensee does not meet the requirement. Ms. Voigt clarified that if the licensee does not meet the CE requirement, then they will not get their license because the Department of Real Estate is more draconian, while the Board allows licensees to have their license. Mr. Cullum mentioned that building officials must complete CE within each three-year period or the building official will lose his or her certification and job according to the law.

Mr. Christian questioned if an architect license can be renewed if the CE requirement is not met. Ms. Mayer replied that it depends on the manner in which the renewal application is completed. She explained that occasionally staff will receive renewal applications that are marked “no” to the completion of the CE, so the licensee is contacted for clarification. Ms. Mayer continued that once staff receives an application that is marked “yes,” it indicates that the licensee is certifying under perjury that he or she has completed the required coursework and the license is renewed. Mr. Merino asked Ms. Mayer the ramifications if the licensee inputs “no” on the application. Ms. Mayer said that is an indication that they have not completed the renewal requirement. Mr. Merino queried if the license goes into suspension. Ms. Mayer responded that it depends on the time frame the licensee sends the renewal form because if staff received the application long before the expiration date, then the licensee had time to complete the required coursework. She added that if the application is received close to the renewal time then the license would expire, and it would be renewed upon the effective date staff received the required documents to renew. Ms. Mayer stated it is better for the licensee to not submit the form until they have completed the requirement. Mr. Williams questioned if staff has ever had a case in which the licensee input “no” on the application and then hurried to complete it. Ms. Mayer explained that there have been some licensees that completed the coursework prior to the expiration date, however, the problem lies with the licensee inputting “yes” even though they did not complete it. Mr. Williams stated it is like lying on an affidavit.

Mr. Williams called for the vote.

*Members Cullum, Merino, Pearman, Voigt, and Committee Chair Williams voted in favor of the motion. The motion passed 5-0.*

## **G. Adjournment**

The meeting adjourned at 2:37 p.m.

**UPDATE AND POSSIBLE ACTION ON BOARD'S ENFORCEMENT PROGRAM AND COMPLAINT, CITATION, AND DISCIPLINARY ACTION STATISTICAL DATA AND INFORMATION**

Attached is the Enforcement Program Update, which is a synopsis of California Architects Board (Board) and Enforcement Program activities and projects of interest to the Regulatory and Enforcement Committee (REC).

Also included in this item are the Enforcement Program Report (fiscal years [FY] 2015/16 through 2017/18) and an overview of Citations and Disciplinary Actions from August 1, 2017 through July 31, 2018 (reporting period since the last REC meeting).

Attachments:

1. Enforcement Program Update (August 2017 through July 2018)
2. Enforcement Program Report (FY 2015/16 through 2017/18)
3. Citations (August 1, 2017 through July 31, 2018)
4. Disciplinary Actions (August 1, 2017 through July 31, 2018)

**ENFORCEMENT PROGRAM UPDATE**

August 2017 through July 2018

**Architect Consultants**

Building Official Contact Program:

Architect consultants are available on-call to Building Officials to discuss the California Architects Board's (Board) policies and interpretations of the Architects Practice Act (Act), stamp and signature requirements, and scope of architectural practice. From August 2017 through July 2018, there were approximately 35 telephone, email, and/or personal contacts with Building Officials.

The 2018 Annual Business Meeting of California Building Officials (CALBO) was held March 27-29, 2018, in Burlingame. This was the 56<sup>th</sup> annual meeting of the organization. The Board sponsored a vendor table as part of the Exhibitor's Program, which was staffed by Board architect consultants Bob Carter and Bob Chase. There were approximately 300 people representing various building departments throughout the State. The Board had over 20 documented direct contacts. Once again, CALBO leadership extended a special thank you to the Board for participating and continuing its history of support to the organization. In addition, the City of Moreno Valley and the County of Ventura requested supplies of the Board's *Consumer's Guide to Hiring an Architect* and *Consumer Tips for Design Projects*.

Education/Information Program:

Architect consultants are the primary source for responses to technical and/or practice-related questions from the public and licensees. From August 2017 through July 2018, there were 611 telephone and/or email contacts requesting information, advice, and/or direction. Licensees accounted for 306 of the contacts and included inquiries regarding written contract requirements, out-of-state licensees seeking to do business in California, scope of practice relative to engineering disciplines, and questions about stamp and signature requirements.

**Board Meetings**

Since August 2017, the Board met on: September 7, 2017, in Burbank; December 7, 2017, in Sacramento; March 1, 2018, in Sacramento; and June 13, 2018, in Sacramento. The remaining Board meetings for 2018 are scheduled for September 12, 2018, in the Bay Area, and December 13-14, 2018, in Sacramento. The December meeting will include a Strategic Planning session.

**Business Modernization**

In late December, the Board in collaboration with the Department of Consumer Affairs (DCA) finalized its Business Modernization Plan (Plan) to effectively facilitate the analysis, approval, and potential transition to a new licensing and enforcement platform. The Plan is an academic look at the purpose, guiding principles, objectives, and activities needed to achieve the Board's goals of business modernization. The Plan has an accompanying document, the Business Modernization Report

(Report), which is an artifact specific to the Board that documents the business modernization activities that will be conducted. The Report includes proposed timelines, milestone documentation, business planning artifacts, project approval documents, among other items. Together, these documents outline a specific framework, and the Board's progress within such framework.

The primary objective of the Plan is to ensure that business modernization efforts for the Board follow a structured approach based on best practices and lessons learned, with more accurately planned, managed, and implemented technology solutions. The thorough planning, business analysis, and program-specific nature of this effort will ensure success for the Board and DCA.

An initial meeting was held on July 11, 2017, with the Board and DCA's Office of Change Management (OCM) to discuss the Business Modernization Plan and approach. On August 17, 2017, staff met with OCM staff to discuss the initial inventory of the Board's existing administrative, enforcement, and licensing business processes. This inventory will inform the proposed timeline for the effort, currently under development. At the request of the DCA, on October 11, 2017, staff provided suggested edits to the business processes. Staff completed the Project Charter for the business activities phase of the modernization effort. The Charter specifies our role and responsibilities as key project stakeholders. It also describes the project decision-making authority for our business area, and the commitment DCA needs from the Board to conduct a successful project. Staff and management met with SOLID on November 7, 2017, to review the draft Project Charter and discuss combining the Board and LATC charters into one document. The consolidated Charter was submitted to OCM in January 2018, after approval from the Board President and LATC Chair.

Key elements of Business Modernization specific to the needs of the Board and LATC include: 1) Business Activities, 2) Project Approval Lifecycle, and 3) System Implementation. Jason Piccione, DCA Chief Information Officer, updated the Executive Committee and the Board on the Business Modernization project; he stressed that the progression of activities to implement the Business Modernization project will be based on the overall organizational readiness of both programs and ability to support an aggressive (or less aggressive) timeframe regarding staff resources. Furthermore, he reported that Business Activities are scheduled from October 2018 through October 2019, the Project Approval Lifecycle from July 2019 through November 2020, and System Implementation from November 2020 through November 2022. The proposed schedule employs a minimum viable product strategy, which could reduce the total proposed time of implementation to November 2021. The Board business process inventory has since been finalized and provided to OCM on May 21, 2018. OCM advised they would reach out to the Board near the fourth quarter to begin preparation for the mapping process in October 2018.

Because this planned approach will take time and to address the delayed implementation of a new platform, the Board and LATC are pursuing a stop gap measure to accept credit card payment for license renewal applications, our highest volume transaction. Staff met with DCA Office of Information Services (OIS) on May 14, 2018 along with Release 3 boards and bureaus interested in the Interim Credit Card Acceptance Portal initiative. Staff worked with DCA Budget and Legal staff to assess the projected credit card costs. The Board and LATC will be in the first group along with California State Board of Pharmacy and California Board of Accountancy. OIS identified the Board as the primary organization in the first group and has initiated the data analysis for credit card renewal payments. A meeting was held with OIS to determine initial screening questions for credit card eligibility and assess whether additional features such as online address changes could be implemented

at time of payment. Further research is underway and testing is anticipated to begin in September for a launch date in November 2018.

### **Collection Agency Contract**

The Board's 2015-2016 Strategic Plan contained an objective assigned to the Regulatory and Enforcement Committee (REC) to pursue methods to obtain multiple collection mechanisms to secure unpaid citation penalties. At its November 5, 2015 meeting, the REC reviewed and discussed this objective, and voted to recommend to the Board that it should encourage staff to continue pursuing all avenues for collecting unpaid administrative fines, and specifically, start utilizing a collection agency for unpaid accounts aged beyond 90 days, or at the discretion of the Executive Officer (EO). The Board approved the REC's recommendation at its December 10, 2015 meeting. Following the Board meeting, staff identified outstanding accounts that could be referred to a collection agency for full-service debt collection services, including "skip-tracing," credit reporting, and filing legal actions if appropriate. Staff is in the process of securing a contract with a collection agency through the informal solicitation method (Government Code section 14838.5) to allow the Board to refer unpaid accounts aged beyond 90 days to a collection agency. The collection agency contract is planned to be presented to the Board for review and possible action at a future meeting.

### **Continuing Education (CE) Audit System**

Assembly Bill (AB) 1746 (Chapter 240, Statutes of 2010) became effective January 1, 2011, and amended the statutory provisions of Business and Professions Code (BPC) sections 5600 and 5600.05 pertaining to the CE requirement for licensees. This bill amended the CE provisions by: 1) requiring an audit of license renewals beginning with the 2013 renewal cycle; 2) adding a citation and disciplinary action provision for licensees who provide false or misleading information; and 3) mandating the Board to provide the Legislature with a report on the level of licensee compliance, actions taken for noncompliance, findings of Board audits, and any recommendations for improving the process.

An audit system was developed by the Professional Qualifications Committee and approved by the Board on June 14, 2012. The Board has audited at least 3% of the license renewals received each year since January 2013 to verify the completion of the CE requirements by licensees. From January 1, 2013 through July 31, 2018, the Board has audited approximately 1,900 licensees and found 333 cases where licensees have: 1) certified false and/or misleading information regarding their compliance with this requirement when filing their license renewal applications with the Board; 2) failed to maintain records of completion of the required coursework; or 3) failed to provide the Board with records of completion of the required coursework upon request. During this time, 132 citations have been issued to licensees for noncompliance with the CE provisions of BPC section 5600.05.

## Enforcement Program Statistics

| <u>Enforcement Statistics</u>           | <u>Current Month</u><br>July 2018 | <u>Prior Month</u><br>June 2018 | <u>5-FY Avg</u><br>2013/14 -<br>2017/18 |
|---|-----------------------------------|---------------------------------|---|
| <b>Complaints</b>                       |                                   |                                 |   |
| Received/Opened:                        | 34                                | 23                              | 331                                     |
| Closed:                                 | 14                                | 12                              | 316                                     |
| Average Days to Close:                  | 123 days                          | 76 days                         | 124 days                                |
| Pending:                                | 178                               | 158                             | 121                                     |
| Average Age of Pending:                 | 196 days                          | 198 days                        | 148 days                                |
| <b>Citations</b>                        |                                   |                                 |   |
| Issued:                                 | 4                                 | 4                               | 48                                      |
| Pending:                                | 9                                 | 12                              | 11                                      |
| Pending AG:**                           | 2                                 | 2                               | 4                                       |
| Final:                                  | 7                                 | 14                              | 43                                      |
| <b>Disciplinary Actions</b>             |                                   |                                 |   |
| Pending AG:                             | 4                                 | 5                               | 5                                       |
| Pending DA:                             | 1                                 | 1                               | 1                                       |
| Final:                                  | 1                                 | 0                               | 3                                       |
| <b>Continuing Education (§5600.05)*</b> |                                   |                                 |   |
| Received/Opened:                        | 1                                 | 3                               | 66                                      |
| Closed:                                 | 5                                 | 4                               | 64                                      |
| Pending:                                | 7                                 | 11                              | 19                                      |
| <b>Settlement Reports (§5588)*</b>      |                                   |                                 |   |
| Received/Opened:                        | 4                                 | 3                               | 27                                      |
| Closed:                                 | 1                                 | 1                               | 28                                      |
| Pending:                                | 17                                | 14                              | 8                                       |

\* Also included within "Complaints" information.

\*\* Also included within "Pending Citations."

### Most Common Violations:

The majority of complaints received are filed by consumers for allegations such as unlicensed practice, professional misconduct, negligence, and contract violations, or initiated by the Board upon the failure of a coursework audit.

During FY 2017/18, 54 citations with administrative fines became final with 62 violations of the provisions of the Act and/or Board regulations. Below are the most common violations that resulted in enforcement action during the last FY:

- BPC section 5536(a) - Practice Without License or Holding Self Out as Architect [8.1%]
- BPC section 5536.1(c) - Unauthorized Practice [3.2%]
- BPC section 5536.22(a) - Written Contract [1.6%]
- BPC section 5584 - Negligence or Willful Misconduct [1.6%]
- BPC section 5600.05(a)(1) or (b) - License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements [77.4%]

- California Code of Regulations (CCR), title 16, section 134(a) - Use of the Term Architect [1.6%]
- CCR, title 16, section 160(b)(1) or (2) - Rules of Professional Conduct (Willful Misconduct) [6.5%]

### **Executive Officer (EO)**

At its June 13, 2018 meeting, the Board appointed Laura Zuniga as its new EO, effective August 1, 2018. Ms. Zuniga replaces former EO Doug McCauley, who served for 17 years. Ms. Zuniga has over 20 years of state government experience. Most recently she was the Chief of Licensing and Examination with the Contractors State License Board (CSLB) where she was responsible for the development, organization, and management of the licensing and examination programs. During her time with CSLB she was able to decrease processing times of worker's compensation insurance certificates from six weeks to under two weeks, and the processing of new license applications from over eight weeks to less than three weeks. Prior to that role, Ms. Zuniga was the Chief of Legislative Affairs for the CSLB and has held similar positions for the former State and Consumer Services Agency (now Business, Consumer Services and Housing Agency) and the DCA. Ms. Zuniga received her Bachelor of Arts in Political Science from the University of California, Davis.

### **Legislation**

AB 2138 (Chiu) [Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction] would reduce barriers to professional licensure for individuals with prior criminal convictions by limiting a regulatory board's discretion to deny a new license application or to suspend or to revoke an existing license. This bill limits a board's discretion to cases where the applicant or licensee was formally convicted of a related crime or subjected to formal discipline by a licensing board and prohibits license denial or suspension or revocation for offenses older than five years with the exception of violent felonies, as currently established in statute. This bill is with the Senate Committee on Appropriations.

Senate Bill (SB) 721 (Hill) [Contractors: Decks and Balconies: Inspection] would require the "exterior elevated elements" of multi-family dwelling units be inspected by a: licensed architect; licensed civil or structural engineer; building contractor holding any or all "A," "B," or "C-5" license classifications, with a minimum of five years' experience, as a holder of the aforementioned classifications or licenses, in constructing multistory wood frame buildings; or an individual certified as a building inspector or building official from a recognized state, national, or international association, as determined by the local jurisdiction. Local jurisdictions would enforce this requirement. This bill has been referred to Assembly Business & Professions Committee and Housing & Community Development Committee, currently sitting in Business & Professions Committee. At the June 13, 2018 Board meeting, Board members voted to submit a letter to the author outlining the Board's concerns and authorize the EO and/or Board President to work with the author's office to amend the bill. This bill is with the Assembly Committee on Appropriations.

SB 984 (Skinner) [State Boards and Commissions: Representation: Appointments] would require all state boards and commissions to be comprised of a specific minimum number of women based on the total number of board or commission members on that board. This bill would also require the Office of the Governor to collect and release aggregated demographic data provided by state board and

commission applicants, nominees, and appointees. This bill is with the Assembly Committee on Appropriations.

SB 1137 (Vidak) [Veterans: Professional Licensing Benefits] would require the Department of Veterans Affairs and the DCA, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans. This bill is with the Assembly Committee on Appropriations. At the June 13, 2018 Board meeting, Board members voted in support of the bill.

SB 1480 (Hill) [Professions and Vocations] would amend section 328 of the General Provisions of the Business and Professions Code to require the DCA to prioritize through its Consumer Protection Enforcement Initiative the enforcement of complaints against licensees involving allegations of serious harm to a minor. Other provisions of this bill are specific to individual programs. This bill is with the Assembly Committee on Appropriations.

## **Newsletter**

Issues of the Board's newsletter, *California Architects*, were published, posted on the website, and distributed to email subscribers on September 18, 2017, November 6, 2017, February 16, 2018, and June 26, 2018. A special issue was published in August 2018.

## **Outreach**

On October 20, 2017, CSLB was provided with two Board publications, *Consumer's Guide to Hiring an Architect* and *Consumer Tips for Design Projects*, for distribution at local assistance centers throughout the state to those impacted by wildfires.

In early January 2018, CSLB was provided with 1,000 *Consumer's Guide to Hiring an Architect* booklets and *Consumer Tips for Design Projects* cards to be disseminated at local assistance centers for wildfire victims throughout the state. On January 29, 2018, an architect in Ventura requested 300 *Consumer's Guides to Hiring an Architect* for distribution to victims of the Thomas Fire at several workshops. Doug McCauley and Bob Carter attended a workshop in Loma Rica on January 30, 2018, to assist residents who wish to hire an architect and rebuild due to the Cascade Fire.

On June 29, 2018, DCA contacted the Board regarding its interest in our Disaster Preparedness campaign information. The Board offered its assistance and desire to participate in upcoming townhall and outreach events. A supply of the Board's *Consumer's Guide to Hiring an Architect* and *Consumer Tips for Design Projects* was provided to The American Institute of Architects, Central Valley Chapter for dissemination.

Staff also worked with DCA's Office of Public Affairs and CSLB on an article in the *Consumer Connection* magazine published on June 30, 2018. The article provides California property owners information on natural disasters and mistakes to avoid during the rebuilding, as well as consumer protection tools to ensure projects stay on track. The *Consumer Connection* is disseminated by the DCA internally to all boards and bureaus and mailed to interested parties. Publications are sent both electronically and by mail to a wide-range of subscribers. A majority of the subscribers are nonprofits, state and local agencies, and district attorney offices throughout the state. The inclusion of the article

in the magazine was one of the strategies to meet an objective in the Board's Strategic Plan assigned to the Communications Committee.

## **Regulatory Proposals**

### CCR, Title 16, Section 152.5 (Contest of Citations, Informal Conference):

Staff developed proposed regulatory language to amend CCR, title 16, section 152.5 to allow the EO to delegate to a designee, such as the Assistant EO or the Enforcement Program Manager, the authority to hold an informal conference with a cited person and make a decision to affirm, modify, or dismiss a citation. The proposed regulatory language also contains additional revisions to CCR, title 16, section 152.5, including: changing the deadline for requesting an informal conference for consistency with the deadline for requesting a formal administrative hearing; authorizing the EO or a designee to extend the 60-day period for holding the informal conference for good cause; and clarifying that the decision to affirm, modify, or dismiss a citation is made following (rather than at the conclusion of) an informal conference, and a copy of the decision will be transmitted to the cited person within 30 days after the conference. The REC reviewed and discussed staff's draft proposed regulation to amend CCR, title 16, section 152.5 at its November 8, 2016 meeting, and voted to recommend to the Board that it approve the regulation and authorize staff to proceed with the regulatory change. At its December 15, 2016 meeting, the Board approved the proposed regulation to amend CCR, title 16, section 152.5, authorized staff to proceed with the required regulatory change to amend CCR, title 16, section 152.5, and delegated authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and make minor technical or non-substantive changes to the language, if needed. Staff is preparing the proposed regulatory package for submission to DCA for review, prior to publicly noticing with the Office of Administrative Law (OAL).

### CCR, Title 16, Section 154 (Disciplinary Guidelines):

The Board's 2013 and 2014 Strategic Plans included an objective to review and update the Board's *Disciplinary Guidelines*. Staff and legal counsel from DCA have worked collaboratively on multiple rounds of revisions to the Board's *Disciplinary Guidelines* since that time. Staff presented additional, recommended revisions to the Board's *Guidelines* and the proposed language to amend CCR, title 16, section 154 in order to incorporate the *Guidelines* by reference to the Board for review and approval at its December 7, 2017 meeting. At the meeting, the Board accepted the additional revisions to the *Guidelines*, and directed legal counsel and staff to conduct further research to determine if the Board has the statutory authority to impose fines through the disciplinary process and whether it should be referenced in the *Guidelines*.

Legal counsel subsequently researched the Board's statutory authority to assess an administrative penalty or fine through discipline and found that BPC section 5565(d) authorizes the Board to assess a fine for any of the causes of action specified in BPC section 5577 (Conviction of a Crime Substantially Related to the Qualifications, Duties, or Functions of an Architect), and BPC section 5588(e) authorizes the Board to impose a civil penalty against a licensee who fails to report a civil action judgment, settlement, or arbitration award of \$5,000 or greater against the licensee to the Board within 30 days. Based on legal counsel's research, staff revised the Board's *Disciplinary Guidelines* to: 1) include the fine and civil penalty provisions authorized by BPC sections 5565(d) and 5588(e); 2) provide information regarding the Board's citation authority under the General Considerations section; and 3) update the descriptions of BPC sections 140, 5536.5, 5577, 5579, 5582.1, 5583, 5584,

5585, and 5586, to more accurately reflect the nature of the violations. At its March 1, 2018 meeting, the Board reviewed and approved the proposed regulatory changes to the *Disciplinary Guidelines* and CCR, title 16, section 154 as modified, directed the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes, as modified. Staff is preparing the proposed regulatory package for submission to DCA for review, prior to publicly noticing with OAL.

## **Social Media**

The Board's social media presence includes three platforms—Facebook, Instagram, and Twitter. These accounts currently have 67, 405, and 1,194 followers, respectively.

## **Sunset Review**

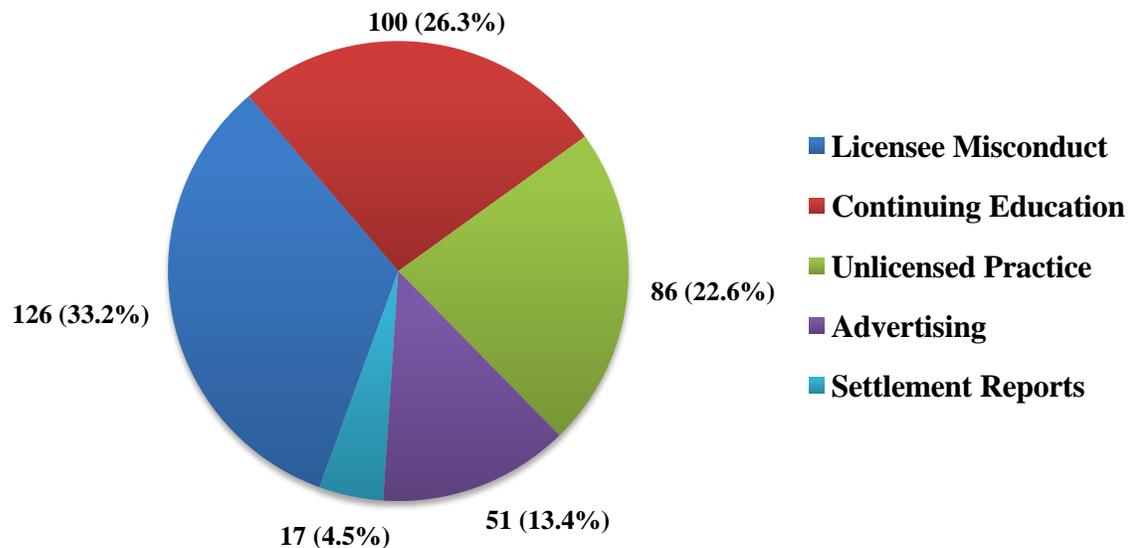
The Board's and LATC's 2018 Sunset Review Reports are due for submission to the Legislature on December 1, 2018. The draft reports were presented to the Board on June 13, 2018, for input and recommendations. Staff are completing tables with FY 2017/18 data and making final edits for Board approval at its September 12, 2018 meeting.

## **Written Contract (BPC Section 5536.22)**

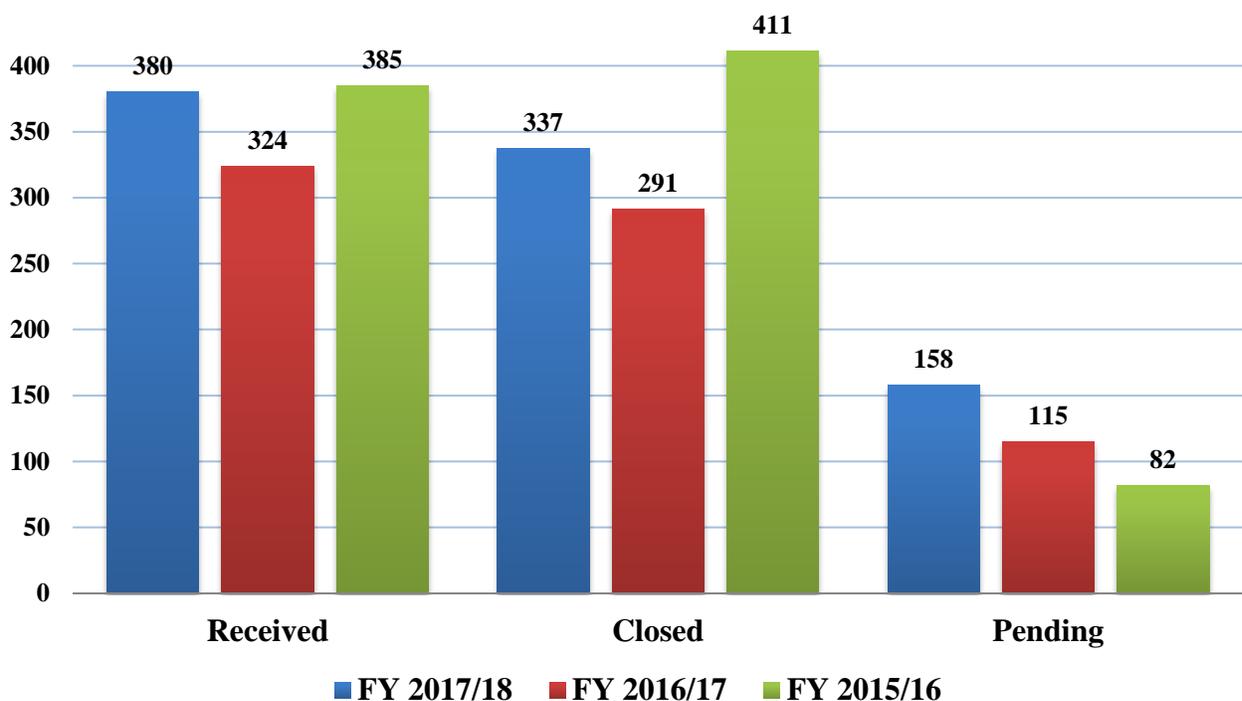
A proposal was previously submitted by the Board to the Senate Business, Professions and Economic Development Committee (BP&ED) for possible inclusion in an omnibus bill. The amendment to BPC section 5536.22 sought to clarify that the following elements are needed in architects' written contracts with clients for professional services: 1) a description of the project; 2) the project address; and 3) a description of the procedure to accommodate contract changes. BP&ED staff determined that the proposal was substantive and, as such, would need to be included in another bill. At its April 28, 2016 meeting, the REC accepted staff's recommendation to also include a: 1) statement identifying the ownership and/or reuse of instruments of service prepared by the architect; and 2) notification to the client that the architect is licensed by the Board, in the amendment to BPC section 5536.22. Staff developed proposed language for BPC section 5536.22 to include these two additional elements, and presented it to the REC for consideration at its November 8, 2016 meeting. At the meeting, the REC supported adding the two additional provisions to the written contract requirement, but expressed concerns that the use of the word "complaints" in the proposed language for subsection (a)(9) could result in frivolous complaints to the Board against architects. The REC ultimately voted to recommend to the Board that it approve the proposed language to amend BPC section 5536.22 with the words "concerns about" instead of "complaints concerning" in the proposed subsection (a)(9). The Board considered the REC's recommendation at its December 15, 2016 meeting, and approved the proposed language to amend BPC section 5536.22 with the exception of proposed subsection (a)(9); the Board returned subsection (a)(9) to the REC for further study and consideration of alternative methods of disclosure. The language was submitted to the BP&ED on October 27, 2017, for consideration to be included in the 2018 Omnibus Committee bill. BP&ED staff determined that the proposal would not be included in the omnibus bill because it was deemed substantive, and instead, suggested that the Board present it to the Legislature for consideration via the "New Issues" section of the Sunset Review Report.

## ENFORCEMENT PROGRAM REPORT Fiscal Years 2015/16 – 2017/18

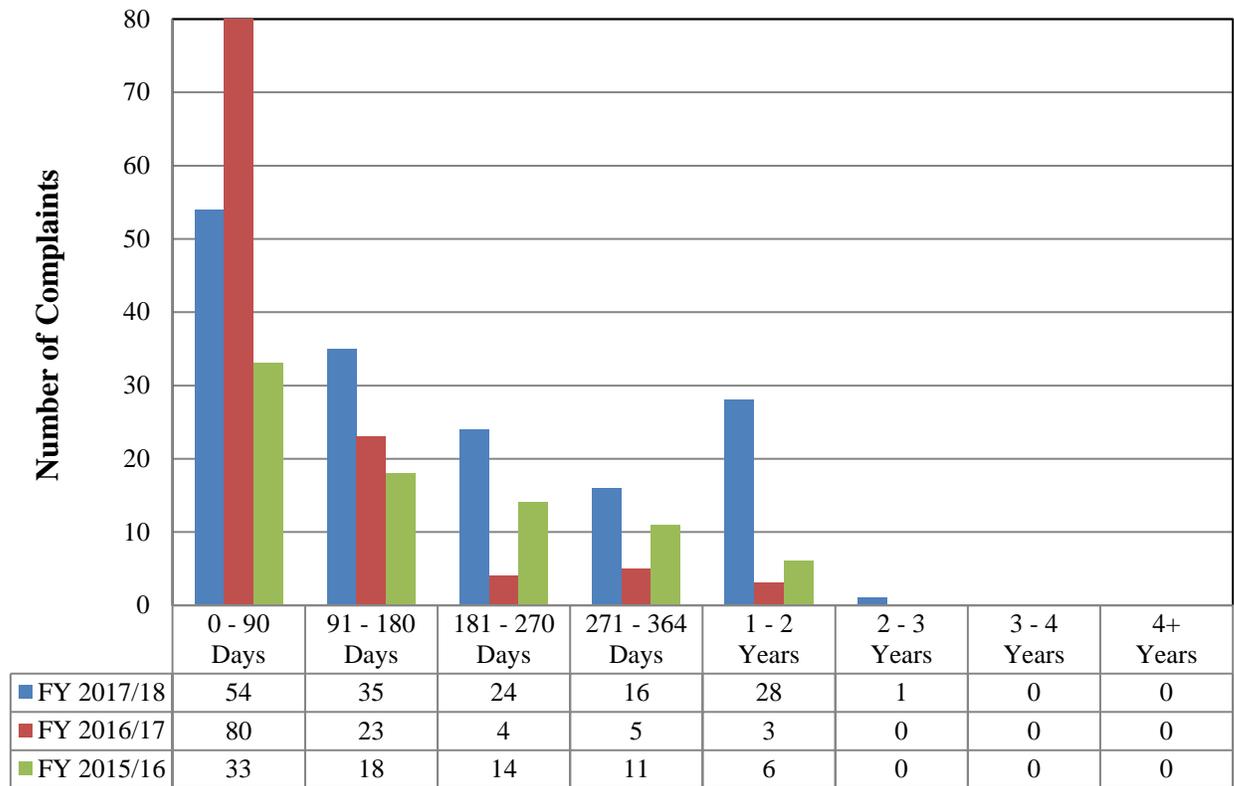
### Types of Complaints Received FY 2017/18



### Complaints Received, Closed, and Pending by FY



## Comparison of Age of Pending Complaints by FY



## Closure of Complaints by FY

| Type of Closure                         | FY 2017/18 | FY 2016/17 | FY 2015/16 |
|---|------------|------------|------------|
| Cease/Desist Compliance                 | 9          | 67         | 56         |
| Citation Issued                         | 64         | 30         | 77         |
| Complaint Withdrawn                     | 8          | 6          | 6          |
| Insufficient Evidence                   | 17         | 8          | 20         |
| Letter of Advisement                    | 157        | 99         | 158        |
| No Jurisdiction                         | 15         | 13         | 14         |
| No Violation                            | 40         | 52         | 62         |
| Referred for Disciplinary Action        | 5          | 4          | 4          |
| Other (i.e., Duplicate, Mediated, etc.) | 24         | 12         | 14         |

## **Disciplinary and Enforcement Actions by FY**

| <b>Action</b>                 | <b>FY 2017/18</b> | <b>FY 2016/17</b> | <b>FY 2015/16</b> |
|-------------------------------|-------------------|-------------------|-------------------|
| Disciplinary Cases Initiated  | 4                 | 2                 | 4                 |
| Pending Disciplinary Cases    | 5                 | 4                 | 6                 |
| Final Disciplinary Orders     | 3                 | 4                 | 4                 |
| Final Citations               | 54                | 32                | 65                |
| Administrative Fines Assessed | \$36,000          | \$45,750          | \$79,750          |

## **Most Common Violations by FY**

During FY 2017/18, 54 citations with administrative fines became final with 62 violations of the provisions of the Architects Practice Act and/or Board regulations. The most common violations that resulted in enforcement action during the current and previous two fiscal years are listed below.

| <b>Business and Professions Code (BPC) Section or California Code of Regulations (CCR) Section</b>  | <b>FY 2017/18</b>  | <b>FY 2016/17</b> | <b>FY 2015/16</b> |
|---|--------------------|-------------------|-------------------|
| BPC § 5536(a) and/or (b) – Practice Without License or Holding Self Out as Architect  | 8.1%               | 38.0%             | 24.5%             |
| BPC § 5536.1(c) – Unauthorized Practice   | 3.2%               | 0%                | 4.1%              |
| BPC § 5536.22(a) – Written Contract   | 1.6%               | 14.0%             | 3.1%              |
| BPC § 5584 – Negligence or Willful Misconduct   | 1.6%               | 4.0%              | 5.1%              |
| BPC § 5600.05(a)(1) and/or (b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements* | 77.4% <sup>†</sup> | 16.0%             | 52.0%             |
| CCR § 160(b)(2) – Rules of Professional Conduct   | 4.8%               | 6.0%              | 7.1%              |

\* Assembly Bill 1746 (Chapter 240, Statutes of 2010) became effective January 1, 2011 and amended the coursework provisions of BPC section 5600.05 by requiring an audit of license renewals beginning with the 2013 renewal cycle and adding a citation and disciplinary action provision for licensees who provide false or misleading information.

† The high percentage of citations for BPC section 5600.05 violations compared to other violations is primarily due to the redirection of staffing as a result of vacancies in the Enforcement Unit.

**CITATIONS**

August 1, 2017 – July 31, 2018\*

Richard Henry Abramson  
(Los Angeles)

BPC section 5536.22(a) – Written Contract

The Board issued a one-count citation that included a \$250 administrative fine to Abramson, architect license number C-20660, for an alleged violation of Business and Professions Code (BPC) section 5536.22(a). The action alleged that Abramson failed to execute a written contract with his client prior to commencing professional services for a residential addition and remodel project located in West Hollywood, California. Abramson paid the fine, satisfying the citation. The citation became final on January 19, 2018.

Paul Scott Anderson  
(Laguna Niguel)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Anderson, architect license number C-18792, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Anderson certified false or misleading information on his 2017 License Renewal Application. Anderson paid the fine, satisfying the citation. The citation became final on June 19, 2018.

Nagy R. Bakhoun  
(Torrance)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Bakhoun, architect license number C-26503, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Bakhoun certified false or misleading information on his 2016 License Renewal Application. Bakhoun paid the fine, satisfying the citation. The citation became final on September 13, 2017.

\* The high percentage of citations for BPC section 5600.05 violations compared to other violations is primarily due to the redirection of staffing as a result of vacancies in the Enforcement Unit.

Kevin Douglas Berman  
(Overland Park, KS)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Berman, architect license number C-34265, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Berman certified false or misleading information on his 2017 License Renewal Application. Berman paid the fine, satisfying the citation. The citation became final on September 19, 2017.

Don Lee Brandenburger  
(Hillsborough)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Brandenburger, architect license number C-4419, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Brandenburger certified false or misleading information on his 2017 License Renewal Application. Brandenburger paid the fine, satisfying the citation. The citation became final on April 27, 2018.

Daniel Timothy Castor  
(Mill Valley)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Castor, architect license number C-31089, for an alleged violation of BPC section 5600.05(b). The action alleged that Castor failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Castor paid the fine, satisfying the citation. The citation became final on November 2, 2017.

Jeanine G. Centuori  
(Los Angeles)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Centuori, architect license number C-28180, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Centuori certified false or misleading information on her 2017 License Renewal Application. Centuori paid the fine, satisfying the citation. The citation became final on December 8, 2017.

Thomas Brian Chiaramonte  
(San Anselmo)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Chiaramonte, architect license number C-29727, for an alleged violation of BPC section 5600.05(b). The action alleged that Chiaramonte failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Chiaramonte paid the fine, satisfying the citation. The citation became final on October 20, 2017.

Martin Thomas Crossman  
(Coronado)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Crossman, architect license number C-22290, for an alleged violation of BPC section 5600.05(b). The action alleged that Crossman failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Crossman paid the fine, satisfying the citation. The citation became final on December 6, 2017.

John Robert Crowe  
(Oceanside)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Crowe, architect license number C-17811, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Crowe certified false or misleading information on his 2017 License Renewal Application. Crowe paid the fine, satisfying the citation. The citation became final on January 26, 2018.

Vincent Antony Dyer  
(Ferndale, WA)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$750 administrative fine to Dyer, architect license number C-12762, for an

alleged violation of BPC section 5600.05(a)(1). The action alleged that Dyer certified false or misleading information on his 2017 License Renewal Application. The citation became final on March 22, 2018.

Michael John Flanagan  
(Irvine)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Flanagan, architect license number C-15874, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Flanagan certified false or misleading information on his 2017 License Renewal Application. Flanagan paid the fine, satisfying the citation. The citation became final on June 29, 2018.

Miles Carey Folsom  
(Garden Grove)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Folsom, architect license number C-22424, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Folsom certified false or misleading information on his 2017 License Renewal Application. Folsom paid the fine, satisfying the citation. The citation became final on June 1, 2018.

David P. Hanrahan  
(Barrington, RI)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements  
CCR, title 16, section 160(b)(2) – Rules of Professional Conduct

The Board issued a two-count citation that included a \$1,500 administrative fine to Hanrahan, architect license number C-25782, for alleged violations of BPC section 5600.05(a)(1) and California Code of Regulations (CCR), title 16, section 160(b)(2). The action alleged that Hanrahan failed to provide documentation to the Board from the course provider upon an audit of his 2017 License Renewal Application and failed to respond to the Board's requests for information regarding an investigation within 30 days. Hanrahan paid the fine, satisfying the citation. The citation became final on April 27, 2018.

Michal Lind Healy  
(Los Altos)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$250 administrative fine to Healy, architect license number C-31644, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Healy certified false or misleading information on her 2017 License Renewal Application. Healy paid the fine, satisfying the citation. The citation became final on June 28, 2018.

Ari H. Hope  
(San Francisco)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Hope, architect license number C-25812, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Hope certified false or misleading information on his 2017 License Renewal Application. Hope paid the fine, satisfying the citation. The citation became final on December 22, 2017.

Jay Jamshasb  
(Irvine)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Jamshasb, architect license number C-28844, for an alleged violation of BPC section 5600.05(b). The action alleged that Jamshasb failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Jamshasb paid the fine, satisfying the citation. The citation became final on November 27, 2017.

Anthony Wayne Janson  
(Colbert, WA)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Janson, architect license number C-29455, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Janson certified false or misleading information on his 2017 License Renewal Application. Janson paid the fine, satisfying the citation. The citation became final on March 9, 2018.

Scott Jay Johnson  
(Seattle, WA)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Johnson, architect license number C-17563, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Johnson certified false or misleading information on his 2017 License Renewal Application. Johnson paid the fine, satisfying the citation. The citation became final on October 20, 2017.

John B. Kilbane  
(Santa Monica)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Kilbane, architect license number C-9110, for an alleged violation of BPC section 5600.05(b). The action alleged that Kilbane failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Kilbane paid the fine, satisfying the citation. The citation became final on December 29, 2017.

Elias A. Kuddis  
(Glendale)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Kuddis, architect license number C-10790, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Kuddis certified false or misleading information on his 2016 License Renewal Application. Kuddis paid the fine, satisfying the citation. The citation became final on September 13, 2017.

Kaiman Lee  
(Burlingame)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Lee, architect license number C-21392, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Lee certified false or misleading information on his 2017 License Renewal Application. Lee paid the fine, satisfying the citation. The citation became final on June 8, 2018.

Tachen Lee  
(Irvine)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Lee, architect license number C-29310, for an alleged violation of BPC section 5600.05(b). The action alleged that Lee failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Lee paid the fine, satisfying the citation. The citation became final on June 28, 2018.

Pawchwan Lim  
(San Diego)

BPC section 5584 – Willful Misconduct  
CCR, title 16, section 160(b)(1) – Rules of Professional Conduct

The Board issued a one-count citation that included a \$1,000 administrative fine to Lim, architect license number C-22952, for an alleged violation of BPC section 5584 and CCR, title 16, section 160(b)(1). The action alleged that Lim failed to obtain a building permit from the City of Santee Building Division, as required by Section 105.1 of the 2013 California Residential Code, prior to installing and removing walls in a single-family residence located in Santee, California, that he had purchased for the purpose of renovating and reselling it. Lim paid the fine, satisfying the citation. The citation became final on September 26, 2017.

Lucy Shuang Ling  
(Piedmont)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Ling, architect license number C-25091, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Ling certified false or misleading information on her 2017 License Renewal Application. Ling paid the fine, satisfying the citation. The citation became final on June 11, 2018.

James H. Little IV  
(Jonesboro, AR)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Little, architect license number C-33726, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that

Little certified false or misleading information on his 2017 License Renewal Application. Little paid the fine, satisfying the citation. The citation became final on June 11, 2018.

Mark Edmond Lord  
(Hayden, ID)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$750 administrative fine to Lord, architect license number C-17899, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Lord failed to provide documentation to the Board from the course provider upon an audit of his 2017 License Renewal Application. The citation became final on December 28, 2017.

Gregory Keith Lossing  
(El Cerrito)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Lossing, architect license number C-19280, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Lossing certified false or misleading information on his 2017 License Renewal Application. Lossing paid the fine, satisfying the citation. The citation became final on November 22, 2017.

David B. Mac Neill  
(Napa)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Mac Neill, architect license number C-32554, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Mac Neill certified false or misleading information on his 2017 License Renewal Application. Mac Neill paid the fine, satisfying the citation. The citation became final on November 2, 2017.

Eric Foster Mahoney  
(Studio City)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Mahoney, architect license number C-31657, for an alleged violation of BPC section 5600.05(b). The action alleged that

Mahoney failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Mahoney paid the fine, satisfying the citation. The citation became final on February 16, 2018.

David Benjamin Meleca  
(Columbus, OH)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

BPC section 5536.1(c) – Unauthorized Practice

CCR, title 16, section 134(a) – Use of the Term Architect

The Board issued a two-count citation that included a \$3,000 administrative fine to Meleca, dba David B. Meleca Architects, LLC, an unlicensed individual, for alleged violations of BPC sections 5536(a) and 5536.1(c) and CCR, title 16, section 134(a). The action alleged that on or about December 16, 2015, Meleca executed an Agreement for Services with a client offering to provide design development, construction documents, permitting/bidding assistance, and limited construction administration services for a new restaurant building to be located in Torrance, California. The Agreement described Meleca’s firm, David B. Meleca Architects, LLC, as “the Architect” of the project. On or about February 25, 2016, Meleca prepared a permit set of architectural drawings for the project. On or about March 2, 2016, Meleca’s firm then issued a “CONSULTANT WORK AUTHORIZATION” to California licensed architect David Udkow to “Review/Sign/Seal Plans for Landlord and City submittal,” and on or about March 3, 2016, Udkow stamped and signed the permit set of architectural drawings. Meleca’s offering to provide design development, construction documents, permitting/bidding assistance, and limited construction administration services and his preparation of a permit set of architectural drawings for a new restaurant building, which is not a building exempt from the requirements of the Architects Practice Act pursuant to BPC sections 5537(a) and 5538, without being under the immediate and responsible direction of a California licensed architect, constitutes the practice of architecture as defined in BPC section 5500.1. Meleca also used the business name “David B. Meleca Architects, LLC” without a California licensed architect who is in management control of the services that are offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity. The citation became final on October 18, 2017.

Lawrence Elliott Metcalf  
(Desert Hot Springs)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements  
CCR, title 16, section 160(b)(2) – Rules of Professional Conduct

The Board issued a two-count citation that included a \$1,500 administrative fine to Metcalf, architect license number C-25168, for alleged violations of BPC section 5600.05(a)(1) and CCR, title 16, section 160(b)(2). The action alleged that Metcalf failed to provide documentation to the Board from the course provider upon an audit of his 2017 License Renewal Application and failed to respond to the Board's requests for information within 30 days in regard to an investigation. The citation became final on December 22, 2017.

Elaine Louise Nesbit  
(Los Angeles)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Nesbit, architect license number C-13950, for an alleged violation of BPC section 5600.05(b). The action alleged that Nesbit failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. The citation became final on July 20, 2018.

Marla Ann Newell  
(Belvedere)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Newell, architect license number C-20289, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Newell certified false or misleading information on her 2017 License Renewal Application. Newell paid the fine, satisfying the citation. The citation became final on December 6, 2017.

John Scott Nichols  
(Loma Linda)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Nichols, architect license number C-17853, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that

Nichols certified false or misleading information on his 2017 License Renewal Application. Nichols paid the fine, satisfying the citation. The citation became final on June 28, 2018.

Stephen Hans Nuetzel  
(Sunriver, OR)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Nuetzel, architect license number C-25133, for an alleged violation of BPC section 5600.05(b). The action alleged that Nuetzel failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Nuetzel paid the fine, satisfying the citation. The citation became final on December 22, 2017.

J. Benjamin Packard  
(San Marcos)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Packard, architect license number C-34479, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Packard certified false or misleading information on his 2017 License Renewal Application. Packard paid the fine, satisfying the citation. The citation became final on December 13, 2017.

Piotr Partyka  
(Los Angeles)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Partyka, architect license number C-23161, for an alleged violation of BPC section 5600.05(b). The action alleged that Partyka failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. The citation became final on November 27, 2017.

Alex V. Protasevich  
(Pacific Palisades)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Protasevich, architect license number C-31813, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Protasevich certified false or misleading information on his 2017 License Renewal Application. Protasevich paid the fine, satisfying the citation. The citation became final on June 8, 2018.

Fabio N. Rigo de Righi  
(Los Angeles)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Rigo de Righi, architect license number C-27735, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Rigo de Righi certified false or misleading information on his 2017 License Renewal Application. Rigo de Righi paid the fine, satisfying the citation. The citation became final on July 12, 2018.

John I. Roberts  
(Kapolei, HI)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Roberts, architect license number C-29946, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Roberts certified false or misleading information on his 2017 License Renewal Application. Roberts paid the fine, satisfying the citation. The citation became final on January 17, 2018.

James Morrison Robertson  
(Daly City)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements  
CCR, title 16, section 160(b)(2) – Rules of Professional Conduct

The Board issued a two-count citation that included a \$1,500 administrative fine to Robertson, architect license number C-7921, for alleged violations of BPC section 5600.05(a)(1) and CCR, title 16, section 160(b)(2). The action alleged that Robertson failed to provide documentation to the Board from the course provider upon a Board audit

and failed to respond to the Board's requests for information regarding an investigation within 30 days. The citation became final on July 10, 2018.

Patrick O'Reedy Russell  
(Laguna Niguel)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Russell, architect license number C-17294, for an alleged violation of BPC section 5600.05(b). The action alleged that Russell failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Russell paid the fine, satisfying the citation. The citation became final on March 9, 2018.

Louis V. Scaduto  
(Manhattan Beach)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Scaduto, architect license number C-26282, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Scaduto certified false or misleading information on his 2017 License Renewal Application. Scaduto paid the fine, satisfying the citation. The citation became final on January 11, 2018.

Michael J. Schulman  
(Youngsville, NC)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Schulman, architect license number C-28010, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Schulman certified false or misleading information on his 2017 License Renewal Application. Schulman paid the fine, satisfying the citation. The citation became final on November 2, 2017.

Jesse D. Schwartz  
(Los Angeles)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Schwartz, architect license number C-34289, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Schwartz certified false or misleading information on his 2017 License Renewal Application. Schwartz paid the fine, satisfying the citation. The citation became final on June 28, 2018.

Christopher Jarrett Seals  
(Lexington, KY)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Seals, architect license number C-35539, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Seals certified false or misleading information on his 2017 License Renewal Application. Seals paid the fine, satisfying the citation. The citation became final on February 9, 2018.

Cynthia Simonian  
(Pasadena)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements  
CCR, title 16, section 160(b)(2) – Rules of Professional Conduct

The Board issued a two-count citation that included a \$1,500 administrative fine to Simonian, architect license number C-32344, for alleged violations of BPC section 5600.05(a)(1) and CCR, title 16, section 160(b)(2). The action alleged that Simonian failed to provide documentation to the Board from the course provider upon a Board audit and failed to respond to the Board's requests for information regarding an investigation within 30 days. Simonian paid the fine, satisfying the citation. The citation became final on June 19, 2018.

Carlos Alberto Soria  
(Dallas, TX)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Soria, architect license number C-24618, for an alleged violation of BPC section 5600.05(b). The action alleged that Soria failed to maintain records of completion of the required

coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Soria paid the fine, satisfying the citation. The citation became final on May 18, 2018.

Delbert John Starrett  
(Santa Rosa)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Starrett, architect license number C-14023, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Starrett certified false or misleading information on his 2017 License Renewal Application. Starrett paid the fine, satisfying the citation. The citation became final on November 17, 2017.

Kenneth Vincent Strop  
(New York, NY)

BPC section 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Strop, architect license number C-34897, for an alleged violation of BPC section 5600.05(b). The action alleged that Strop failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Strop paid the fine, satisfying the citation. The citation became final on March 28, 2018.

Timothy Major Sweeney  
(Reno, NV)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Sweeney, architect license number C-21860, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Sweeney certified false or misleading information on his 2018 License Renewal Application. Sweeney paid the fine, satisfying the citation. The citation became final on July 31, 2018.

Robert W. Thiele  
(San Diego)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Thiele, architect license number C-26759, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Thiele certified false or misleading information on his 2017 License Renewal Application. Thiele paid the fine, satisfying the citation. The citation became final on June 11, 2018.

Laurence Tighe  
(Los Angeles)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Tighe, architect license number C-25441, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Tighe certified false or misleading information on his 2017 License Renewal Application. Tighe paid the fine, satisfying the citation. The citation became final on July 12, 2018.

Jonathan Tsao  
(San Francisco)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements  
CCR, title 16, section 160(b)(2) – Rules of Professional Conduct

The Board issued a two-count citation that included a \$1,500 administrative fine to Jonathan Tsao, architect license number C-12728, for alleged violations of BPC section 5600.05(a)(1) and CCR, title 16, section 160(b)(2). The action alleged that Tsao failed to provide documentation to the Board from the course provider upon a Board audit and failed to respond to the Board's requests for information regarding an investigation within 30 days. The citation became final on July 25, 2018.

Guy Edward Turner  
(Los Angeles)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect  
CCR, title 16, section 134(a) – Use of the Term Architect

The Board issued a one-count citation that included a \$1,500 administrative fine to Turner, dba GT Architecture, an unlicensed individual, for alleged violations of BPC section 5536(a) and CCR, title 16, section 134(a). The action alleged that on or about November 22, 2016, Turner met with a client to discuss design services

for an existing single-family residence located in Woodland Hills, California. At the meeting, the client gave Turner cash as a down payment for the preparation of construction plans, and Turner provided the client with a handwritten “RECEIPT FOR RETAINER FOR ARCHITECTURAL SERVICES,” and his business card, which included the business name “GT Architecture” and the web address “GTarchitectureLA.com.” On or about December 19, 2016, the client was provided with a drawing consisting of exterior elevations for the project. The title block on the drawing included Turner’s logo, which contained the words “GT,” “GUY TURNER,” and “ARCHITECTURE.” In addition, on or about July 27, 2017, Turner’s LinkedIn profile described him as an “Owner” and “Designer” at “GT Architecture” in Hollywood, California, and stated his specialties include “Architectural Design,” and Turner’s Houzz profile under the business name “GT Architecture” stated the business “offers full architectural services from concept design to construction drawings and permit expedite.” Furthermore, Turner’s advertisement on the Internet at gosmith.com under the business name “GT Architecture” stated the business “specializes in architect,” and Turner’s advertisement on the Internet at manta.com under the business name “GT Architecture” stated: “Architectural Design, construction plans Hollywood Los Angeles, hillside remodel, renovations, custom homes, additions & alterations, Permits CityofLA.” Turner also used the business name “GT Architecture” without a California licensed architect who is in management control of the services that are offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity. The citation became final on October 18, 2017.

Vlado Todorov Valkov  
(Santa Monica)

BPC section 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$750 administrative fine to Valkov, aka Valkof, Vlado Valkof, and Vladimir Todorov Valkov, and dba Design Initiatives, an unlicensed individual, for alleged violations of BPC section 5536(a); however, the fine is stayed for a period of one year, during which time, if no further violations are proved, the stay shall become final. The action alleged that on or about December 29, 2015, Valkov’s website, designinitiatives.com, identified his company, Design Initiatives, as an “innovative, award-winning architecture practice based in Los Angeles, California and Sofia, Bulgaria,” and Valkov’s advertisement on the Internet at allcities.org identified Valkov as an “Architect” in California. The citation became final on January 19, 2018.

John E. Wells III  
(Newport Beach)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$250 administrative fine to Wells, architect license number C-4232, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Wells certified false or misleading information on his 2017 License Renewal Application. Wells paid the fine, satisfying the citation. The citation became final on October 30, 2017.

Daniel Arthur Westphal  
(Santa Rosa)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Westphal, architect license number C-24722, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Westphal certified false or misleading information on his 2017 License Renewal Application. The citation became final on July 20, 2018.

Lewis Frank Zaumeyer  
(Reno, NV)

BPC section 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Zaumeyer, architect license number C-20726, for an alleged violation of BPC section 5600.05(a)(1). The action alleged that Zaumeyer certified false or misleading information on his 2017 License Renewal Application. Zaumeyer paid the fine, satisfying the citation. The citation became final on June 1, 2018.

**DISCIPLINARY ACTIONS**

August 1, 2017 – July 31, 2018

**Mustafa Bdaiwi** (Tustin) Effective January 19, 2018, Mustafa Bdaiwi’s architect license number C-33953 was revoked; however, the revocation was stayed and Bdaiwi’s license was placed on probation for three years with specific terms and conditions, including reimbursing the Board \$3,125 for its enforcement costs. The action came after a Proposed Decision, as corrected, was adopted by the Board.

An Accusation was filed against Bdaiwi for alleged violations of Business and Professions Code (BPC) sections 490 (Conviction of Crime), 5577 (Conviction of a Crime Substantially Related to the Qualifications, Duties, and Functions of an Architect), 5578 (Violation of Architects Practice Act), 5583 (Fraud or Deceit), and 5584 (Willful Misconduct). On April 24, 2006, the Registrar of Contractors issued contractor’s license number 881020 to Malcon Civils, Inc., with Bdaiwi as Responsible Managing Officer (RMO), Chief Executive Officer (CEO), and President in the “B” (General Building Contractor) classification. As RMO, CEO, and President, Bdaiwi associated on October 30, 2009, in the “ASB” (Asbestos) classification, and on February 10, 2010, in the “C-8” (Concrete) classification. In December 2010, Bdaiwi submitted a bid and won a \$444,000 contract with the Irvine Unified School District for structural concrete and reinforcing to the Deerfield Elementary School Administration Building and Classroom Building. On August 9, 2011, the Center for Contract Compliance (CCC) provided information to the Orange County District Attorney’s Office regarding at least five workers who were misclassified, not paid prevailing wage, not paid overtime, and deprived of paycheck stubs or fringe benefits. CCC’s audit also uncovered underreporting with the State Compensation Insurance Fund (SCIF) and the Employment Development Department (EDD). On September 24, 2012, Bdaiwi disassociated as RMO, CEO, and President in all classifications. As a result of CCC’s audit of the Deerfield Elementary Expansion School Project, on May 11, 2015, in a criminal proceeding entitled *The People of the State of California v. Mustafa Mohamed Bdaiwi*, in Orange County Superior Court, Bdaiwi was convicted on his plea of guilty of violations of Labor Code section 1778 (Receipt of Portion of Wages of Workmen), a felony, Penal Code section 115(a) (Attempting to File Forged Instruments), a felony, Unemployment Insurance Code section 2108 (Failure to Make Contributions), nine felonies reduced to misdemeanors under Penal Code section 17(b), and Insurance Code section 11880(a) (Fraudulent Statements for Purposes of Reducing Premiums), a felony.

The Accusation alleged that Bdaiwi subjected his architect license to disciplinary action in that he: 1) was convicted of crimes substantially related to the qualifications, functions, and duties of a licensed architect; 2) was fraudulent and deceitful when he received a portion of wages of his workmen, intentionally misclassified the Malcon Civils, Inc. payroll, paid his workers an hourly rate that was substantially below the prevailing wage rate, adjusted hours worked to match the higher wage rate, and underreported payroll to SCIF and EDD; 3) committed willful misconduct when he knew the laws as provided in the Labor Code, Penal Code, Unemployment Insurance Code, and Insurance Code, as they apply to the Deerfield Elementary School Expansion Project and deliberately violated them; and 4) committed acts substantially related to the qualifications, functions, and duties of a licensed architect.

**Arthur Frank Kent** (Huntington Beach) Effective October 13, 2017, Arthur Frank Kent's architect license number C-15748 was revoked. Kent was also ordered to reimburse the Board \$7,485 for its enforcement costs if his license is reinstated. The action came after a Proposed Decision, as corrected, was adopted by the Board.

An Accusation was filed against Kent for alleged violations of BPC sections 5583 (Fraud or Deceit), 5584 (Negligence or Willful Misconduct), and 5536.22(a) (Failure to Use a Written Contract). The Accusation alleged that Kent was subject to disciplinary action in that he: committed fraud or deceit by accepting payment for professional services he thereafter failed to perform and lying about performing the services he promised to perform; committed negligence or willful misconduct by accepting payment for professional services he thereafter failed to perform; and failed to use a written contract, executed prior to the commencement of actual work. Specifically, on or about August 2, 2013, Kent was hired to prepare site and utility plans to install a commercial trailer on vacant property located in Whittier, California. Kent did not provide the client with a written contract for his professional services. On or about August 1, 2013, the client paid \$320 to Kent for conceptual site plans, and on or about August 22, 2013, the client paid \$960 to Kent for preliminary drawings. On or about January 26, 2014, Kent admitted to the Board that the client gave him a \$773 check made payable to the City of Los Angeles Planning Department for permit fees on the project, and that he told the client that he submitted the drawings to the City. Kent admitted that he did not submit the drawings or the permit fees to the City, and that he acted unprofessionally. Kent and the client agreed to terminate their professional relationship, and Kent agreed to refund his money.

## Agenda Item E

### **DISCUSS AND POSSIBLE ACTION ON THE FOLLOWING 2017-2018 STRATEGIC PLAN OBJECTIVES TO:**

1. Update the *Building Official Information Guide* to Better Educate Local Building Officials on the Architects Practice Act
2. Educate Consumers on the Standard of Care so They Understand What to Expect From an Architect When Choosing to Hire One
3. Measure the Effectiveness of the Board's Citation Collection Methods as a Means of Protecting Future Consumers
4. Develop Educational Materials for Newly Licensed Architects to Provide More Information About the Requirements in Order to Avoid Future Violations
5. Determine the Necessity and Implementation Alternatives of a Licensure Fingerprint Requirement as a Means of Protecting Consumers

## Agenda Item E.1

### **DISCUSS AND POSSIBLE ACTION ON THE FOLLOWING 2017-2018 STRATEGIC PLAN OBJECTIVES TO:**

#### **1. UPDATE THE *BUILDING OFFICIAL INFORMATION GUIDE* TO BETTER EDUCATE LOCAL BUILDING OFFICIALS ON THE ARCHITECTS PRACTICE ACT**

The California Architects Board's 2017-2018 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to update the Board's *Building Official Information Guide* to better educate local building officials on the Architects Practice Act.

The Board's *Building Official Information Guide* was last published in 2000 and is a compilation of responses to questions the Board has received from building officials and other items of interest to those who enforce local building standards.

The Board's architect consultants and staff reviewed the 2000 edition of the *Guide*, as well as the building official information guides published by the Board for Professional Engineers, Land Surveyors, and Geologists, and the Contractors State License Board, and made necessary updates and revisions to the content of the Board's *Guide* (Attachment).

The REC is asked to review and discuss the proposed revisions to the content of the *Building Official Information Guide* and provide input to staff.

Following the meeting, staff will consult with Department of Consumer Affairs legal counsel regarding the proposed revisions and any feedback provided by the REC. A final draft of the *Building Official Information Guide* is planned to be presented to the REC at its next meeting.

Attachment:

Board's *Building Official Information Guide* (draft with proposed revisions)

**BOARD'S BUILDING OFFICIAL INFORMATION GUIDE  
(WITH PROPOSED REVISIONS)**

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# Purpose

This guide for building officials is provided by the California Architects Board (~~CAB~~[Board](#)) to aid you in understanding and enforcing the laws and regulations governing the practice of architecture in California.

The guide is a compilation of responses to questions that the ~~CAB~~[Board](#) has received from building officials and ~~of~~ other items of interest to those who must enforce local building standards. It is intended as a source of basic information and does not attempt to address all the questions that could arise covering the practice of architecture in this large, diverse state.

Some of the items covered herein are interpretations of the Architects Practice Act and ~~of~~ the ~~CAB's~~[Board's](#) rules and regulations. Other items are explanatory and/or advisory.

If you need further information or assistance concerning this guide, please ~~write or~~ ~~telephone~~[contact](#):

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## Introduction

Each day, millions of Californians work and live in environments designed by licensed architects. The decisions of architects about materials and methods of construction impact not only the health, safety and welfare of the present users, but of future generations as well.

To reduce the possibility of building failure, encourage energy conscious design, provide disability access and safeguard the public health and welfare, those who represent themselves as skilled in the design of complex structures must meet minimum standards of competency. It is equally necessary that those who cannot meet minimum standards by way of education, experience and examination be prevented from misrepresenting themselves to the public.

The California Architects Board ([CABBoard](#)) was created by the California Legislature in 1901 to safeguard the public's health, safety and welfare. It is one of the boards, bureaus, commissions and committees within the Department of Consumer Affairs, which is part of the [State and Business, Consumer Services and Housing](#) Agency under the aegis of the Governor. The Department is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services.

Effective January 1, 1998, the [CABBoard](#) assumed administrative responsibility for regulating landscape architects. Under current law, a Landscape Architects Technical Committee (LATC) acts in an advisory capacity to the [CABBoard](#). The LATC, which consists of five professional members, performs such duties and functions which have been delegated to it by the [CABBoard](#).

The [CABBoard](#) is presently composed of ten members of whom, by law, five are public members and five are architects. Five architect members and three of the public members are appointed by the Governor. The Speaker of the Assembly and the Senate Rules Committee each appoint a public member to the [CABBoard](#).

The [CABBoard](#) attempts to ensure that all who practice architecture are licensed and qualified to practice. To become licensed as an architect, a candidate must successfully complete a written and California Supplemental Examination as well as provide evidence of at least eight years of education and/or experience.

The [CABBoard](#) attempts through its [eEnforcement pProgram](#) to ensure that its licensees are competent to practice architecture and that the laws governing the practice of architecture are enforced in a fair and judicious manner. The [CABBoard](#) has the power, duty and authority to investigate violations of the Architects Practice Act and to [discipline take disciplinary or enforcement action against](#) violators accordingly.

Building officials, on the other hand, enforce building code requirements which are also designed to protect the public health and safety. Many building departments depend on licensed design professionals (architects and engineers) to deliver structures that meet code standards. So, while the building officials rely on licensing boards to ensure that architects and engineers are competent, the licensing boards rely on the building officials to ensure that only properly licensed

or registered professionals prepare, stamp and sign plans and specifications for non-exempt structures.

In order to protect California consumers, the Board encourages building officials and their staff to promptly report suspected violations of the Architects Practice Act, such as advertising violations, unlicensed practice, fraudulent stamps, and aiding or abetting, to the Board's Enforcement Unit. This information may be submitted anonymously.

This guide is provided to aid building officials in understanding the laws and regulations governing the practice of architecture in California and better enable them to carry out their difficult jobs.

DRAFT

# Advertising of Architectural Services

## 1. May an unlicensed person advertise architectural services?

No. An individual not licensed by the [CAB Board](#) may not advertise or practice architecture in California. An unlicensed person cannot "...[advertise or](#) put out any sign, ~~or~~ card, or other device ~~which~~[that](#) might indicate to the public that he or she is an architect, ~~or~~ that he or she is qualified to engage in the practice of architecture, or [that he or she](#) is an architectural designer."

An unlicensed individual may not offer architectural services or advertise [on the Internet or](#) in the yellow pages or business directories under ~~the~~ headings ~~of~~[such as](#) "architect," "architectural design" or "architectural drafting."

(Ref.: Business ~~&~~[and](#) Professions ~~(B&P)~~ Code [\(BPC\)](#) Section 5536[\(a\)](#))

## ~~2. How must architectural businesses advertise?~~

~~When advertising and/or using any business card, or letterhead, or sign, or title block or any other "advertising" device, an architectural business whose name, or description of services, includes the word "architect", "architecture", or "architectural" must also list the name of a licensed architect followed by the word "architect." The following architectural business name criteria are excerpted from the Architects Practice Act, California Code of Regulations Section 134.~~

~~If an architectural business name includes as part of its title or description of services the term "architect," "architecture," or "architectural," then that business name must include the following when the business is a:~~

- ~~▪ **Sole Proprietorship:** the name as licensed with the CAB of the architect and the fact that he or she is an architect.~~
- ~~▪ **Partnership:** the name as licensed with the CAB of at least one general partner and the fact that he or she is an architect.  
*Partnership exception:* ~~If the business name contains the surnames of general partners licensed by the CAB, there is no further requirement to designate a licensee.~~~~
- ~~▪ **Corporation** (which is not a Professional Architectural Corporation): the name as licensed with the CAB of a licensed architect who is either an officer or an employee of the corporation and the fact that such person is an architect.~~
- ~~▪ **Professional Architectural Corporation:** refer to B&PC Section 5610 and the California Corporations Code for the specific requirements of this class of corporation.~~

(Ref.: B&P Code Section 5536 and California Code of Regulations (CCR) Section 134)

# Aiding and Abetting Unlicensed Practice

## 1. What constitutes aiding and abetting?

Aiding and abetting occurs when a California licensed architect:

- Assists unlicensed individuals to circumvent the Architects Practice Act, ~~B&P Code~~[BPC](#) Section 5500 et seq.
- Stamps and signs documents which have not been prepared by the architect ~~or in the architect's office,~~ or under the architect's responsible control.
- Permits his or her name to be used for the purpose of assisting any person, not an architect, to evade the provisions of the Architects Practice Act.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5582, ~~and~~ 5582.1 and [California Code of Regulations \(CCR\), Title 16](#), Sections ~~135 and~~ 151)

# Architects Scope of Practice

## 1. Who may refer to himself or herself as an architect?

Only ~~an individual~~s who holds a current license issued by the ~~CAB~~Board may refer to ~~himself or herself~~themselves as an architect or use any term confusingly similar to the word architect to describe themselves, their qualifications, or the services they provide.

(Ref.: ~~B&P Code~~BPC Section 5536-(a))

## 2. What may an architect design?

The Architects Practice Act defines the practice of architecture as including "...the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures." Therefore, an architect may design any building type and all components therein. An exception is the structural design of a hospital that must be done by a structural engineer by the State Health ~~&and~~ Safety Code.

(Ref.: ~~B&P Code~~BPC Sections 5500.1, ~~and~~ 6737 and Health and Safety ~~(H&S)-Code~~ (HSC) Section 129805)

## 3. What is the ~~CAB's~~Board's definition of construction observation services?

"Construction observation services" means periodic observation of completed work (*in progress*) to determine general compliance with the plans, specifications, reports or other contract documents. "Construction observation services" does not mean the superintendence (*supervision*) of construction processes, site conditions, operations, equipment, or personnel, or the maintenance of a safe place to work or any safety ~~measures~~ in, on, or about the site.

(Ref.: ~~B&P Code~~BPC Section 5536.25-(c))

## 4. May architects design bridges?

In conjunction with the planning of a site and/or the design of a building, or groups of buildings, the Architects Practice Act and the Professional Engineers Act exemption allow an architect to design all on-site improvements including a structure such as a bridge.

Exception: If on-site improvements such as roads, bridges, etc. are being submitted subject to the Subdivision Map Act, they must be designed by appropriate engineers.

(Ref.: ~~B&P Code~~BPC Sections 5500.1 and 6737 and Government Code Section 66410 et seq.)

## 5. If the architect has not agreed to provide construction phase services for the owner of the project, can the building official require the architect to review project shop drawings?

No. The architect has no obligation to provide such services either to the owner of the project or to a local building jurisdiction.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.25)

**6. May an architect act as a general contractor for the owner and hire subcontractors for the construction phase of a project under his architectural license?**

No. An architect would also need to be licensed as a contractor to perform such services. The Contractors' State Licensing Law (CSLL) does not exempt architects unless they are acting solely within their professional capacity, which does not include contracting work for others.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5500.1 and 7051)

**7. Does an architect's license entitle an architect to build an exempt building without a contractor's license?**

No. The construction of buildings is governed by the CSLL (commencing with ~~B&P Code~~[BPC](#) Section 7000). The CSLL has an exemption which allows a person who is not a licensed contractor to construct a single-family residential structure provided they meet certain requirements. Questions concerning this exemption should be directed to the Contractors State License Board.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5500.1 and 7000 [et seq.](#))

**~~8. — May architects provide design/build services?~~**

~~Yes, but there are certain restrictions. The architect designs projects, but the construction of the project must normally be done by a licensed contractor. For example, an architect may also be a licensed contractor, or an architectural firm may have a subsidiary that is licensed as a contractor, or an architect may be associated with a licensed contractor.~~

~~(Ref.: ~~B&P Code~~ Section 5500.1)~~

**99. May architects prepare, stamp and sign mechanical, electrical, and plumbing drawings?**

Yes. The Architects Practice Act allows architects to prepare, stamp and sign mechanical, electrical, and plumbing drawings since the definition for scope of architectural practice includes "...the design, in whole or in part, of buildings..."

(Ref.: ~~B&P Code~~[BPC](#) Sections 5500.1 and 6737)

**910. May architects certify elevations of structures on a site when such certifications are required by building officials?**

Yes. However, the certification must be based on survey data furnished by licensed land surveyors or appropriately registered civil engineers.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5500.1, [5536.26](#), and 8700)

**1011.** Are there any height restrictions or limitations imposed by the CAB Board as to an architect's structural design ~~capabilities~~ authority?

No.

(Ref.: ~~B&P Code~~ BPC Section 5500.1)

**1112.** May an architect prepare, stamp and sign landscape drawings without a landscape architect's license?

Yes. Insofar as the architect is responsible for the planning of a site, the architect is exempt from the Landscape Architects' ~~Licensing Law~~ Practice Act and, therefore, may prepare, stamp and sign landscape drawings for the site.

(Ref.: ~~B&P Code~~ BPC Sections 5500.1 and 5641.3)

~~13. Are architects required to have liability insurance or to be bonded?~~

~~No. However, a professional architectural corporation and a limited liability partnership are required to provide adequate security for claims against it by insurance or other means.~~

~~(Ref.: B&P Code Section 5610 and CCR Sections 16101, 16953, 16956, and 16959)~~

~~14. May architects prepare and sign mechanical and plumbing drawings normally prepared by mechanical engineers?~~

~~Yes. The Architects Practice Act allows architects to prepare, stamp and sign mechanical and plumbing drawings since the definition for scope of architectural practice includes "...the design, in whole or part, of buildings..."~~

~~(Ref.: B&P Code Sections 5500.1 and 6737)~~

**1215.** May an architect prepare designs for site retaining walls, culverts and other fixed works on a site if the architect is not responsible for the site planning of a project and the work is not considered a "phase of architecture" under the Professional Engineers Law Act exemption?

No, given the situation where the architect is not responsible for the planning of the site or the "fixed works" are not associated with the design of a building or groups of buildings. Under such circumstances the "fixed works" would be considered civil engineering and the architect would not qualify for the exemption under the Professional Engineers Act.

(Ref.: ~~B&P Code~~ BPC Sections 5500.1 and 6737)

**1316. May architects prepare, stamp and sign site grading and drainage plans?**

Yes. An architect is allowed under the Architects Practice Act and the Professional Engineers Act exemption to prepare, stamp and sign site grading and drainage plans, except where such plans are submitted pursuant to the Subdivision Map Act. Cities or counties may not prohibit an architect from engaging in the preparation of plans for site grading which is a function of the practice of architecture as defined in Business and Professions Code Section 5500.1.

(Ref.: ~~B&P Code~~[BPC](#) Sections 460, 5500.1, [and](#) 6737 and Government Code Section 66410 et seq.)

**1417. May local building officials insist that civil engineers prepare and sign site grading and site drainage drawings ~~as required by the Uniform Building Code~~ as a condition for permit issuance even though an architect prepares the site plan and the grading and drainage plans?**

No. Architects are allowed by the Architects Practice Act to prepare, stamp and sign such drawings as part of their services. State licensure of architects supersedes any local code or ordinance that might restrict an architect licensed by the State from performing services.

(Ref.: ~~Previous~~[Response to](#) question #~~16~~[13](#) and ~~B&P Code~~[BPC](#) Sections 460 and 5500.1)

**1518. Are architects authorized to perform soil tests?**

No. Such tests are not considered to be part of the practice of architecture.

(Ref.: ~~B&P Code~~[BPC](#) Section 5500.1)

**1619. Does an architect's license entitle an architect to perform special inspections as specified in the ~~Uniform~~ Building Code without demonstrating their ability to perform such services to the satisfaction of a building official?**

No. Special inspections are not considered to be part of the practice of architecture. Therefore, an architect would have to comply with a building official's requirement to demonstrate such ability before being permitted to perform required special inspections.

(Ref.: ~~B&P Code~~[BPC](#) Section 5500.1)

**1720. May architects prepare, stamp and sign structural calculations and structural drawings?**

Yes. The Architects Practice Act allows architects to prepare, stamp and sign structural calculations and structural drawings since the definition for scope of architectural practice includes "...the design, in whole or in part, of buildings..." except for the structural calculations and structural drawings for a hospital [which must be prepared by a structural engineer](#).

(Ref.: ~~B&P Code~~[BPC](#) Sections 5500.1, [and](#) 6737 and ~~H&S Code~~[HSC](#) Section 129805)

**~~21. May architects design swimming pools?~~**

~~In conjunction with the planning of a site and/or the design of a building, or groups of buildings, the Architects Practice Act and the Professional Engineers Act exemption allow an architect to design a structure such as a swimming pool.~~

~~(Ref.: B&P Code Sections 5500.1 and 6737)~~

**~~22. Must below grade swimming pool drawings be prepared and signed by an architect or engineer?~~**

~~Under both the Architects Practice Act and the Professional Engineers Act, below grade swimming pools would be considered non-exempt “fixed works” or structures requiring the stamp and signature of a licensed architect or registered engineer.~~

~~(Ref.: B&P Code Sections 5500.1 and 6737)~~

**1823. Are architects authorized to perform surveys without a land surveyor’s license or civil engineer registration?**

No.

(Ref.: ~~B&P Code~~[BPC](#) Section 5500.1)

**1924. When a licensed architect working on a project quits or is discharged, may another architect sign the original licensee’s plans or instruments?**

Provided both architects are licensed in California, and the supplanting architect completely reviews the plans of the original architect, making necessary, or client directed changes, the supplanting architect has “prepared” the plans for purposes of Business and Professions Code Section 5582.1 and may stamp and sign them, absent fraud, deception or dishonesty.

(Ref.: [CCR, Title 16, Section 151](#))

# Building Designers

## 1. Are building designers licensed by the state?

No. At one time, the state recognized “registered building designers”; however, that category was eliminated in 1985.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536(b) ~~&~~[and](#) (c))

## 2. May individuals advertise as building designers?

Yes. However, they cannot refer to themselves as “registered” building designers or otherwise indicate that they are licensed or registered by the state.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536(b) ~~&~~[and](#) (c))

## 3. What services can a building designer provide?

Refer to the section titled “Unlicensed Individuals” that can be found elsewhere in this guide.

# Building Official's Responsibility With Respect to Architects Practice Act

1. Are building officials required to verify whether the individual who prepares and submits permit documents for non-exempt projects has a current license?

Yes. If a building permit is required, building officials are required to verify that an individual who prepares and submits permit documents for non-exempt projects has a current license. The building official must require a signed statement that the person who prepared the plans and specifications is licensed under the Architects Practice Act or is otherwise licensed in this state to prepare the plans and specifications. An architect's signature and stamp on plans and specifications will satisfy the signed statement requirement. ~~The CAB's biennial "Roster of Licensed Architects" may be used to verify licensure of an architect. If the architect is listed and the expiration date is current, no further action by the building official is necessary. If the architect is listed and the expiration date has passed, the building official should contact the CAB for verification of status.~~ If the person submitting the plans purports to be an architect and is not listed ~~in~~ on the [CAB's Board's roster license verification website](#), the building official should contact the [CAB Board](#) for verification.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.2)

2. When plans have been filed by the original architect of record, may a building official accept changes to those plans which are submitted by the supplanting architect or engineer?

A building official is only required to verify that the appropriate stamp and signature is on the documents before a permit is issued and that design changes are made and approved by the appropriate person.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.25, [CCR, Title 16, Section 151](#), and [California Building Code \(CBC\) section 106.4.4.1](#))

3. Is a building official required to notify an architect of record when another architect/engineer takes over a project, uses that architect's drawings or makes changes?

No. The Architects Practice Act does not require this notification.

4. Is a building official liable if he or she informs the [CAB Board](#) of possible aiding and abetting which later turns out to be unfounded and the architect takes legal action against the building official?

The law grants a qualified privilege to individuals who communicate, in good faith, to an official administrative agency concerning a possible violation of law. Further information on this subject should be obtained from the legal advisor for the building department.

(Ref.: Civil Code Section 47)

~~5. In some cases, the architect who designed a project may be located in another part of the state or out of state. If the architect does not wish to submit a minor design change in person, what procedure should the building official follow so as not to delay the project?~~

~~The Architects Practice Act does not address this situation. An architect will not be responsible for damage caused by changes which are not approved by the architect to his or her plans made by local government agencies. This question should be addressed by the legal advisor for the building department.~~

~~(Ref.: B&P Code Section 5536.25)~~

**56.** Sometimes an owner has separate contracts with an architect and the structural, civil, mechanical and electrical engineers. No one discipline has overall coordination of the project and a design change is required that will affect the work of all disciplines. May a building official require the project architect to ~~make and~~ sign for changes on his own work as well as others? Can the architect coordinate the work of the others?

No. The architect is only required to stamp and sign and take responsibility for his or her own documents. The same shall apply to each design professional. The building official should notify the owner that such coordination is required and it is the owner's responsibility to arrange for proper coordination. An architect can coordinate the services and documents of others if he or she accepts the responsibility.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.1)

**67.** May an architect certify that the construction of a project is in conformance with the design documents?

Yes, the architect may certify that the construction is in conformance but the architect may choose not to do so.

(Ref.: [BPC Section 5536.26](#))

~~8. If a corrections list is returned by a building official to the owner of a structure and the owner makes the corrections, is this acceptable?~~

~~The statute does not specify who can make changes to the documents. If the changes relate to non-exempt projects, they should be made and signed by an appropriately licensed person before a permit for construction is issued. For changes to exempt projects, building officials should consult with the legal advisor to their department regarding potential problems.~~

~~(Ref.: B&P Code Section 5536.25)~~

**79. If an architect asks or requests by telephone that a building official make required design changes which the architect will approve later, should the building official make such changes?**

No, not without prior written confirmation. It is not the building official's responsibility to make design changes.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.25)

~~10. What procedure should a building official follow when the original architect is no longer the architect of record and design changes or corrections are required before a permit will be issued?~~

~~Notify the owner of the project. It is the owner's responsibility to notify the building official of a change in Architect of Record and to hire another qualified design professional to make, stamp and sign the design changes.~~

~~(Ref.: B&P Code Section 5536.25)~~

**811. Is a building official liable if he or she approves the plan submittal and later learns that the architect who submitted the plans has a revoked or suspended license?**

The ~~CAB~~[Board](#) does not determine liability. This is a question of civil law. Building officials should discuss this issue with their legal advisors. To avoid such problems, the law requires the building department to verify licensure prior to issuing any permit.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.2)

**912. Should a building official make a design change to a drawing that requires design changes?**

If a building official makes design changes to drawings without the authorization or approval of the architect, the architect will not be responsible for damages caused by those changes. The building official ~~would~~[could](#) be responsible for damage caused by his or her unauthorized changes. Building officials should discuss this issue with the legal advisor for their building department before undertaking any such action.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.25)

**1013. Are building departments required to maintain record copies of permitted drawings?**

Yes, under certain circumstances. Refer to Health and Safety Code Section 19850. This code section requires that drawings of certain categories of buildings be retained by local building departments.

**1114.** Are building officials required to give a copy of record documents to anyone who asks for them?

No. See Health and Safety Code Section 19851 which specifies who may obtain copies of drawings and under what conditions.

**1215.** Do building officials need to verify licensure of persons signing plans for exempt projects?

~~No.~~ Only if plans are being submitted or prepared by a licensed design professional.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.2)

**1316.** When should verification of licensure be made?

Verification of licensure should be done at the time of initial submittal of the plans and specifications.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.2)

~~17. What is a building official required to do when an architect has a dispute with an owner and the architect wants to withdraw plans previously submitted for plan check or notifies the building official that he or she disclaims any responsibility for the project and wants to remove his or her name from the submitted documents?~~

~~Consult the legal advisor for the building department as to what procedures to follow.~~

## **Business Associations**

### **1. ~~What must an architect do when entering into an association with an unlicensed individual to jointly offer architectural services?~~**

~~Prior to offering architectural services through such an association, the architect must agree in writing to be responsible for all architectural services offered and/or performed during the life of the association. The written agreement must provide the following information:~~

- ~~▪ The date when the association will begin.~~
- ~~▪ The approximate date when the association will be dissolved if such association is not to be a continuing relationship. The fact that the relationship is to be a continuing one, if applicable.~~
- ~~▪ The identity of the project for which the association is being formed if the relationship is not a continuing one.~~
- ~~▪ The name, address, telephone number, license number and signature of the architect.~~
- ~~▪ The name, address, telephone number and signature of the unlicensed individual(s) with whom the architect is associated.~~

~~Prior to engaging in the design phase of the project, the architect shall send a copy of the written agreement of association to the CAB.~~

~~All plans, specifications and other instruments of service and records resulting from the association shall be retained by the architect and made available for review for ten years from the completion date of the project.~~

~~Forms for filing the agreement of association are available by writing or calling the CAB office.~~

~~(Ref.: CCR Section 135)~~

# Complaint Procedures

## 1. How is a complaint filed?

Anyone who believes there has been a violation of the Architects Practice Act may file a complaint with the [CAB Board](#). All complaints should be filed in writing. A complaint form is ~~included on page 63 or is~~ available ~~upon request on the Board's website, cab.ca.gov,~~ or the complainant may ~~write~~ [send](#) a letter ~~or email~~ to the [CAB Board](#) detailing the event(s) that led to the complaint ~~and attach~~ [with](#) copies of all documentation (plans, contracts, business cards, correspondence, etc.) to substantiate the complaint.

## ~~2. Is there an informal process available to building officials to address issues concerning documents submitted by a specific architect for plan check review and construction permitting?~~

~~On December 4, 1998, the CAB adopted a Plan Check Review Process & Evaluation Program that allows building officials to bring to the CAB's attention concerns they have regarding practice issues of a specific Architect without the filing of a formal complaint. A copy of the Review Request Form, which includes a complete description of the Program, is included on page 65.~~

## 23. How does someone find out if there is a complaint against an architect or an unlicensed individual?

Contact the [CAB Board](#). [Pursuant to its regulation on public information disclosure, The CAB the Board](#) will disclose ~~the number of pending complaints which have been reviewed by the CAB staff and indicate a probable violation of the CAB's licensing laws and/or regulations has occurred and are under investigation. The CAB will also disclose closed complaints which resulted in any~~ [disciplinary or enforcement actions taken against the person, including \(i.e., citations, accusations, statements of issues, stipulated settlement and disciplinary decisions\).](#) [The Board may only disclose complaint information if it is determined to have a direct effect on public safety.](#)

[\(Ref.: CCR, Title 16, Section 137\)](#)

## ~~4. What should architects or building officials do if they know that someone may be violating the Architects Practice Act?~~

~~Gather evidence to substantiate the accusation and forward all evidence to the CAB with a written complaint.~~

**~~5. Does the CAB process complaints between architects and clients regarding contract or fee disputes?~~**

~~Only if the dispute involves an alleged violation by the architect of the CAB's licensing laws and/or regulations. Otherwise the complainant is advised to seek legal counsel.~~

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# Contractors

## 1. Are contractors exempt from the Architects Practice Act?

A contractor may design what an unlicensed person may design under ~~B&P Code~~[BPC](#) Sections 5537 (exempt structures) and ~~B&P Code Section~~ 5538 as determined by the local building official.

On non-exempt structures, the contractor is limited to services noted in ~~B&P Code~~[BPC](#) Section 6737.43 (Professional Engineers Act) specifically; appropriately licensed ~~mechanical~~ contractors ~~and licensed electrical contractors~~ may design mechanical and electrical systems, ~~respectively~~, in accordance with applicable construction codes if they also install those systems. If they do not install the systems and supervise the installation of the systems, they must have an architect or engineer design the systems.

In addition, a contractor may design systems that are required to complete the contracting services he or she has offered or contracted to perform. Such systems are considered temporary and must be removed once the project he or she has contracted to build is completed.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5537.2 and 6737.3)

## 2. May a licensed contractor perform design services under the direction of a structural or civil engineer for a non-exempt structure?

Yes, provided the contractor works under the responsible charge of the engineer and the engineer signs all engineering documents prepared by the contractor.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.2)

## 3. May contractors design non-exempt structures if they are going to build them?

No. Contractors may only design exempt buildings under ~~B&P Code~~[BPC](#) Section 5537 and nonstructural or nonseismic storefronts or interior alterations which do not affect the structural system or safety of the building under ~~B&P Code~~[BPC](#) Section 5538. If they associate with an architect or engineer, contractors may prepare documents under the direct supervision of an architect or engineer. However, the architect or engineer must stamp and sign the documents.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.2)

~~4. A general contractor hires mechanical and electrical contractors to design the mechanical and electrical systems for a non-exempt building with the understanding that the contractors will also install their systems. The drawings are approved and a construction permit is issued. During the construction phase, the general contractor hires other mechanical and electrical contractors to install the systems. Are the initial mechanical and electrical drawings valid?~~

~~No. B&P Code Section 6737.4 states that the respective mechanical and electrical systems must be installed by the licensed contractors who prepared the drawings for the systems.~~

~~(Ref.: B&P Code Section 6737.4)~~

**45. May the building official delay the project until properly prepared documents are re-submitted for approval?**

This question should be discussed with the legal advisor for the building department.

**56. May licensed ~~mechanical and electrical~~ contractors prepare and sign drawings for their respective systems without supervision of an architect or engineer?**

Yes. In ~~B&P Code~~[BPC](#) Section 6737.43 of the Professional Engineers Act, it states that appropriately licensed ~~mechanical and electrical~~ contractors may design ~~such~~electrical or mechanical systems for any building if they also install them.

(Ref.: ~~B&P Code~~[BPC](#) Section 6737.43)

**67. May a general contractor prepare and sign drawings pertaining to mechanical, and electrical, and plumbing systems for non-exempt structures?**

No. If the general contractor does prepare mechanical or electrical drawings, he or she must do so under the supervision of an architect or appropriately registered engineer. The architect or engineer must stamp and sign the drawings.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.2)

# Corporations

## 1.—~~May a corporation offer architectural services?~~

~~Yes.— A corporation can offer and perform architectural services provided the services are performed by or under the responsible control of an architect. The architect must sign all instruments of service.~~

~~(Ref.: B&P Code Sections 5535, 5536.1(a) and CCR Section 134)~~

## 2.—~~Does the CAB license architectural firms or corporations?~~

~~The CAB licenses individuals only. The Secretary of State registers professional corporations, including professional architectural corporations, as well as general corporations. The Secretary of State's address is: 1500 11th Street, Sacramento, California 95814, phone (916) 653 6814.~~

~~(Ref.: B&P Code Section 5551)~~

## 3.—~~What are the rules governing general corporations offering architectural services?~~

~~It is unlawful for a corporation, which is not a professional architectural corporation as defined by B&P Code Section 5610, to use a business name which includes as part of its title or description of services the term “architect,” “architecture,” or “architectural” unless it includes in its title or designation the name as licensed with the CAB of a licensed architect followed by the word architect. All instruments of service must be signed by a licensed architect. The designated architect must be an officer or an employee of the firm.~~

~~(Ref.: CCR Section 134(e))~~

~~For example, ABC Architecture, a general corporation, must include an architect's name in its title or designation. They might legally advertise the following way:~~

~~**ABC Architecture**  
*John Smith, Architect*~~

## 4.—~~What distinguishes a professional architectural corporation from a general corporation?~~

~~Professional architectural corporations are required to limit their shareholders, officers, and directors to licensed architects. In addition, the name of a professional architectural corporation and any name or names under which it may be rendering professional services must contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders, or of persons who were associated with a predecessor person, partnership, or other organization and whose name or names appeared in the name of the predecessor organization, and shall include either (1) the words “architectural corporation” or (2) the word “architect” or “architects” and wording or abbreviations denoting corporate existence.~~

~~(Ref.: B&P Code Sections 5610 and 5610.3)~~

# Disasters

## 1. If a person's residence is damaged by a natural disaster, how can the homeowner obtain a copy of the plans?

If damage to residential real property is caused by a natural disaster declared by the Governor, and if the damage may be covered by insurance, an architect or other person who has prepared the plans used for the construction or remodeling of the property must release a copy of the plans to the homeowner, the homeowner's insurer, or a duly authorized agent of either upon request. The plans may only be used for verifying the fact and the amount of damage for insurance purposes. The architect may charge a reasonable fee to cover the reproduction costs of providing a copy of the plans.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.3)

## 2. Can the homeowner rebuild the property using the plans?

The plans cannot be used to rebuild any of the property without [a current permit and](#) the written consent of the architect or other person who prepared the plans. If written consent is not provided, the architect will not be liable if the plans are subsequently used by the homeowner or anyone else to rebuild any part of the property.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.3)

## 3. If the homeowner cannot contact the original designer, can the building department provide a copy of the plans?

The building department can duplicate the plans under the provisions contained in Health and Safety Code Section 19851. Refer to that code section for details.

## 4. In the event of a declared disaster, what deterrents to unlicensed practice exist?

Only persons licensed by the ~~CAB~~[Board](#) may call themselves architects and provide architectural services. During a declared state of emergency, the penalty against an unlicensed person who represents that he or she is an architect in connection with the offer or performance of architectural services for the repair of damage to a structure caused by a natural disaster is increased and punishable by a fine up to \$10,000 and/or imprisonment. When responding to advertisements or solicitations offering architectural services, disaster victims should verify whether the person offering services has a valid license by ~~writing or calling the CAB office~~[contacting the Board or visiting its website, cab.ca.gov.](#)

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.5)

**5. Can architects perform structural inspections after an earthquake?**

Yes. Architects may provide structural inspections at the scene of a declared national, state, or local emergency when acting voluntarily and at the request of a public official, public safety officer, or city or county building inspector who is acting in an official capacity.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.27)

**6. What type of immunity is available to architects who provide inspection services for building departments?**

California has a good Samaritan law for licensed architects, engineers and land surveyors who, at the request of a public official, provide safety inspection services, without compensation, at the scene of a declared national, state or local emergency caused by an earthquake. This law provides architects who provide these services with immunity from liability. This immunity applies only for an inspection that occurs within 30 days of the earthquake.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.27)

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# Engineers

## 1. Are engineers exempt from the Architects Practice Act?

Civil and structural engineers may provide “~~architectural~~ building design services” to the extent that they are included as part of the engineering services for which they are registered. Civil and structural engineers may not practice architecture, i.e. architectural design, unless it is a part of the civil or structural engineering services they are performing. Civil and structural engineers may not use the title “architect” or offer “architectural” services unless licensed by the CABBoard.

(Ref.: ~~B&P Code~~ BPC Sections 5537.1, 5537.4, and 5537.5)

## 2. May a structural or civil engineer sign architectural drawings for non-exempt structures prepared by an unlicensed person who was not under their supervision even though the engineers prepared the structural drawings and calculations?

This question must be answered by the Board for Professional Engineers, ~~and~~ Land Surveyors, and Geologists (BPELSG). If an architect signed documents that were not prepared under his or her responsible control, the CABBoard would consider the act “aiding and abetting” under ~~B&P Code~~ BPC Sections 5582 and 5582.1.

(Ref.: ~~B&P Code~~ BPC Sections 5537.1 and 5537.5)

## 3. What are the structural and civil engineer’s limitations as to performing architectural design services?

There are none in the Architects Practice Act. The engineer may design any structure as long as the engineer adheres to the exemptions.

(Ref.: ~~B&P Code~~ BPC Sections 5537.1 and 5537.5)

Title 21 and 22 of the CCR are more restrictive and do set limitations as to what services architects, civil and structural engineers may perform. However, Title 21 and 22 are relevant only to state regulated construction under the jurisdiction of the Division of the State Architect (DSA) and Office of Statewide Health Planning and Development (OSHPD).

## ~~4. May a structural or civil engineer sign mechanical or electrical engineering drawings if the engineer is not registered in those disciplines?~~

~~This question should be answered by the BPELS.~~

**45. BPC Section 5537.4 ~~of the B & P Code~~ exempts all professional engineers. Does this mean that all registered professional engineers can design non-exempt structures?**

No. Only structural and civil engineers are professional engineers authorized to design structures. Other professional engineers are exempt from the Architects Practice Act only to the extent that they practice the profession for which they are registered.

**56. If a structural or civil engineer prepares and signs structural calculations as a consultant to an architect, must the engineer also prepare, stamp, and sign the structural drawings?**

Not necessarily. If the calculations are given to the architect, who then prepares the structural drawings from the information provided in the calculations, only the architect is required to stamp and sign the drawings. The engineer is not required to over-sign documents prepared by the architect.

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# Exempt Buildings and Structures

## 1. What are exempt buildings or structures?

The Architects Practice Act defines exempt buildings or structures in ~~B&P Code~~[BPC](#) Section 5537 as follows:

- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
  - (1) Single-family dwellings of wood frame construction not more than two stories and basement in height.
  - (2) Multiple dwellings containing no more than four dwelling units of wood frame construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
  - (3) Garages or other structures appurtenant to buildings described under subdivision (a), of wood frame construction not more than two stories and basement in height.
  - (4) Agricultural and ranch buildings of wood frame construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.
- (b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for wood frame construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for wood frame construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

## 2. What is ~~the CAB's~~[Board's](#) definition of “conventional framing”?

~~The CAB has approached this subject in the past and concluded that the phrase was borrowed from the UBC when the statute was written.~~ Since it appears in the ~~UBC &~~ CBC, which is written by building officials, the ~~UBC/CBC~~ definition should be used.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537(b), ~~and~~ Title 24 of the ~~UBC and/or~~ CBC.)

3. What are the ~~CAB's~~Board's definitions of a “single family dwelling” and “multiple dwelling”?

- (a) **Single-family Dwelling:** As defined in ~~B&P Code~~BPC Section 5537(a) and CCR, Title 16, Section 153~~-of the CCR~~, the term “single-family dwelling” means a free standing unattached dwelling of wood frame construction not more than two stories and basement in height. Such a single-family dwelling shall not share any common building components including, but not limited to, foundations, roofing and structural systems with any other structure or dwelling.
- (b) **Multiple Dwelling:** As defined in ~~B&P Code~~BPC Section 5537(a) and CCR, Title 16, Section 153~~-of the CCR~~, the term “multiple dwellings” means a structure composed of no more than four attached dwelling units which share any common building components including, but not limited to, foundations, roofing and structural systems. Such multiple dwelling units shall be of wood frame construction and not more than two stories and basement in height, and as defined in the CBC.

~~4. Must contractors and builders who prepare plans for exempt structures sign the drawings they prepare if they own the structure?~~

~~If they are the owner, the B&P Code does not require the drawings to be signed.~~

~~(Ref.: B&P Code Section 5536.1)~~

~~45. If a lot contains an existing residence, may an unlicensed person prepare plans for a maximum four additional units as exempted under BPC Section 5537~~-of the B&P Code~~?~~

~~No. The maximum number of units that could be designed on the lot by an unlicensed person would be three additional units in any combination.~~

~~(Ref.: ~~B&P Code~~BPC Section 5537)~~

~~6. Is a roadside fruit and vegetable stand considered a non-exempt structure since the UBC classifies it as a business structure? Is an architect or engineer required to design it?~~

~~Whether an architect or engineer is required to design a fruit and vegetable stand is determined by the building official. If the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved, an architect or engineer can be required.~~

~~(Ref.: B&P Code Section 5537)~~

**57. Is a “greenhouse” constructed of metal framing and glass considered an exempt structure if it is for personal use only?**

No. The Architects Practice Act, ~~in B&P Code~~[BPC](#) Section 5537 refers only to wood-framed structures; therefore, metal-framed structures would not be considered exempt under the statute.

**68. If an owner prepares drawings for his or her own exempt building, is he or she required to sign the drawings?**

No. The statute requires only those who prepare drawings for others to sign them and if licensed to note their license number. However, the statute does not prohibit a building official from requiring the owner to sign the drawings.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.1)

**79. ~~B & P Code~~[BPC](#) Section 5537, which deals with exemptions, does not discuss site planning. Does this mean that an unlicensed person who prepares drawings for exempt structures must hire an architect to prepare the site plan drawings?**

An unlicensed person may only do site planning to the extent that such planning does not involve activities that are subject to regulation by any licensing boards. For example, preparing grading and drainage plans are activities that require a license. Therefore, an architect or engineer would be required to prepare such plans for an exempt structure.

**810. If an architect or engineer prepares and signs structural calculations for a portion of an exempt building and the building plans are prepared by the owner, must the architect or engineer sign the plans also?**

The architect or engineer would only sign for that portion of the drawings that pertain to his or her structural design, not the entire set of drawings. The architect is only required to note that portion for which he or she is taking responsibility. The remainder of the drawings would be signed by the person who prepared them.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.1)

**911. May the building official require other exempt structures to be designed by an architect or engineer in addition to the noted agricultural and ranch buildings if it is deemed that such structures are an undue risk to public safety, health or welfare?**

Yes. The building official may require part or all of the structure to be designed by an architect or engineer. The ~~B&P Code~~[BPC](#) does not supersede the building official’s authority to protect the health, safety and welfare of the public.

**12. — Are wood decks exempt in B & P Code Section 5537?**

~~Decks come in all sizes and shapes and are installed on all types of terrain. It is, therefore, left to the discretion of the local building official to determine if an architect or engineer is required to prepare and sign documents for such structures. The Architects Practice Act requires that any portion of an exempted structure that deviates from substantial compliance with the conventional framing requirements of the most recent California Building Code, shall be designed by an architect or engineer.~~

~~(Ref.: B&P Code Section 5537(b))~~

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# Interior Designers

## 1. Are interior designers licensed by the state?

No. They are not licensed by the state. ~~There is a statutory provision for self-certification through a private organization~~[The State of California has a Title Act for certified interior designers under BPC Sections 5800-5812.](#) Certification is not required for interior designers to practice in California.

(Ref.: ~~B&P Code~~[BPC](#) Sections [5800-5812](#))

## 2. What services may an interior designer provide?

Interior designers and any other unlicensed persons may design nonstructural or nonseismic store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, other appliances or equipment and any nonstructural or nonseismic alterations or additions necessary to provide for their installation. Interior designers may not design any components that change or affect the structural system or safety of the building.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5537 and 5538)

## 3. What may interior designers call themselves?

Interior designers may call themselves interior designers or designers. They cannot call themselves “architects,” “architectural designers,” ~~“registered interior designers~~[architects,](#)” or any other name that might mislead the consumer to think that they are licensed architects or registered building designers or otherwise certified, licensed or registered by the State.

An interior designer may not represent to the public that he or she is “state certified” to practice interior design. However, a person who has been certified by an interior design organization may refer to herself or himself as a “certified interior designer”.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5800 and 5804)

No unlicensed person may use the term “architect,” “architectural,” or “architecture” or use the term “licensed” or “registered”.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536)

## 4. May interior designers stamp exempt plans?

Yes. Unlicensed persons may stamp exempt plans as long as they do not use the legend “State of California” or words or symbols that indicate that they are licensed by the state.

(Ref.: ~~B&P Code~~[BPC](#) Sections [5536\(b\)](#), [5802](#), and 5805)

# Landscape Architects

**1. May a registered landscape architect refer to himself or herself as an “architect”?**

No. A landscape architect may not use the title “architect” without the word “landscape” unless he or she also holds an architect’s license.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.6)

**2. Can landscape architects prepare site grading and site drainage plans?**

Yes. A landscape architect can prepare landscape architectural site grading and site drainage plans.

**3. What structures can landscape architects design if they perform site planning services?**

Any exempt structures that unlicensed persons may design in accordance with ~~B&P Code~~[BPC](#) Section 5537 and exempt under the ~~UBC~~/CBC. If a structure requires engineering, it must be designed by an appropriately licensed or registered person.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537)

# Land Surveyors

## 1. May a licensed land surveyor use the title “architect”?

No. A licensed land surveyor may not use the title “architect” unless he or she also holds an architect’s license.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.7)

## 2. Can licensed land surveyors prepare and sign site plans?

No. Land surveyors are limited to preparing and signing documents relating to their survey services such as location of property lines or boundaries, topographic maps, site elevations, etc. They are not licensed to plan the improvements of a site.

(Ref.: ~~B&P Code~~[BPC](#) Section 5537.7)

DRAFT

## **~~Mechanic's Lien Laws~~**

### **~~1.—How does one find out about Mechanic's Lien Laws?~~**

~~The CAB does not respond to questions regarding lien laws. The individual may consult an attorney or refer to publications at a public library. Another resource is the Contractor's License Law and Reference Book which may be obtained from: General Services Publications Unit, P.O. Box 1015, North Highlands, California 95660, (916) 928-4630.~~

DRAFT

## Signature Requirement

1. May the title block for non-exempt buildings contain the words “drawings prepared by” and/or the name of the drafting service in addition to the name of the architectural firm?

Yes. There is nothing in the ~~statutes~~[Architects Practice Act](#) that prohibits this practice, but the architect responsible for their preparation must sign the drawings. If drawings were submitted without the architect’s stamp and signature, it would be of assistance to the ~~CAB’s~~[Board’s eEnforcement p](#)Program to have a copy of the title block sent to the ~~CAB office~~[Board](#).

(Ref.: ~~B&P Code~~[BPC](#) Sections [5536.1](#) and 5536.2)

2. In a set of plans submitted to a building official for approval and issuance of a permit, which sheets of the plans or drawings must be signed or stamped?

The ~~statutes do~~[Architects Practice Act does](#) not address this issue. The building official has the discretion to determine which sheets should be stamped and signed. However, standard practice in the profession is to stamp and sign every sheet and the cover page of specifications.

3. May an employee of an architect sign and stamp the plans or drawings or must the person whose name appears in the firm’s title block sign and stamp?

An employee may stamp and sign the documents if the employee is licensed by the ~~CAB~~[Board](#) and prepared or was in responsible control of their preparation.

- ~~4. A building department requires wet signatures on all documents. To expedite the approval of a design change on plans submitted for plan check, an architect proposes to FAX a design change to the building department. As a FAX, the architect’s signature on the design change is a reproduction. Is a building official required to accept such documents in lieu of those with a wet signature? If a building official does not accept these faxed documents, is he or she liable for delaying the project?~~

~~The CAB does not establish whether or not building departments should accept documents with reproduced signatures. Regarding liability for delaying a project, consult with your jurisdiction’s legal advisor.~~

~~(Ref.: B&P Code Section 5536.25)~~

- ~~45. Must the architect sign the documents at initial submittal?~~

~~The Architects Practice Act does not stipulate when the documents are to be stamped and signed. Many architects do not want to sign the initial submittal until plan checks have been made. The statute~~[BPC Section 5536.2](#) ~~requires building officials~~ to verify that the person who prepares the documents is properly licensed to do so. This can be done by ~~to obtaining~~ a signed statement that the person who prepared the documents is licensed to prepare such documents. ~~The CAB~~

~~believes that if an architect does not wish to sign initial submittal documents,~~ The building official ~~could~~can accept the signed statement in lieu of the stamp and signature at the time of initial submittal. After the plan check corrections have been made and before the permit for construction is issued, the drawings must be stamped and signed by the architect.

(Ref.: ~~B&P Code~~BPC Sections 5536.1 and 5536.2)

**56. May building officials require architects to stamp and oversign a consultant's drawings?**

No. Architects are only required to stamp and sign what they have prepared themselves or what others have prepared under their responsible control. Architects cannot be required to stamp and over-sign documents prepared by others, with the exception of DSA and OSHPD which may require such "over-stamping" of documents prepared by consultants to satisfy state regulations for schools and hospitals.

(Ref.: ~~B&P Code~~BPC Section 5536.2)

**67. Are reproduced signatures on documents acceptable?**

~~The CAB believes that b~~Building officials may accept documents with a reproduced signature. ~~If building officials accept these documents, then it is recommended that building officials obtain the signed statement required in B&P Code Section 5536.2 and attach this statement to the documents as a permanent record.~~ Electronic stamps and signatures are commonly accepted in all business forums.

**78. Must each page of a set of specifications or structural calculations be signed by the licensed person who prepares them?**

An architect is required to sign his or her plans, specifications and other instruments of service. The CAB Board does not require that each page of a set of specifications and/or calculations must be signed by the architect.

(Ref.: ~~B&P Code~~BPC Section 5536.1)

**89. Must the engineer who has prepared and signed structural calculations also sign the structural drawings if the structural drawings are prepared by a licensed architect?**

No. The engineer only signs the documents which he or she has prepared. The architect signs the structural drawings that he or she prepared.

(Ref.: ~~B&P Code~~BPC Section 5536.1)

**910. May non-exempt plans be signed by the unlicensed person who prepared the plans and the architect who is responsible for their preparation?**

An unlicensed person may prepare plans for a non-exempt structure only under the responsible control of an architect. The unlicensed person as well as the architect may sign the plans; however, the only required stamp and signature is the architect's.

(Ref.: ~~B&P Code~~[BPC](#) Section 5536.1)

**1011. Are wet or dry signatures required on ~~exempt~~ plans?**

The ~~B&P Code~~[Architects Practice Act](#) does not state what type of media is to be used; it only states that the drawings must be stamped and signed. ~~Accordingly, the building official can require wet or dry stamps and signatures on plans.~~

(Ref.: ~~B&P Code~~[BPC](#) Sections 5536.1 and 5536.2)

DRAFT

# Stamp Requirement

## 1. Must architects stamp their plans, specifications and other instruments of service prior to obtaining a building permit?

Yes.

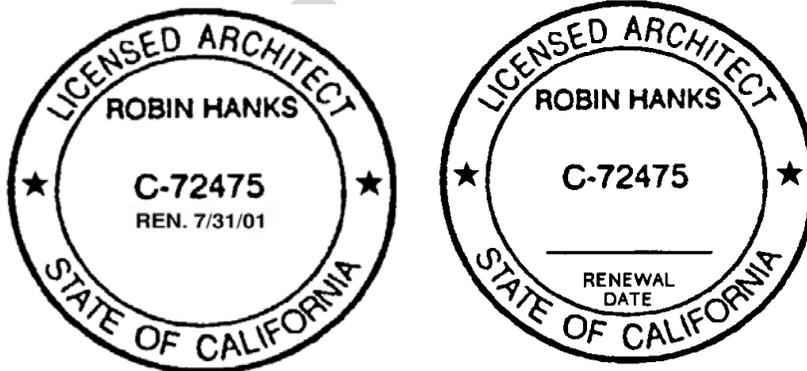
(Ref.: [B&P Code](#) [BPC](#) Sections 5536.1 and 5536.2)

## 2. What must the architect's stamp look like and what must it contain?

The Architects Practice Act specifies that the architect's stamp contain: (1) the legend "State of California"; (2) the term "licensed architect"; (3) the architect's name (as licensed with the [CAB Board](#)); (4) the architect's license number; and (5) a means for noting the renewal date for the current license (last day of birth month and year). The renewal date may be hand written or typeset.

The stamp must be of a 1" minimum - 2" maximum diameter circular shape. The design of the circle may include solid lines (thin or thick) or broken lines such as dashes or dots. Other possibilities include a rope or beaded effect or words forming the circle. Embellishments (stars, graphic designs) are also acceptable so long as the stamp is legible. The stamp shall not be of the embossing type. Provided below are basic examples of recommended formats for a California architect's stamp. Stamps can be ordered from any source - stationery stores, business supply houses, rubber stamp manufacturers and print shops.

(Ref.: [B&P Code](#) [BPC](#) Section 5536.1(b) and CCR, [Title 16](#), Section 136)



REN. Refers to Renewal Date

## ~~Title 24 (State Building Code)~~

### ~~1. Where can an individual obtain copies of State Building Code (Title 24)?~~

~~The complete set of Title 24, consisting of the State Building, Electrical, Mechanical, Plumbing and specialty Codes may be obtained at specialty book stores specializing in construction documents or through:~~

~~International Conference of Building Officials  
5360 Workman Mill Road  
Whittier, CA 90601-2298  
(562) 699-0541  
1-(800)-284-4406  
[www.icbo.org](http://www.icbo.org)~~

DRAFT

# Unlicensed Individuals

## 1. What may an unlicensed individual design?

- A. Unlicensed individuals may design exempt buildings or structures. The Architects Practice Act defines exempt buildings or structures in ~~B&P Code~~[BPC](#) Section 5537 as follows:
- (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:
    - (1) Single-family dwellings of wood frame construction not more than two stories and basement in height.
    - (2) Multiple dwellings containing no more than four dwelling units of wood frame construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
    - (3) Garages or other structures appurtenant to buildings described under subdivision (a), of wood frame construction not more than two stories and basement in height.
    - (4) Agricultural and ranch buildings of wood frame construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.
  - (b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for wood frame construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for wood frame construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.
- B. Unlicensed individuals may design nonstructural or nonseismic alterations or additions as defined in the Architects Practice Act, ~~B&P Code~~[BPC](#) Section 5538.

## 2. What titles may unlicensed individuals use?

Unlicensed individuals cannot call themselves “architects,” “architectural designers” or any other confusingly similar title that might indicate to the public that they are a licensed architect, ~~or~~ are qualified to engage in the practice of architecture, or are an architectural designer.

(Ref.: ~~B&P Code~~BPC Section 5536(a))

### ~~3. May an unlicensed person prepare and sign plans for the interior of a building and then have an architect prepare and sign drawings of certain constructions within these plans? Must the architect sign all the drawings?~~

~~The unlicensed person should only sign the documents prepared by him or her and the architect should only stamp and sign the documents the architect prepared. Architects can not stamp and sign the documents of others unless they were prepared under the responsible control of the architect.~~

(Ref.: ~~B&P Code~~ Sections 5536.1, 5536.2 and 5538)

### **34. Must the design of a seismic bracing system required for raised computer floors be done by an architect or engineer?**

Yes. Plans for seismic bracing systems are considered a seismic alteration and should be designed and signed by architects or engineers. ~~It is also important to consider perimeter walls that enclose the raised floor. The design of the walls should be analyzed for their ability to withstand lateral loads.~~

(Ref.: ~~B&P Code~~BPC Section 5538)

### ~~5. May unlicensed individuals prepare and sign energy calculations for non-exempt buildings when tenant improvements are made?~~

~~The State Energy Commission states that only appropriately licensed or registered persons can sign forms ENV-1, LTG-1 and MECH-1.~~

### **46. In BPC Section 5538 ~~of the B&P Code~~ interior alterations and additions are considered exempt. Does the word “additions” apply to exterior work as well as interior or is it meant to apply only to interior additions?**

~~B&P Code~~BPC Section 5538 discusses interior additions only. Exterior additions are discussed in ~~B&P Code~~BPC Section 5537.

### **57. Does the replacement of a fire rated door require an architect or engineer to approve the replacement or write a specification for the replacement?**

The local building official should make this determination.

**68. May unlicensed individuals design and sign plans for handicap disabled access systems?**

Yes. Unlicensed individuals may design systems, including handicap disabled access systems, that are nonstructural and nonseismic in nature and that do not affect the safety of the structure, provided that the design of those systems is not restricted by law to registered or licensed individuals.

(Ref.: B&P CodeBPC Section 5538)

**79. Does the CABBoard provide building departments with specific criteria as to what interior components affect the safety of a building or its occupants?**

No. Local building departments determine such criteria.

**810. May an unlicensed individual design, plan or prepare instruments of service for store fronts or interior alterations?**

Yes. Unlicensed persons may prepare and submit plans for nonstructural or nonseismic interior alterations or additions, provided such alterations do not change or affect the structural system or safety of the building.

(Ref.: B&P CodeBPC Section 5538)

**911. May an unlicensed individual design interior alterations or additions for non-exempt structures?**

Unlicensed individuals may prepare and sign plans for nonstructural or nonseismic store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, other appliances or equipment, and any nonstructural or nonseismic alterations or additions necessary to provide for their installation. However, an unlicensed individual may not prepare and sign plans for any components affecting the structural system or safety of any building as determined by the local building official.

(Ref.: B&P CodeBPC Section 5538)

**1012. May unlicensed individuals prepare and sign plans for the interiors of any type of building? Are there square foot limitations?**

Unlicensed individuals may prepare and sign interior designs for any type of building subject to the approval of the building official. There are no square footage limitations imposed by the Architects Practice Act; however, some building departments do set square footage limitations applicable to design services by unlicensed individuals.

(Ref.: B&P CodeBPC Section 5538)

**~~13. What is considered an exempt nonstructural storefront?~~**

~~The CAB believes that a storefront, which does not require wind calculations and structural calculations to verify the stability of the installation, would qualify as an exempt nonstructural storefront. Each installation must be judged individually by the building official. If the storefront installation requires structural calculations, it is not exempt. However, if only glazing is replaced, then an architect or engineer may not be required to design the system.~~

~~(Ref.: B&P Code Section 5538)~~

**1114. May unlicensed individuals design and sign mechanical, electrical, and plumbing systems?**

No. Such systems must be designed and signed by appropriately licensed or registered design professionals, or appropriately licensed contractors as allowed by the Professional Engineers Act.

(Ref.: ~~B&P Code~~BPC Sections 5537.2, 5537.4, and 6737.4~~3~~)

**~~15. If one occupancy is being converted into a more restrictive occupancy, is an architect or engineer required to prepare and sign the documents?~~**

~~Not necessarily. The building official should make the decision based on the scope of work required to convert the occupancy.~~

~~(Ref.: B&P Code Section 5538)~~

**~~16. Are full height, non-bearing, non-rated partitions considered components that affect the safety of the occupant?~~**

~~The CAB believes that the addition, relocation or removal of full height, non-bearing, non-rated partitions could change or affect the structure and/or the safety of a building. Each situation must be judged within its specific circumstances and thus the building official must decide whether such partitions would affect the safety of the building.~~

~~(Ref.: B&P Code Section 5538)~~

**1217. What criteria does the CAB Board use to determine what it considers the “safety of a building”?**

~~The CAB has no specific criteria. For regulations dealing with those elements that affect the safety of a building and its occupants, s~~See the California Building Code. The local building official should determine which components of building systems affect safety and are required to be designed by an architect or engineer.

**1318.May unlicensed individuals prepare specifications for non-exempt structures?**

Unlicensed individuals may prepare specifications for non-exempt structures only under the responsible control of an architect or engineer. The architect or engineer is required to [stamp and sign](#) the specifications.

(Ref.: ~~B&P Code~~[BPC](#) Sections 5535.1 and 5536.1)

~~**19. Suspended ceilings do not add to the structural stability of a building but require seismic bracing. Is an architect or engineer required to design suspended ceilings?**~~

~~The CAB believes that seismic components should be designed by architects or civil and structural engineers. However, some building officials allow such ceilings to be designed by unlicensed individuals if they do not exceed certain square foot limitations.~~

**1420.May unlicensed individuals alter exterior wall, door, and window configurations on non-exempt structures so that they are coordinated with new interior construction?**

No. The ~~B&P Code~~[Architects Practice Act](#) does not allow an unlicensed individual to prepare and sign plans and specifications for the alteration of exterior walls, doors or windows except for nonstructural or nonseismic alterations to storefronts as determined by the local building official.

(Ref.: ~~B&P Code~~[BPC](#) Section 5538)

## ~~Violations of the Architects Practice Act~~

### ~~1.—Who may be prosecuted for violations of the Architects Practice Act?~~

- ~~▪ **Prosecutions:** The CAB may prosecute all persons guilty of violating the provisions of Chapter 3, Division 3 of the Business and Professions Code. Except as provided by Section 159.5, the CAB may employ the inspectors, special agents, investigators and staff it deems necessary to carry out the provisions of this chapter.~~

~~(Ref.: B&P Code Section 5525)~~

- ~~▪ **Injunctions:** Whenever any person has engaged in or is about to engage in any act or practice which constitutes or which will constitute an offense against Chapter 3, Division 3 of the Business and Professions Code, the superior court of the county in which the offense has occurred or is about to occur, on application of the CAB, may issue an injunction or other appropriate order restraining such act or practice.~~

~~(Ref.: B&P Code Section 5527)~~

~~The proceedings authorized by this section shall be in accordance with the provisions contained in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.~~



CALIFORNIA ARCHITECTS BOARD

400 R STREET, SUITE 4000, SACRAMENTO, CALIFORNIA 95814-6238

Telephone: (916) 445-3393 Fax: (916) 445-8524

E-mail: cab@dca.ca.gov Web: cab.ca.gov



CONSUMER COMPLAINT FORM

1. SUBJECT (Person Complaint is Against)

Form with fields: Last Name, First Name, Middle Name, Business Name, Business Address, City, State, Zip Code, Business Phone, Home Phone (If Known), Architect License Number (If Known)

2. COMPLAINANT (Person Making the Complaint)

Form with fields: Last Name, First Name, Middle Name, Address, City, State, Zip Code, Business Phone, Home Phone, Best Time of Day to Contact You

3. Did you have a contract or letter of agreement with the subject?.....YES [ ] NO [ ] (If yes, please attach a copy.)

4. Have you discussed your complaint with the subject?.....YES [ ] NO [ ]

5. Have you contacted an attorney regarding this matter? .....YES [ ] NO [ ] If so, provide your attorney's name, address and phone number.

6. Have you filed a claim in any court regarding this complaint? .....YES [ ] NO [ ] If so, name court: and indicate hearing date, if scheduled:

7. What do you want the person or company to do to satisfy your complaint?

8. Describe the nature of your complaint on the next page





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**PLAN CHECK REVIEW PROCESS & EVALUATION PROGRAM**

for

**BUILDING OFFICIALS & ARCHITECTS**

**PROGRAM INTENT:**

The California Architects Board (CAB) is offering this program to aid building officials and architects in the resolution of questions and issues concerning documents submitted by architects to the building official for plan check review and construction permitting.

Upon the request of a building official and/or an architect, the CAB will provide review of document submittals with reoccurring issues of code or procedure non-compliance, of document completeness and/or coordination, scope of practice and signature/stamp requirements. The program will not address specific code issues or usurp the regulatory authority of the building official.

The program is intended to assist both parties in understanding and interpretation of the standard of care as it applies to the Architects Practice Act and their respective responsibilities. The program goals are to resolve or prevent formal complaints, to prevent reoccurring submittal problems or deficiencies, and to improve communication and understanding between architects and building officials.

**REQUEST FOR REVIEW:**

A building official and/or an architect may request a review by the CAB's architect consultant (or other representatives) via fax, e-mail, letter or phone. The consultant will review the documents and the issues identified by the request, and if appropriate, will meet with both parties at their local building department. The consultant will advise both parties of the findings and may, in some cases, suggest improvements to avoid similar situations in the future.

**REVIEW REQUEST FORM:**

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Review Requested by: Building Official \_\_\_\_\_ Architect \_\_\_\_\_ (Check One) Date: \_\_\_\_\_

Building Official: \_\_\_\_\_ Phone: \_\_\_\_\_

Jurisdiction/Agency: \_\_\_\_\_

Architect: \_\_\_\_\_ Phone: \_\_\_\_\_

Issues for Review: \_\_\_\_\_

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**CAB Architect Consultants:**

Lawrence P. Segrue, FAIA @ [larry\\_segrue@dea.ca.gov](mailto:larry_segrue@dea.ca.gov) & Robert L. Carter, AIA @ [bob\\_carter@dea.ca.gov](mailto:bob_carter@dea.ca.gov)  
Telephone: (800) 991-2223

### **DISCUSS AND POSSIBLE ACTION ON THE FOLLOWING 2017-2018 STRATEGIC PLAN OBJECTIVES TO:**

#### **2. EDUCATE CONSUMERS ON THE STANDARD OF CARE SO THEY UNDERSTAND WHAT TO EXPECT FROM AN ARCHITECT WHEN CHOOSING TO HIRE ONE**

The California Architects Board's 2017-2018 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to educate consumers on the standard of care so they understand what to expect from an architect when choosing to hire one.

The Board currently provides outreach and education to consumers of architectural services through a variety of methods, including the Board's website, social media, publications, press releases, and responses to consumer questions via email, mail, and telephone.

The *Consumer's Guide to Hiring an Architect* was developed by the Board to educate consumers about the complex nature of architectural services. The *Guide* provides information on: the types of projects that require a licensed architect; how to find and select an architect; what the written contract between an architect and a client should contain; and how to manage the budgeting and construction of a project. The Board also created the *Consumer Tips for Design Projects*, which contains basic tips to help consumers avoid problems with their projects.

At the August 24, 2017 REC meeting, staff shared recommended methods to meet this objective to further educate consumers so they understand what to expect from an architect when choosing to hire one, including:

- Updating and expanding the content of the "Consumers" section of the Board's website to include general tips for hiring an architect, information regarding the standard of care and written contract requirement, and common violations of the Architects Practice Act.
- Developing and sharing more consumer-oriented materials through the Board's social media accounts, including Facebook and Twitter.
- Promoting the Architect Consultants' Education and Information Program, through which the consultants are available to discuss technical and practice-related issues and questions directly with consumers.

The REC discussed this Strategic Plan objective at the meeting and expressed concerns regarding potential legal implications from efforts to educate consumers on the "standard of care." The REC requested that staff further research and clarify the Board's intent of the objective.

Following the meeting, staff researched the intent of the objective from the discussion at the Board's Strategic Planning session on December 16, 2016. Based on the discussion, the Board did not appear to be seeking to describe the "standard of care" to consumers; instead, the Board was seeking ways to educate the public on what to expect from their architect and how to identify potential problems with the services that are being provided.

The REC is asked to review and discuss this objective and make a recommendation to the Board.

## Agenda Item E.3

### **DISCUSS AND POSSIBLE ACTION ON THE FOLLOWING 2017-2018 STRATEGIC PLAN OBJECTIVES TO:**

#### **3. MEASURE THE EFFECTIVENESS OF THE BOARD'S CITATION COLLECTION METHODS AS A MEANS OF PROTECTING FUTURE CONSUMERS**

The California Architects Board's 2017-2018 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to measure the effectiveness of the Board's citation collection methods as a means of protecting future consumers.

The Board's overall citation collection rate over the past five years is approximately 59%, with collection rates of 81% for licensees and 43% for unlicensed individuals. Currently, if a licensee fails to satisfy a citation, the Board places a hold on his or her license preventing it from being renewed without payment of both the renewal fee and the administrative fine assessed with the citation (Business and Professions Code section 125.9(b)(5)).

However, the majority of the Board's outstanding, unpaid administrative fines are against unlicensed individuals, and some choose to ignore their citations, as they do not have licenses in jeopardy from failing to pay the administrative fines. The Board currently utilizes the Franchise Tax Board "Intercept Program" as an additional tool to collect unpaid administrative fines from unlicensed individuals, but the success in collecting fines through this program has not been significant, as the potential sources of recovery are limited to State tax refunds, Lottery proceeds, and unclaimed property.

The Board's prior Strategic Plan contained an objective to pursue methods to obtain multiple collection mechanisms to secure unpaid citation penalties. Staff identified accounts that could be referred to a collection agency for full-service debt collection services, including "skip-tracing," credit reporting, and filing legal actions, as appropriate, and staff is in the process of securing a contract with a collection agency through the informal solicitation method (Government Code section 14838.5) to allow the Board to refer unpaid accounts aged beyond 90 days to a collection agency. The contract is planned to be presented to the Board for review and possible action at a future meeting.

Based on the current status of the collection agency contract, staff suggests that the REC recommend to the Board that this objective be carried over to the next Strategic Plan for 2019-2020.

The REC is asked to discuss this objective and make a recommendation to the Board.

## Agenda Item E.4

### DISCUSS AND POSSIBLE ACTION ON THE FOLLOWING 2017-2018 STRATEGIC PLAN OBJECTIVES TO:

#### 4. DEVELOP EDUCATIONAL MATERIALS FOR NEWLY LICENSED ARCHITECTS TO PROVIDE MORE INFORMATION ABOUT THE REQUIREMENTS IN ORDER TO AVOID FUTURE VIOLATIONS

The California Architects Board's 2017-2018 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to develop educational materials for newly licensed architects to provide more information about the requirements in order to avoid future violations.

The Board currently provides its Business Entity Report Form, information regarding the stamp requirements, *Consumer's Guide to Hiring an Architect*, *Consumer Tips for Design Projects*, Twitter card, and bookmark, to new licensees with the initial license and wall certificate.

In order to further educate new licensees about the Architects Practice Act (Act), staff created a draft *New Licensee Information Guide* (Attachment) outlining the: license renewal process and coursework provisions; mailing address and business entity reporting requirements; stamp and signature requirements; notification requirements for convictions, disciplinary actions, and judgments, settlements, or arbitration awards; most common violations of the Act; and Architect Consultants' Education and Information Program. This new *Guide* will require review and approval by Department of Consumer Affairs (DCA) legal counsel.

The REC is asked to review the proposed *New Licensee Information Guide* and make a recommendation to the Board.

After the content of the *Guide* has been approved, staff intends to work with the DCA Office of Publications, Design & Editing on the graphic design and format of the publication. When finalized, this new publication would be distributed to each newly licensed architect with the initial license and posted on the Board's website.

Attachment:

*New Licensee Information Guide* (draft)

## NEW LICENSEE INFORMATION GUIDE

### Introduction

Congratulations on obtaining your California architect license! The California Architects Board (Board) created this Guide to assist you in understanding the Architects Practice Act (Act) and Board regulations and complying with the various filing and notification requirements. However, this list is not intended to be inclusive of all requirements, so you should review the Act and regulations in their entirety to ensure compliance.

Provided below is a basic overview of the topics covered in this Guide:

|  |   |
|--|---|
| <p><b>Laws and Regulations</b></p>   | <p><u>Architects Practice Act</u> – Business and Professions Code (BPC) sections 5500-5610.7<br/><u>Board Regulations</u> – California Code of Regulations (CCR), title 16, sections 100-160</p>  |
| <p><b>Address of Record</b><br/>(BPC section 5558 and CCR, title 16, section 104)</p>  | <p>The address of record is used for all Board correspondence. Immediately notify the Board of any changes to your address of record by submitting a Change of Address form.</p>  |
| <p><b>Business Entity Information</b><br/>(BPC section 5558 and CCR, title 16, section 104)</p>                              | <p>Licensees must file the proper and current name and address of the entity through which they provide architectural services by completing a Business Entity Report Form. Immediately notify the Board of any changes to your business entity information by submitting an updated form.</p>  |
| <p><b>License Renewal Process</b><br/>(BPC sections 5600-5600.4)</p>   | <p>Licenses expire at midnight on the last day of the licensee’s birth month and must be renewed every two years by completing the required coursework and mailing a license renewal application with the renewal fee.</p>  |
| <p><b>Continuing Education Coursework Requirement</b><br/>(BPC section 5600.05)</p>  | <p>Complete five hours of coursework on disability access requirements within the previous two years prior to license renewal.<br/>Maintain records of completion for two years from the date of license renewal and, if selected for an audit, provide those records to the Board.</p>   |
| <p><b>Convictions or Disciplinary Actions by a Public Agency</b><br/>(BPC section 5600(c))</p>                               | <p>A conviction* or disciplinary action by a public agency must be disclosed to the Board on the license renewal application.<br/>* A conviction of an infraction with a fine of less than \$1,000 does not need to be reported unless the infraction involved alcohol or a controlled substance.</p>   |
| <p><b>Judgment, Settlement, Arbitration Award, or Administrative Action of \$5,000 or Greater</b><br/>(BPC section 5588)</p> | <p>Any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award of \$5,000 or greater against the licensee alleging fraud, deceit, negligence, incompetence, or recklessness by the licensee in the practice of architecture must be reported to the Board within 30 days by completing a Report of Settlement or Arbitration Award Form.</p> |

## **Laws and Regulations**

The Architects Practice Act (Act) with laws and regulations can be found in BPC sections 5500-5610.7 and CCR, title 16, sections 100-160, respectively. Key provisions of the Act and regulations to be aware of include:

- **BPC Section 5500.1 – Practice of Architecture Defined**

Subsection (a) defines the practice of architecture as “offering or performing, or being in responsible control of, professional services which require the skills of an architect in the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures.”

Pursuant to BPC section 5500.1(b), an architect’s professional services may include any or all of the following:

1. Investigation, evaluation, consultation, and advice.
2. Planning, schematic and preliminary studies, designs, working drawings, and specifications.
3. Coordination of the work of technical and special consultants.
4. Compliance with generally applicable codes and regulations, and assistance in the governmental review process.
5. Technical assistance in the preparation of bid documents and agreements between clients and contractors.
6. Contract administration.
7. Construction observation.

It is important to note that the practice of architecture is not limited to “stamping and signing” documents.

- **BPC Section 5536.1 and CCR, Title 16, Section 136 – Stamp and Signature Requirement**

Architects are required to stamp and sign plans, specifications, and other instruments of service as evidence of their responsibility for those documents (BPC section 5536.1(a)).

BPC section 5536.1(b) specifies that the architect’s stamp must contain the following:

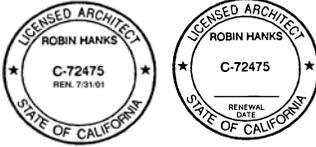
1. The legend “State of California”;
2. The term “Licensed Architect”;
3. The architect’s name (as licensed with the Board);
4. The architect’s license number; and
5. A means for noting the renewal date of the license.

The renewal date may be handwritten or typeset. The typeset version will require replacement every two years.

The stamp must be of a 1” minimum to 2” maximum diameter circular shape. The design of the circle may include solid lines (thin or thick) or broken lines, such as dashes or dots. Other possibilities include a rope or beaded effect or words forming the circle. Embellishments (stars,

graphic designs) are also acceptable as long as the stamp is legible. The stamp shall not be of the embossing type.

Provided below are basic examples of recommended formats for a California architect's stamp (CCR, title 16, section 136). Stamps can be ordered from any source—stationary stores, business supply houses, rubber stamp manufacturers, and print shops.



Note: The Board has not adopted any regulations that require a “wet” (original) stamp or signature or prohibit the use of an electronic stamp or signature.

- **BPC Section 5536.22 – Written Contract Requirement**

Pursuant to BPC section 5536.22(a), an architect must use a written contract when contracting to provide professional services to a client. The written contract must be executed by the architect and the client, or his or her representative, prior to the architect commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract must include, but is not limited to, all of the following items:

1. A description of services to be provided by the architect to the client.
2. A description of any basis of compensation applicable to the contract and method of payment agreed upon by both parties.
3. The name, address, and license number of the architect and the name and address of the client.
4. A description of the procedure that the architect and the client will use to accommodate additional services.
5. A description of the procedure to be used by either party to terminate the contract.

As outlined in BPC section 5536.22(b), this requirement does not apply to any of the following:

1. Professional services rendered by an architect for which the client will not pay compensation.
2. An arrangement as to the basis for compensation and manner of providing professional services implied by the fact that the architect's services are of the same general kind which the architect has previously rendered to and received payment from the same client.
3. If the client knowingly states in writing after full disclosure of this section that a writing which complies with the requirements of this section is not required.
4. Professional services rendered to a professional engineer registered to practice engineering under Chapter 7 (commencing with Section 6700), or to a land surveyor licensed under Chapter 15 (commencing with Section 8700).

Note: The law does not preclude the architect or client from using or insisting there be a written contract for work that falls under one or more of these categories; it simply gives the client or the architect the option not to use one.

- **BPC Sections 5582 and 5582.1 and CCR, Title 16, Section 151 – Aiding and Abetting**

Licensees should be aware that the following actions constitute grounds for disciplinary action against a licensee, as outlined in BPC sections 5582 and 5582.1:

- Aiding or abetting in the practice of architecture any person not authorized to practice architecture under the provisions of this chapter.
- Affixing his or her signature to plans, drawings, specifications, or other instruments of service which have not been prepared by him or her, or under his or her responsible control.
- Permitting his or her name to be used for the purpose of assisting any person to evade the provisions of this chapter.

CCR, title 16, section 151(a) further states that aiding and abetting takes place when a licensed architect signs any instrument of service which has been prepared by any person who is not: (1) a licensed architect or civil or structural engineer; (2) a subordinate employee under his or her immediate and responsible direction; or (3) an individual, who is associated by written agreement with the architect and who is under the architect's immediate and responsible direction.

- **CCR, Title 16, Section 160 – Rules of Professional Conduct**

The Board adopted the Rules of Professional Conduct to protect the public by setting out areas of behavior for which an architect risks being disciplined. Architects are required to comply with these rules covering competency, misconduct, conflict of interest, full disclosure, and copyright infringement. CCR, title 16, section 160 states:

A violation of any rule of professional conduct in the practice of architecture constitutes a ground for disciplinary action. Every person who holds a license issued by the Board shall comply with the following:

(a) Competence:

- (1) An architect shall undertake to perform professional services only when he or she, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.
- (2) In addition to subsection (a)(1) above, when 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 this state under similar circumstances and conditions.

(b) Willful Misconduct:

- (1) In designing a project, an architect shall have knowledge of all applicable building laws, codes, and regulations. An architect may obtain the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such laws, codes, and regulations and shall not knowingly design a project in violation of such laws, codes and regulations.
- (2) Whenever the Board is conducting an investigation, an architect or a candidate for licensure shall respond to the Board's requests for information and/or evidence within 30

days of the date mailed to or personally delivered on the architect or a candidate for licensure.

(c) Conflict of Interest:

- (1) An architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to and agreed to (such disclosure and agreement to be in writing) by all such parties.
- (2) If an architect has any business association or financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his or her client(s) or employer(s) the nature of the business association or financial interest. If the client(s) or employer(s) object(s) to such association or financial interest, the architect shall either terminate such association or interest or offer to give up the project or employment.
- (3) An architect shall not solicit or accept payments, rebates, refunds, or commissions whether in the form of money or otherwise from material or equipment suppliers in return for specifying their products to a client of the architect.
- (4) An architect shall not engage in a business or activity outside his or her capacity as an officer, employee, appointee, or agent of a governmental agency knowing that the business or activity may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the architect.
- (5) When acting as the interpreter of construction contract documents and the judge of construction contract performance, an architect shall endeavor to secure faithful performance of all parties to the construction contract and shall not show partiality to any party.

(d) Full Disclosure:

- (1) An architect shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with projects or services for which he or she is claiming credit.
- (2) An architect shall respond in writing within 30 days to any request from the Board for information solicited in connection with a candidate's application for a license to practice architecture. When providing information in connection with a candidate's application for a license to practice architecture, an architect shall accurately report the candidate's training or experience for the period of time that the architect had direct supervision of the candidate.

(e) Copyright Infringement:

- (1) An architect shall not have been found by a court to have infringed upon the copyrighted works of other architects or design professionals.

(f) Informed Consent:

- (1) An architect shall not materially alter the scope or objective of a project without first fully informing the client and obtaining the consent of the client in writing.

## **Address of Record**

A licensee's mailing address, commonly referred to as the "address of record," is public information. The Board sends all correspondence to the licensee's address of record, including notifications for license renewal, coursework audits, and complaints filed against the licensee.

Licenses must file their current mailing address with the Board and immediately notify the Board of any changes, giving both the old and new addresses (BPC section 5558 and CCR, title 16, section 104).

The Board provides a Change of Address Form available on the website to assist licensees in complying with this requirement.

## **Business Entity Information**

BPC section 5558 requires each licensee to report to the Board the name and address of the entity through which he or she provides architectural services. For reporting purposes, "architectural services" are those services defined in BPC section 5500.1.

All licensees who provide architectural services whether they are sole proprietors, owners, part-owners, or employees of a business entity are required to comply with this provision. BPC section 5558 provides the public and the Board with a means to determine if a business providing architectural services does in fact have an architect in responsible control.

The Board provides a Business Entity Report Form available on the website to assist licensees in complying with this reporting requirement.

Licenses must immediately notify the Board of any changes to the name or address of the business entity, giving both the old and new business names or addresses (CCR, title 16, section 104).

## **License Renewal Process**

California architect licenses expire at midnight on the last day of the licensee's birth month in odd-numbered years and must be renewed every two years.

Architects may renew their license by:

1. Completing continuing education coursework on disability access requirements within the previous two years as mandated by BPC section 5600.05 (see additional coursework information provided below);
2. Completing an Architect License Renewal Application;
3. Paying the \$300 license renewal fee; and
4. Mailing the signed original License Renewal Application and fee to the Board with a postmark on or before the license renewal date.

Renewing your license on time is critical. Renewal notices are sent to the licensee's address of record approximately 60 days prior to the expiration date. If a licensee does not receive the renewal notice within 30 days of the license expiration date, the licensee may renew by downloading an

Architect License Renewal Application from the Board's website, [cab.ca.gov](http://cab.ca.gov), and mailing the signed original renewal application and applicable renewal fee to the Board. Licensees may not submit a renewal application and payment more than 60 days before their current license period ends.

Please allow up to eight weeks for processing. The most frequent cause of delay in renewal processing is an incomplete renewal application. Be sure that your renewal application is complete and signed.

Licensees who have complied with the license renewal requirements (i.e., complete application with signature, correct fee, certification of completed coursework, etc.) prior to its expiration may engage in legal practice of the profession until receipt of the renewed license if the delay was not the fault of the licensee (BPC section 121). However, note that this provision does not apply to delinquent or incomplete renewal applications.

### **Continuing Education Coursework Requirement**

Pursuant to BPC section 5600.05, as a condition of license renewal, architects must comply with the following:

- Complete five hours of coursework on disability access requirements within the previous two years. The coursework must be presented by trainers or educators with knowledge and experience in the disability access requirements.
- Certify to the Board on the renewal application that he or she has completed the required coursework by signing the application.
- Maintain records documenting completion of the required coursework for two years from the date of license renewal.
- Provide, upon request, records to the Board for auditing. Records must include the following:
  1. Course title;
  2. Subjects covered;
  3. Name of provider;
  4. Name of educator or trainer;
  5. Date of completion;
  6. Number of hours completed; and
  7. Statement about the trainer's or educator's knowledge and experience background.

Licensees are encouraged to complete these requirements timely in order to avoid a delay in the processing of their license renewal. Licensees who fail to complete the required coursework cannot renew their license or practice architecture until they have fulfilled these requirements.

The coursework on disability access requirements must include information and practical guidance concerning the requirements imposed by the Americans with Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.), state laws that govern access to public facilities, and federal and state regulations adopted pursuant to those laws.

The Board does not have the authority to approve course providers or courses. Coursework on disability access requirements is available from a variety of sources. Below are some of the sources to assist architects in finding courses. However, the Board does not endorse any specific course or provider. Other providers are available, including online providers. When selecting a course, be sure to choose one that the course content meets the requirements described above. Verify that the material is presented by trainers or educators with knowledge and expertise in disability access requirements.

- The American Institute of Architects, California Council  
(916) 448-9082  
aiacc.org
- California Building Officials  
(916) 457-1103  
calbo.org
- Division of the State Architect  
(916) 445-8100  
dsaacademy.dgs.ca.gov

You may also check with your local building department.

The Board conducts audits of completed coursework. Licensees who are selected for an audit will be required to submit coursework documentation confirming that they have fulfilled the requirement. Licensees must keep their coursework documentation for at least two years from the date of their license renewal (BPC section 5600.05(b)).

**Important:** Licensees who submit false or misleading information or fail to respond to the Board's request for documentation will be subject to an administrative citation, which may include an administrative fine, or disciplinary action (BPC section 5600.05).

### **Disclosure of a Conviction or Disciplinary Action by a Public Agency**

Each license renewal application includes the following question:

*In the preceding renewal period, have you been disciplined by a public agency or have you been convicted of a crime in any state, the U.S.A. and its territories, federal jurisdiction, military court, or other country, which involved a plea or verdict of guilty or a conviction following a plea of nolo contendere?*

If you are convicted of a crime\* or disciplined by a public agency, you must disclose the action to the Board by answering "Yes" to the question above on your license renewal application. You will then be contacted by the Board's Enforcement Unit and you may be asked to submit additional information and/or documentation relating to the disclosed action.

\* "Conviction" includes a plea or verdict of guilty or a conviction following a plea of nolo contendere and any conviction that has been set aside or deferred pursuant to Penal Code (PC) section 1000 or 1203.4, including infractions, misdemeanors, and felonies. You do not need to

report a conviction of an infraction with a fine of less than \$1,000 unless the infraction involved alcohol or a controlled substance. You must, however, disclose any convictions in which you entered a plea or no contest and any convictions that were subsequently set aside or deferred pursuant to PC sections 1000 or 1203.4.

**Notification of a Judgment, Settlement, Arbitration Award, or Administrative Action of \$5,000 or Greater**

Licensees must report to the Board in writing within 30 days of the date the licensee has knowledge of any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging fraud, deceit, negligence, incompetence, or recklessness by the licensee in the practice of architecture if the amount or value of the judgment, settlement, or arbitration award is \$5,000 or greater (BPC section 5588).

The Board provides a Report of Settlement or Arbitration Award Form on the website to assist licensees in complying with this requirement.

It is important to note that the licensee is responsible for notifying the Board of the reportable event, and the failure of a licensee to report the event in the time and manner required by BPC section 5588 constitutes a ground for disciplinary action.

**Questions?**

If you have any questions about the Act, Board regulations, or the content of this Guide, please contact:

California Architects Board  
2420 Del Paso Road, Suite 105  
Sacramento, CA 95834  
(916) 575-7203  
cab.ca.gov  
cab@dca.ca.gov

Additionally, through the Architect Consultants' Education and Information Program, the Board's architect consultants are available to discuss technical and/or practice-related issues with you. For further information, contact the Board's Enforcement Unit at (916) 575-7209.

## Agenda Item E.5

### **DISCUSS AND POSSIBLE ACTION ON THE FOLLOWING 2017-2018 STRATEGIC PLAN OBJECTIVES TO:**

#### **5. DETERMINE THE NECESSITY AND IMPLEMENTATION ALTERNATIVES OF A LICENSURE FINGERPRINT REQUIREMENT AS A MEANS OF PROTECTING CONSUMERS**

The California Architects Board's 2017-2018 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to determine the necessity and implementation alternatives of a licensure fingerprint requirement as a means of protecting consumers.

The Board does not have the statutory authority to use fingerprinting for background checks, and at this time, is 1 of 6 programs within the Department of Consumer Affairs' (DCA) 39 boards and bureaus without such authority. The Board currently relies on applicants and licensees to honestly disclose conviction information on their applications at the time they initially apply and renew.

Applicants are required to disclose whether they have ever been convicted of a crime, excluding a traffic infraction with a fine of less than \$1,000 or any incident that was sealed or disposed of under California Welfare and Institutions Code section 781 and California Penal Code sections 1000.3, 1000.5, or 1203.45, on the Application for Eligibility Evaluation, Application for California Supplemental Examination, California Architect Reciprocity Application, and Application for Licensure. Similarly, on each license renewal application, licensees must disclose whether they have been convicted of a crime within the preceding renewal period, excluding an infraction with a fine of less than \$1,000 unless the violation involved alcohol or a controlled substance. Applicants and licensees are required to sign, under penalty of perjury, that all statements provided on the applications are true, correct, and contain no material omissions of fact.

The applications with conviction information indicated are referred to the Board's Enforcement Unit for review and possible disciplinary action. Staff determines, based on the Board's regulations and relevant statutes, whether the offense is related to the practice of architecture or to the applicant's or licensee's ability to practice architecture in the interest of the public health, safety, or welfare.

Staff will provide the REC with a presentation containing: the Board's review of applicant and licensee convictions; additional information regarding the state and federal criminal offender record information searches available through the California Department of Justice (DOJ) and the Federal Bureau of Investigation; an overview of the licensure fingerprint requirements for all DCA boards and bureaus; and specific information regarding the Contractors State License Board's (CSLB) and the Board for Professional Engineers, Land Surveyors, and Geologists' (BPELSG) applicant fingerprint requirements.

The REC is asked to review and discuss this objective and make a recommendation to the Board.

#### Attachments:

1. Information Regarding Fingerprint Background Checks from DOJ's Website
2. Fingerprinting, Disclosure, and Background Review Information from CSLB's Website
3. Fingerprinting Frequently Asked Questions from BPELSG's Website



**XAVIER BECERRA**  
*Attorney General*

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# Fingerprint Background Checks

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The California Department of Justice (DOJ) is mandated to maintain the statewide criminal record repository for the State of California. In this capacity, sheriff, police and probation departments, district attorney offices, and courts submit arrest and corresponding disposition information. The DOJ uses this information to compile records of arrest and prosecution, known as "RAP sheets," for individuals and disseminates the information for law enforcement and regulatory (employment and licensing) purposes. RAP sheets are based upon fingerprint submissions, and therefore positively identified biometrically; a process by which a person's unique identity is confirmed.

Authorized by California statute, the DOJ has processed State of California and Federal Bureau of Investigation (FBI) fingerprint-based background checks for decades. While all criminal background check requests must be authorized by statute, some are mandatory while others are permissive. In the past few years there has been a heightened awareness of the availability of criminal background checks to aid in regulatory hiring decisions. Consequently, the number of requests for criminal background checks continues to increase exponentially. Today there are over 45,000 agencies authorized to perform background checks. DOJ technicians process approximately 2 million state level background checks and 1.2 million federal level background checks annually.

## Purpose of Background Checks

Securing a criminal background check prior to employment, licensure, or certification provides a hiring or licensing authority an important resource, which aids in the evaluation of the applicant. These applicants are often candidates for positions that place them in a position of trust for some of California's most vulnerable citizenry, elderly, and dependent adults and children. As such, it is vital for the hiring or licensing authority to be aware of specified active arrests or convictions. Entrusting applicants with the responsibility of the position prior to a criminal background check potentially jeopardizes the safety and integrity of the workplace and may leave some individuals exposed to unnecessary harm. Employment and licensing authorities may also face legal liability if applicants with specified active arrests or convictions are employed or licensed when statute prohibits such action based on the successful completion of a criminal background check.

## The Background Check Process

The background check process begins when an applicant agency provides an applicant with a **BCIA 8016, REQUEST FOR LIVE SCAN SERVICE** form. The applicant completes the form with his/her personal information and takes the form to a live scan operator where the applicant must provide the appropriate identification. ***In California, fingerprinting must be performed by a certified fingerprint roller or qualified law enforcement personnel.***

## Fingerprints & Background Checks

[Fingerprints & Background Checks Overview](#)

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## Applicant Agencies

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[Forms](#)

[Information Bulletins](#)

[Custodian of Records](#)

[FAQs](#)

## Requesting Your Own Criminal Records

[Criminal Records Overview](#)

[CA Law, PC Section 11120-11127](#)

[FAQs](#)

## Foreign & Immigration Resources

[Foreign Adoptions](#)

[Visa/Immigration](#)

[English - FAQs](#)

[Español - FAQs](#)

## Fingerprint Rolling Certification

[Fingerprint Rolling Overview](#)

[Regulations](#)

[FAQs](#)

The live scan operator checks the applicant's identification, inputs the applicant's personal descriptor information, captures the applicant's fingerprints electronically, and transmits the data to the DOJ. At the conclusion of the session, the applicant should be provided an applicant transaction identifier (ATI) number, a number used to identify the transaction. The assignment of an ATI number, generated by the live scan device, does not necessarily mean the fingerprint images and personal information was submitted to the DOJ. Although the fingerprint images and personal information are to be transmitted to the DOJ within 24 hours, the actual transmission of the information to the DOJ is at the control of the live scan operator; and varies in timeliness.

Once the transaction is received by the DOJ, the fingerprint images are used to automatically search against all other fingerprint images in the fingerprint database. If there are no fingerprints matching the applicant's fingerprints, the transaction is generally processed electronically without technician intervention within 48 to 72 hours. If an applicant's fingerprints match fingerprints in the database, the associated RAP sheet must be reviewed by a technician. ***This is a manual process that can take an indeterminate amount of time.*** The applicant agency is automatically sent a delay notice response. Questions or status inquiries related to a delayed transaction cannot be responded to, as there is no pertinent information that can be statutorily provided until the manual review of the transaction is complete. The next communiqué the applicant agency will receive is the completed response.

A DOJ technician first reviews the RAP sheet to determine if there is a corresponding disposition for each arrest. If there is, the technician applies the dissemination criterion statutorily mandated for the applicant type, e.g., the type of employment, certification, or license, and prepares a background check response for the applicant agency pursuant to Penal Code section 11105 (k-p). The response may be sent electronically or via hard copy mail, depending on how the applicant agency requested to receive their responses.

If there is not a matching disposition for every arrest, the DOJ is mandated by statute and case law to perform a "genuine effort" to determine the disposition of each arrest that does not have a corresponding disposition. To fulfill this "genuine effort," the DOJ must contact the booking police or sheriff's department to determine who affected the arrest, and then the arresting agency is contacted to determine if the arrest was a "release detention only" encounter. Depending on what the technician learns, the DOJ may contact the District Attorney's office to determine if the arrest was referred for review or action and to determine if any action was taken or if the District Attorney's office declined to prosecute on the arrest. If there is no information available from the District Attorney's office, the DOJ will contact the court to determine if this arrest event was handled in their court and if there is a disposition of that arrest event. The probation department may also be contacted to gather any missing information. Each contact is accomplished via telephone call or fax request. The research is labor intensive on the part of these agencies contacted, and as such, sometimes they limit the number of information requests the DOJ may make to them each day. Once the "genuine effort" is fulfilled, the criminal history record is updated, the RAP sheet is reviewed again, the dissemination criterion applied, and the background check response is prepared and sent to the applicant agency.

## Federal Level (FBI) Background Checks

If an FBI criminal background check is requested, the fingerprint images are forwarded to the FBI to perform a fingerprint-based search of records in the national criminal history database. If the applicant's fingerprints match fingerprints in the national criminal history database, the FBI sends the DOJ a cumulative RAP sheet that contains criminal history information from any states or federal agencies that have reported the information to the FBI. If there is not a matching disposition for every out-of-state or

## Live Scan Information

Public Live Scan Sites

Live Scan Operators

federal arrest, the DOJ is again mandated by statute to perform the “genuine effort” to obtain the missing disposition information, just as with California arrests that are missing disposition information. Once the “genuine effort” is fulfilled, a DOJ technician must review the updated Rap sheet and prepare the background check response according to the statutory dissemination criterion.

## FBI Record Review Notification

Agencies authorized to submit fingerprints and receive FBI identification records must provide written notification to the individuals fingerprinted that the fingerprints will be used to check the criminal history records of the FBI. The officials making the determination of suitability for licensing or employment shall provide the applicants the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record. These officials must also advise the applicants that procedures for obtaining a change, correction, or updating of an FBI identification record are set forth in Title 28, C.F.R., § 16.34. Officials making such determinations should not deny the license or employment based on information in the record until the applicant has been afforded a reasonable time to correct or complete the record, or has declined to do so.

## Causes of and Preventing Delays

In addition to fingerprints matching CORI in the criminal history database, delays can be caused for a variety of other reasons; some of which occur before the transaction ever reaches the DOJ. For example, poor fingerprint quality or incorrect data in the electronic transaction can cause a delay.

Poor fingerprint quality means the fingerprint image is not as clear as it should be, which impacts the system’s ability to confirm or dismiss a potential fingerprint match. When the ambiguity is identified, the potential match or matches must be manually (visually) compared and verified before the transaction can be processed. It is also entirely possible that fingerprints accepted by the DOJ system could be rejected by the FBI, because the FBI uses a higher threshold (sensitivity when comparing one print to another) to define a match.

Incorrect data entries can be prevented by making sure the live scan operator has entered all the information provided on the **BCIA 8016, REQUEST FOR LIVE SCAN SERVICE** and that the information has been entered correctly. The applicant agency must also ensure they have provided complete and accurate information, specifically the applicant agency ORI (a unique code assigned by the DOJ), the name of the agency authorized to receive the CORI, mail code (a five-digit code assigned by the DOJ), the authorized type of applicant, and a description of the type of license, certification, or permit; also referred to as the working title of the applicant. If the description of the type of license, certification, or permit was assigned by the DOJ, it *must* be included in the submission exactly as it was assigned.

- If the “level of service” indicated on the form is “FBI”, the FBI may use the description to verify the agency is authorized to receive a background check response from them. If the FBI cannot verify the type of employment, license, certification, or permit (working title) transmitted to them, they will reject the transaction for confirmation and/or clarification. If this happens, the applicant must be fingerprinted a second time so the transaction can be resubmitted to the FBI by the DOJ.
- If the designated mail code is incorrect, the background check results will be sent to the incorrect agency; therefore, not received by the applicant agency.
- If the mail code is omitted, the background check results will be sent via hard copy mail to the applicant agency.

Fingerprint images can be rejected by the DOJ and/or the FBI. Fingerprints that are rejected twice by the DOJ due to poor print quality will be processed by the DOJ using the applicant's name to check the criminal history database for any existing criminal history. If an applicant's fingerprints are rejected twice by the FBI due to poor print quality, the form **BCIA 8020, REQUEST FOR APPLICANT NAME CHECK BY THE FEDERAL BUREAU OF INVESTIGATION (FBI)** must be submitted to the DOJ's FBI Response Unit by the applicant agency, to request a name check of the FBI national criminal history database. The FBI name check request must be received by the DOJ within 75 calendar days of the second rejection notice or the applicant will need to be reprinted. This allows the DOJ to process the request for the FBI name check and forward it to the FBI within the required 90 days. After 90 days, the FBI deletes the fingerprint background check transactions and considers the FBI background check request complete. The applicant has to be fingerprinted again, which starts the FBI fingerprint background check process over.

## Background Check Response

The results of background checks are sent to the agency (the agency who requested the criminal background check,) except where statutorily mandated. There are very few instances where statute mandates a second copy of the response be sent to another agency when certain conditions exist. For example, pursuant to Health and Safety Code 1522 *if there is no matching fingerprint in the criminal history database* a copy of the background check results is also sent to the community care licensing facility, foster family home, or a certified family home of a licensed foster family agency. The community care licensing facility, foster family home, or a certified family home of a licensed foster family agency is not considered an authorized applicant agency, such as the Department of Social Services is, and therefore, is **not** statutorily authorized to receive the results of a background check containing criminal history.

DOJ technicians are strictly prohibited from discussing an applicant's criminal record, neither can they provide legal advice or offer any other information related to the fingerprint background check itself. Pursuant to Penal Code section 11105 (t), if an adverse employment, licensing, or certification decision is made based on the results of the criminal history background check, the applicant agency must provide a copy of those results to the applicant immediately.

## Things You Should Know

**BACKGROUND CHECK STATUS:** The Applicant Background Check Status provides the applicant with a simplistic view of the fingerprint background check status; this status should not be construed as indication of the employment or licensing status. The review of an applicant's criminal history is only one piece of an agency's process in making a suitability determination. The Applicant Background Check Status is located at: <https://applicantstatus.doj.ca.gov/>. The ATI Number and Date of Birth are required to perform a search.

An applicant may otherwise request a status of their fingerprint background check only with the agency that requested their background check. Questions regarding the background check process will only be responded to if submitted by the agency's designated point-of-contact, referred to as their Custodian of Records.

**DISCREPANCIES:** If you believe there is a discrepancy in your criminal history record, you can obtain a copy of your California criminal history record by completing the form **BCIA 8016RR, REQUEST FOR LIVE SCAN SERVICE**. The form is available online by clicking on the link, Criminal Records - Request Your Own. After you receive the copy of your own criminal history record, you should review it, identify any incomplete, inaccurate, or missing court information, and follow up with the court where your case was

held to request the court submit any corrected information to the DOJ Bureau of Criminal Information and Analysis (BCIA). You should also follow the instructions in the letter included with your copy of your criminal history record for disputing inaccuracies. If you choose, you may designate your legal counsel to receive a copy of your criminal history record (pursuant to Penal Code section 11124.)

RECORD REVIEW AFTER RECEIVING A COPY OF YOUR BACKGROUND CHECK RESPONSE: If you, the applicant, wants to discuss your criminal history with a DOJ technician, you must first request a record review and obtain a copy of your criminal history record. This step is required because the background check results will only contain portions of your criminal history record the DOJ is authorized to release. The copy of your criminal history record you receive as a result of a record review will contain **all** the information on your criminal history record. The fingerprint-based record review copy of your criminal history record also protects you and ensures only rightful access to your criminal history.



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## Agenda Item E.5 Attachment 2

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# Fingerprinting, Disclosure, and Background Review

**Pursuant to California law\*, all Contractors State License Board (CSLB) license applicants are required to submit a full set of fingerprints for criminal background check. Fingerprints are compared to the records of the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) to determine if the applicant has a criminal history. The questions and answers below will guide you through the fingerprinting process and prevent unnecessary delays in processing your application.**

\*Business and Professions Code sections 144 and 7069, and California Code of Regulations sections 869.1, 869.2, 869.3, 869.4, and 869.5.

## Fingerprinting

### Who must be fingerprinted?

All applicants for license and each officer, partner, owner, and responsible managing employee, as well as home improvement salesperson applicants, must be fingerprinted. Individuals currently licensed by CSLB who do not apply for any changes to their license and applicants for a joint venture license are not required to be fingerprinted.

### How do I get fingerprinted?

After an application has been accepted by CSLB as complete (also known as "posted"), each individual listed on the application is sent instructions on the process for obtaining and submitting fingerprints and a "Request for Live Scan Service" (form BCII 8016). You must complete the third section (applicant information) in its entirety and take three copies of the completed form to a Live Scan station to have your fingerprints processed and submitted to DOJ and FBI. Live Scan fingerprinting services are available at most local police and sheriff departments, and any public Live Scan site. A listing of Live Scan locations is available at: <http://caag.state.ca.us/fingerprints/publications/contact.htm>.

Please see information below for out-of-state applicants who must submit hard copy fingerprints.

### What do I do with the three copies of the Request for Live Scan Service forms after being fingerprinted?

The first copy of the form will be retained by the Live Scan operator. You should retain the second copy of the form for your records. You must submit the third copy of the form to CSLB within 90 days after you receive the packet that contained the Request for Live Scan Service form. Failure to do so may result in your application being voided.

### Is there a cost for fingerprinting?

Yes, you are required to pay the Live Scan operator the \$32 DOJ fingerprint processing fee and the \$17 FBI fingerprint processing fee, as well as the Live Scan "rolling" fee. NOTE: The rolling fees vary because each Live Scan location sets its own fee—CSLB does not set the price. The listing of Live Scan locations includes information about the rolling fee.

### What if I'm located outside of California or do not have access to a Live Scan facility?

A. If you do not live in California and do not plan to come to California during the application process, or if you do not have access to a Live Scan site, you will be fingerprinted using hard copy fingerprint cards. For out-of-state residents, the hard copy cards automatically will be generated and sent after your application has been posted. For California residents who do not have access to

a Live Scan site, you may contact CSLB's automated telephone system at (800) 321-CSLB (2752) to request hard copy fingerprint cards. When the system answers, press 2-1-4 and provide the requested information. Hard copy fingerprint cards will be sent to you. You must take the cards to a **law enforcement agency within the United States** to have your rolled fingerprints. Return the cards with the required processing fee of \$49 to CSLB for submission to DOJ and FBI. You also may be charged a "rolling" fee by the agency providing the service. **Please note that the processing time required for hard copy fingerprint cards is substantially longer than Live Scan fingerprinting, taking three to six months or longer.**

I have heard about applicants who had their fingerprints rejected or who had "delays" through DOJ or FBI— what does this mean?

Fingerprint submissions may be rejected if there is a problem with quality of the fingerprint image— whether Live Scan or hard copy cards. Applicants who have had their fingerprints rejected will be asked to make a second attempt at fingerprinting. If there is a second rejection, CSLB will request that DOJ and/or FBI do a name check, which can be a lengthy process.

Delays may occur if DOJ and/or FBI are researching an issue, which also can be a lengthy process. The outcome of a delay may be a clear record or a conviction record.

What can I do to prevent any unnecessary delays with my application?

The number one reason that an application may be denied is the applicant's failure to accurately disclose his/her conviction record. Therefore, checking the application's "Yes" boxes, when appropriate, and providing the required information regarding each conviction are the most important things that an applicant can do to avoid unnecessary delays. In addition, please respond promptly if contacted by CSLB's Criminal Background Unit staff.

#### APPLICATION - DISCLOSURE

I only have misdemeanor convictions from many years ago—do I need to check the "Yes" box on the application's conviction question (Question #11)?

Yes, if you have any conviction of any kind (misdemeanor, felony, etc.), regardless of the nature of the conviction or when the conviction occurred, you must check the "Yes" box and provide the requested information. A conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Please be aware that if you have any criminal record, all convictions are reported to CSLB, including those that have been sealed, expunged, or reduced under Penal Code section 1203.4 or an applicable code of another state. Failure to disclose all convictions is falsification of the application, which was signed under penalty of perjury, and is grounds for denial.

What information/records should I provide with my application if I have a criminal conviction and how should I provide it?

You must start by checking the "Yes" box for Question #11 (regarding applicants' convictions) on the application. You are required to attach a statement disclosing all pleas/convictions, including laws violated, and thoroughly explain in your own words the acts or circumstances that resulted in the plea/conviction. In addition, the following must be included for each plea/conviction: date of the plea/conviction, county and state where the violation took place, name of the court, court case number, sentence imposed, jail/prison term served, terms and conditions of parole or probation, parole or probation completion dates, and parole agent/probation officer names and phone numbers. You may submit the required information using the "Disclosure Statement Regarding Criminal Plea/Conviction" form. Applicants also may be asked to provide certified copies of the court records, including the complaint, complete docket, judgment and sentence, and probation reports, if any, for all convictions. You also may be asked to provide copies of police and/or other investigating agency reports, as well as certified copies of decisions from other state or federal agencies, if applicable. Providing these documents will assist CSLB in processing your application as quickly as possible.

How can I demonstrate rehabilitation?

Applicants are given the opportunity to explain any criminal conviction. You may be asked to do this in writing. In addition to providing an explanation, you may provide evidence of rehabilitation such as counseling, gainful employment, completion of an appropriate rehabilitation program, etc. See CCR section 869 for CSLB's regulation on criteria for rehabilitation at <http://www.cslb.ca.gov/GeneralInformation/Library/Laws/SubstantialRelationshipApproved.asp>.

Applicants who still are on probation after a conviction, particularly a felony conviction, should be aware that they may experience more difficulty in demonstrating rehabilitation, due, in part, to the limited amount of time that has elapsed since the conviction.

## CRIMINAL BACKGROUND REVIEW - PROCESS AND TIMELINES

### What happens if I have a criminal record?

Just because you have been convicted of a crime does not automatically mean your application will be denied. CSLB's Criminal Background Unit (CBU) reviews all criminal convictions to determine if the crime is substantially related to the duties, qualifications, and/or functions of a contractor. Since no two conviction records are the same, they are reviewed on a case-by-case basis. The criteria used by CSLB include whether the crime shows the present or potential unfitness of an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare. In addition, CSLB reviews and considers any evidence of rehabilitation submitted by the applicant or licensee. Please see the above link to the California Code of Regulations sections 868 and 869 for more specific information on the criteria for determining substantial relationship and rehabilitation.

Depending on the conviction record, CBU may either clear an applicant for further processing toward licensure or request additional documentation or statements from the applicant that may be necessary for a thorough evaluation of the applicant's criminal record. Upon completion of the CBU review, there will be one of three outcomes:

- 1) the record is cleared for further processing toward licensure, or
- 2) the applicant is offered a probationary license for a specified term in lieu of denial, pursuant to Business and Professions Code section 7073 (see below), or
- 3) the application is denied based on the applicant's criminal conviction history.

### What kinds of convictions might cause the denial of an application for licensure?

As stated above, since no two conviction records are the same, CBU reviews conviction records on a case-by-case basis. A single conviction of one type may be cleared on one application, while that same type of conviction may be cause for denial on another application when there are multiple occurrences of the same conviction or when combined with other convictions. The primary factors in the evaluation of conviction records are the nature and severity of the crimes, the amount of time that has elapsed since the conviction, and any rehabilitation that has been demonstrated by the applicant.

Convictions may be deemed substantially related to the contracting business for numerous reasons—substantial relationship does not mean solely that the crime must have occurred on a job site or involve financial matters. While those types of convictions may be substantially related, many other convictions may be considered substantially related to the contracting business because they may indicate the present or potential unfitness (in relation to the public health, safety, or welfare) of an applicant to hold a license.

### What is a probationary license that may be issued pursuant to Business and Professions Code section 7073?

In some cases, based on the applicant's criminal record, CBU may offer an applicant the opportunity to be issued a probationary license in lieu of denying the license because of a criminal conviction. The issuance of this probationary license is authorized by subsection (e) of Business and Professions Code section 7073, which states, in part, that in lieu of denying a license, a probationary license may be issued with terms and conditions. It is a fully functioning license that will remain on probationary status for a set period of time—typically two to four years.

### What are my rights if CSLB denies my application for licensure because of a criminal conviction?

If CSLB determines that an applicant is not qualified to receive a license at the present time due to prior criminal conviction(s), he/she has the right to request a hearing on the decision. This request must be submitted to CSLB in writing no later than 60 days after the date of the decision to deny. These rights are stated in Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Failure to request a hearing in a timely manner results in the applicant losing the right to a hearing. Please note that there can be lengthy delays before a hearing is scheduled.

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Contractors State License Board



## Fingerprinting FAQ's

### Why is the Board requiring applicants to be fingerprinted?

The mission of the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is to diligently protect the life, health, property, and welfare of the public. By conducting a background check for licensees, the Board ensures standards for licensure and actively enforces laws and regulations while educating licensees and consumers.

Title 16, California Code of Regulations (CCR) Sections 420.1 and 3021.1 read, in part, “Pursuant to Section 144 of the Business and Professions Code (B&P Code), the Board has authority to obtain and review criminal offender record information.” Please refer to 16 CCR §420.1 and 16 CCR §3021.1 for further information.

### Who must be fingerprinted?

16 CCR §420.1(g) states that “This section shall apply to all applicants, including those applicants who submit applications pursuant to Sections 6750, 6758, 6759, 6760, 6763, 6796.3, 8740, 8746, 8748, and 8803 of the Business and Professions Code and Section 424.5 of Division 5 of Title 16 of the California Code of Regulations.”

16 CCR §3021.1(g) states that “This section shall apply to all applicants, including those applicants who submit applications pursuant to Sections 7840, 7841, 7841.1, 7841.2, 7842, 7842.1, 7843, 7846, 7847, 7848, 7848.1, and 7884 of the Business and Professions Code.”

### What if I don't want to be fingerprinted?

16 CCR §420.1(e) and 16 CCR §3021.1(e) state, “Failure to comply with the requirements of this section renders the application for license incomplete, and the application shall not be considered until the applicant demonstrates compliance with all requirements of this section.”

I am applying for an EIT/LSIT/GIT certificate, which is not a license. Do I still have to be fingerprinted?

Yes. 16 CCR §420.1(h) and CCR §3021.1(h) read, in part, “As used in this section, “license” includes certification as ...” an engineer-in-training or a land surveyor-in-training or a geologist-in-training.

## Once I am fingerprinted for EIT/LSIT/GIT will I have to get fingerprinted again when I apply for my PE/PS/PG license?

No. Once you have submitted fingerprints to the Board and they have been verified as valid, you do not need to submit fingerprints again with subsequent applications.

## I HAVE ALREADY SUBMITTED FINGERPRINTS TO THE BOARD FOR A PREVIOUS APPLICATION, DO I NEED TO SUBMIT THEM FOR EACH SUBSEQUENT APPLICATION THAT I FILE WITH THE BOARD?

No. Once you have submitted fingerprints to the Board and they have been verified as valid, you do not need to submit fingerprints again with subsequent applications.

## How do I get fingerprinted?

In California, the process is completed using Live Scan, which is an electronic fingerprinting process. Your prints will be sent to both the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) to search for any criminal history. Out-of-state applicants may submit the traditional paper fingerprint cards approved to be used in California (see question below) or come to California to use Live Scan.

- ▶ [Live Scan Form](#)
- ▶ [Live Scan Locations](#)
- ▶ [Request Fingerprint Cards](#)

## I don't live in California; how can I get paper fingerprint cards?

If you live out-of-state, you may request a set of fingerprint cards via our [online request form](#). You will receive two (2) traditional paper fingerprint cards approved to be used in California. Please allow up to 10 business days to receive the fingerprint cards in the mail.

You will take the fingerprint cards to your local law enforcement agency to have your fingerprints rolled (a rolling fee may be required). **Both** fingerprint cards **must be** submitted to the Board upon submittal of application for licensure or certification. The background check must be completed before a license or certificate can be issued.

## Do I have to pay for the fingerprint process?

Yes. 16 CCR 420.1(c) and 16 CCR 3021.1(c) state, “The applicant shall pay any costs for furnishing the fingerprints and conducting the searches.” If you live in California, you are required to pay the Live Scan operator the \$49 processing fees (\$32 DOJ and \$17 FBI), as well as the Live Scan “rolling” fee. The rolling fees vary because each Live Scan location sets its own fee. The listing of [Live Scan Locations](#) includes information about the rolling fee for each location.

If you live out-of-state and are using fingerprint cards, you would pay the rolling fee to the law enforcement agency that is rolling your prints. Send both cards back to the Board with a check or money order for \$49 to cover the processing fees (\$32 DOJ and \$17 FBI) along with your application.

## Do I send separate checks for fingerprints and the application, or can I write one check for the total amount owed?

One check is preferred.

## I have already been fingerprinted previously from another agency/entity; can the Board for Professional Engineers, Land Surveyors, and Geologists access those prints?

No. Federal law allows a Criminal Records Report to be released only to the requesting agency. You will need to undergo the fingerprinting and criminal history check process again specifically for the Board for Professional Engineers, Land Surveyors, and Geologists.

## Do I have to get fingerprinted if I am renewing my license?

No. At this time the law only provides that any “New” applicants for licensure furnish a full set of fingerprints.

## What do I do if my fingerprints get rejected?

You will be contacted by our office with instructions for you to follow based on the reason for rejection.

## Questions About Criminal Convictions

## Must I disclose all criminal convictions, even minor offenses in college?

You must disclose all convictions as well as all cases in which you pled guilty or nolo contendere, even if they have been dismissed or expunged pursuant to Section 1203.4 of the Penal Code. Please refer to 16 CCR §416 and §3060 for more information regarding criminal convictions. Applicants should be aware that the Board receives information regarding actions that have been dismissed or expunged, and the application forms advise applicants to disclose all prior convictions including those that have been dismissed or expunged. **If in doubt as to whether a conviction should be disclosed, it is best to disclose the conviction on the application.** Please be aware, the Board will be notified of all future criminal actions through subsequent reports from the DOJ and/or FBI.

## What happens if I fail to disclose information on a criminal conviction?

As an applicant, you are personally responsible for all information disclosed on your application. Failure to disclose a conviction is considered to be a violation of the law. Failure to disclose a conviction may subject you to disciplinary action up to and including denial of licensure/certification or revocation of the license/certificate if the failure to disclose is discovered after the license/certificate is issued.

## What information/records should I provide with my application if I have a criminal conviction and how should I provide it?

You must respond "Yes" when asked if you have committed of a crime in Section 4 of the application even if it was expunged or dismissed (see answer above). You are required to attach a written statement disclosing all pleas/convictions and thoroughly explain in your own words the acts or circumstances which resulted in the plea/conviction.

Applicants **must** also provide **certified copies** of the court records, including the complaint, complete docket, judgment and sentence and probation reports, if any, for all convictions. You may also be asked to provide copies of police and/or other investigating agency reports, as well as certified copies of decisions from other state or federal agencies, if applicable. Providing these documents will assist the Board in processing the application as quickly as possible.

## I was arrested but not convicted of a crime. How should I respond to the criminal Record question?

You are not required to disclose an arrest which did not result in a conviction.

## How might a criminal conviction affect my application for licensure or certification?

The Board is unable to provide legal advice to applicants or their representatives. Every situation is unique and is addressed on an individual basis at the time the application is reviewed. The Board reviews each conviction based not only on the conviction itself in relation to the statutes, but also on the underlying issues that led to the conviction.

A conviction that does not, at first glance, appear to be substantially related to the qualifications, functions or duties of an engineer, land surveyor, or geologist may, under closer scrutiny, be revealed otherwise. All information related to an applicant's criminal history is considered. The specific conviction; when it occurred; the circumstances surrounding the conviction; the number of convictions; compliance with the court's terms and conditions; and rehabilitation are all factors considered when determining an applicant's eligibility for licensure. Further information can be found in the regulations relating to Substantial Relationship Criteria, 16 CCR §416 and 16 CCR §3060, and Criteria for Rehabilitation, 16 CCR §418 and 16 CCR §3061.

## How can I demonstrate rehabilitation?

Applicants are given the opportunity to explain any criminal conviction. You may be asked to do this in writing. In addition to providing an explanation, you may provide evidence of rehabilitation such as counseling, gainful employment, completion of an appropriate rehabilitation program, etc.

Further information can be found in the regulations relating to Criteria for Rehabilitation, 16 CCR §418 and 16 CCR §3061.

## What if I get denied licensure?

If your application has been denied, you have the right to appeal the denial by requesting a Statement of Issues hearing, pursuant to the California Administrative Procedure Act (Government Code section 11370, et seq.). Engineering and land surveying applicants must submit a written request for a hearing within 60 days of the date of denial, pursuant to 16 CCR §429 (e). Geologist and geophysicist applicants must submit a written request for a hearing within 30 days of the date of denial, pursuant to B&P Code §7855.

## What can I do to ensure that my application will not experience any unnecessary delays?

Please be aware that the number one reason that an application may be denied is the applicant's failure to accurately disclose his/her conviction record. Therefore, checking the

"Yes" box when appropriate and providing the required information regarding each conviction are the most important things that an applicant can do to avoid unnecessary delays. In addition, responding promptly if contacted by staff will help.

## I still have more questions. How can I obtain more specific information?

If you have any other questions about the fingerprint process you can contact Cheryl Guidi, our fingerprint coordinator, by email at [bpelsg.fingerprint.questions@dca.ca.gov](mailto:bpelsg.fingerprint.questions@dca.ca.gov) or by calling (916) 263-2325.



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### **REVIEW AND POSSIBLE ACTION ON ALTERNATIVE METHODS OF DISCLOSURE TO CONSUMERS THAT ARCHITECTS ARE LICENSED AND REGULATED BY THE BOARD**

The California Architects Board's 2015-2016 Strategic Plan contained an objective assigned to the Regulatory and Enforcement Committee (REC) to identify and pursue needed statutory and regulatory changes so laws and regulations are consistent with current architectural practice to promote public health, safety, and welfare, such as amending the Architects Practice Act (Act) written contract requirement.

Business and Professions Code (BPC) section 5536.22 currently requires that an architect's written contract:

1. Describe the services to be provided by the architect;
2. Describe the basis of compensation and method of payment;
3. Identify the name, address, and license number of the architect and the name and address of the client;
4. Describe the procedure to accommodate additional services; and
5. Describe the procedure to be used by both parties to terminate the contract.

A proposal was previously submitted by the Board to the Senate Business, Professions and Economic Development Committee (BP&ED) for possible inclusion in an omnibus bill. The amendment to BPC section 5536.22 sought to clarify that the following elements are needed in architects' written contracts with clients for professional services: 1) a description of the project; 2) the project address; and 3) a description of the procedure to accommodate contract changes. BP&ED staff determined that the proposal was substantive and, as such, would need to be included in another bill.

At its April 28, 2016 meeting, the REC accepted staff's recommendation to also include a: 1) statement identifying the ownership and/or use of instruments of service prepared by the architect; and 2) notification to the client that the architect is licensed by the Board, in the proposed amendment to BPC section 5536.22. Staff developed proposed language for BPC section 5536.22 to include these two additional elements and presented it to the REC for consideration at its November 8, 2016 meeting. At the meeting, the REC supported adding the two additional provisions to the written contract requirement, but expressed concerns that the use of the term "complaints" in the proposed language for subsection (a)(9) could result in frivolous complaints to the Board against architects. The REC ultimately voted to recommend to the Board that it approve the proposed language to amend BPC section 5536.22 with the words "concerns about" instead of "complaints concerning" in the proposed subsection (a)(9).

The Board considered the REC's recommendation at its December 15, 2016 meeting and approved the proposed language to amend BPC section 5536.22 with the exception of the proposed subsection (a)(9); the Board returned subsection (a)(9) to the REC for further study and consideration of alternative methods of disclosure (Attachment 1).

At this meeting, the REC is asked to review and discuss: 1) the Board's existing regulation regarding the notification of licensure to clients (Attachment 2); 2) the proposed language to amend BPC section 5536.22 with the disapproved subsection (a)(9) (Attachment 3); and 3) alternative methods of disclosure that architects are licensed and regulated by the Board, and make a recommendation to the Board.

Attachments:

1. Excerpt from the December 15-16, 2016 Board Meeting Minutes
2. California Code of Regulations, Title 16, Section 140
3. Proposed Language to Amend Business and Professions Code Section 5536.22 [with disapproved subsection (a)(9)]

**EXCERPT FROM THE DECEMBER 15-16, 2016 BOARD MEETING MINUTES**

**G. REGULATORY AND ENFORCEMENT COMMITTEE (REC) REPORT**

Mr. McGuinness, REC Chair, reported that the REC met on November 8, 2016, to continue its work on assigned 2015-2016 Strategic Plan objectives.

Kristin Walker reminded the Board of its objective to identify and pursue needed statutory and regulatory changes so laws and regulations are consistent with current architectural practice to promote public health, safety, and welfare, such as amending the Architects Practice Act (Act) written contract requirement (Business and Professions Code section [BPC] 5536.22). Ms. Walker also reminded the Board that, at its June 12, 2014, meeting, it approved REC's recommendations and proposed language to add a description of the: 1) project and address; and 2) procedure to accommodate contract changes, to the written contract requirements. She reported that, to improve protections afforded to consumers and architects through the written contract requirement, in addition to the amendments to BPC 5536.22 that were previously approved by the Board, the REC also considered requiring a: 1) statement identifying the ownership and/or reuse of documents prepared by the architect; and 2) notification to the client that the architect is licensed and the Board is the licensing entity, in an architect's written contract. Subsequently, at its April 28, 2016, meeting, Ms. Walker advised, the REC recommended that staff develop proposed language to amend BPC 5536.22 with two additional provisions for the REC's consideration at its next meeting. She stated that, at its November 8, 2016, meeting, the REC reviewed and discussed the proposed language to amend BPC 5536.22. Ms. Walker reported that the REC supported adding the two additional provisions to the written contract requirement, but ultimately voted to recommend to the Board that it approve the proposed language to amend BPC 5536.22 with an edit to utilize the words "concerns about" instead of "complaints concerning" in the proposed subsection (a)(9).

- **Robert C. Pearman, Jr. moved to approve proposed language to amend BPC 5536.22, with an edit to utilize the words "concerns about" instead of "complaints concerning" in the proposed subsection (a)(9).**

**Pasqual Gutierrez seconded the motion.**

Mr. McGuinness reiterated that the REC did not support the phrase "complaints concerning," and determined that "concerns about" is a better alternative. Mr. Baker enquired about the disclosure statement in subsection (a)(9), to which Mr. McCauley explained that other licensing boards have similar provisions, but that REC believes "concerns about" is a better choice of words. He also explained subsection (a)(9) promotes consumer education by making consumers aware that architecture is a regulated licensed profession.

The Board further discussed the proposed (a)(9) provision as it concerns contract requirements. Mr. Baker asked whether contract language per the proposed subsection (a)(9) provision must be present in American Institute of Architects (AIA) documents and other contracts developed by public entities. Mr. McCauley opined it would be incumbent upon the parties of the contract to

ensure that appropriate (required) language is reflected in the contract. Mr. Baker asked whether the architect will be held accountable and disciplined for not having a compliant contract if the proposed (a)(9) language is excluded from the contract even if the architect did not author the contract. Mr. McCauley stated that although action could be taken against an architect for that reason, the Board historically does not issue citations for a single missing element of a contract, citing prosecutorial discretion. He informed that, in the past, the Board granted time for new provisions to become familiar within the profession, giving the Board opportunities to engage in professional and public education before taking enforcement action. Bob Carter explained that contracts are living documents that can be amended, but that an enforcement case would not be opened against an architect for not having the proposed (a)(9) provision in the contract unless there were other compelling issues in the complaint. Mr. Baker noted that some public entities will not allow their contracts to be amended in a “take it or leave it” approach to dealing with potential vendors. Mr. Carter opined that, in an instance when an entity will not allow an architect to amend the contract, the Board would not hold the architect responsible for the absence of the proposed (a)(9) provision (would not be a citable offense). Mr. Baker expressed unease about creating a requirement without an enforcement mechanism. Rebecca Bon clarified that if the proposed (a)(9) provision is in statute, it is law; therefore, subsection (a)(9) must be in every contract. The Board also discussed how the proposed (a)(9) provision makes consumers aware of the Board’s existence, that the Board regulates the profession, and that consumers may contact the Board if they have concerns. Mr. Baker opined that using a contract as a vehicle for public disclosure is not appropriate, and expressed his desire for the REC to consider alternative methods of disclosure.

- **Jon Baker offered an amended motion to approve proposed language to amend BPC 5536.22 (a)(8) as recommended by the REC and return proposed subsection (a)(9) to the REC for further study.**

**Matthew McGuinness seconded the amended motion.**

Ms. Campos expressed her view that subsection (a)(9) as proposed would enhance the Board’s ability to educate consumers about the Board, and there would be no problem implementing it into code. Mr. McGuinness expressed concern about creating laws that are only designed to address issues in small portions of the population, yet impact all consumers. Mr. Williams agreed that the Board should take additional time to consider alternative ways to implement subsection (a)(9). Board members and members of the public further conveyed their opinions about the appropriateness of the proposed (a)(8) and (a)(9) provisions. Mr. Gutierrez opined it is a regulations issue and needs to be moved to another committee. Ms. Kwan agreed with Mr. Gutierrez and opined that subsection (a)(9) is out of place. Kurt Cooknick expressed concern about proposed subsections (a)(8) and (a)(9), noting that public agencies may be unwilling to add these provisions in a contract. Mr. Cooknick explained that an architect may not have the power to include this language when dealing with an unwavering client.

**Members Campos, Feng, Gutierrez, Kwan, Lewis, McGuinness, Williams and President Baker voted in favor of the motion. Member Pearman opposed the motion. Member Serrano was absent. The motion passed 8-1-0.**

**CALIFORNIA CODE OF REGULATIONS, TITLE 16, SECTION 140**

**Section 140. Notification of Licensure to Clients.**

Every licensee shall provide notice to the licensee's clients of the fact that the licensee is currently licensed by the Board. Notice shall be provided by any of the following methods:

- (a) Displaying his or her license in a public area of the principal place of practice where the licensee provides the licensed service.
- (b) Providing a statement to each client to be signed and dated by the client and retained in the architect's records, that states the client understands the architect is licensed by the California Architects Board.
- (c) Including a statement that the licensee is licensed by the California Architects Board either on letterhead or on a contract for services.
- (d) Posting a notice in a public area of the principal place of practice where the licensee provides the licensed service that states the named licensee is licensed by the California Architects Board.

**PROPOSED LANGUAGE TO AMEND BUSINESS AND PROFESSIONS CODE  
SECTION 5536.22**

**Amend Section 5536.22 of the Business and Professions Code to read:**

- (a) An architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. That written contract shall be executed by the architect and the client, or his or her representative, prior to the architect commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following items:
- (1) A description of the project for which the client is seeking services.
  - ~~(2)~~ A description of the services to be provided by the architect to the client.
  - ~~(23)~~ A description of any basis of compensation applicable to the contract and the method of payment agreed upon by both parties.
  - ~~(34)~~ The name, address, and license number of the architect, and the name and address of the client and the project address.
  - ~~(45)~~ A description of the procedure that the architect and the client will use to accommodate additional services.
  - ~~(6)~~ A description of the procedure that the architect and the client will use to accommodate contract changes including, but not limited to, changes in the description of the project, in the description of the services, or in the description of the compensation and method of payment.
  - ~~(57)~~ A description of the procedure to be used by either party to terminate the contract.
  - ~~(8)~~ A statement identifying the ownership and use of instruments of service prepared by the architect.
  - ~~(9)~~ A statement in at least 10-point type that reads: "Architects are licensed and regulated by the California Architects Board. Any questions or concerns about an architect may be referred to the California Architects Board, 2420 Del Paso Road, Suite 105, Sacramento, CA 95834."\*
- (b) This section shall not apply to any of the following:
- (1) Professional services rendered by an architect for which the client will not pay compensation.
  - (2) An arrangement as to the basis for compensation and manner of providing professional services implied by the fact that the architect's services are of the same general kind which the architect has previously rendered to and received payment from the same client.
  - (3) If the client knowingly states in writing after full disclosure of this section that a writing which complies with the requirements of this section is not required.
  - (4) Professional services rendered by an architect to a professional engineer registered to practice engineering under Chapter 7 (commencing with Section 6700), or to a land surveyor licensed under Chapter 15 (commencing with Section 8700).

\* Subsection (a)(9) was disapproved by the Board at its December 15, 2016 meeting.

**ADJOURNMENT**

Time: \_\_\_\_\_