



Dora

Department of Regulatory Agencies

Office of Policy, Research and Regulatory Reform

2008 Review: Proposal for Mandatory Continuing Education for Architects

January 18, 2008

STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES
Office of the Executive Director

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Bill Ritter Jr.
Governor

January 18, 2008

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunrise reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed its evaluation of the proposal to impose continuing education requirements on architects and is pleased to submit this written report. The report is submitted pursuant to section 24-34-901, Colorado Revised Statutes, which provides that DORA shall conduct an analysis and evaluation of the proposal to determine whether the mandatory continuing education would likely protect the public served by the practitioners.

Sincerely,

D. Rico Munn
Executive Director

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Background

Prior to introduction of legislation designed to impose a mandatory continuing education requirement on a regulated occupation or profession, the proponents of the legislation must submit information concerning the need for such a requirement to the office of the Executive Director of the Department of Regulatory Agencies. The Executive Director is required to review, analyze, and evaluate the proposal and report in writing to the General Assembly whether mandatory continuing education would likely protect the public (§24-34-901, Colorado Revised Statutes):

Proposed continuing education requirements for regulated occupations and professions - review by office of executive director.

(1) Before any bill is introduced in the general assembly that contains, or any bill is amended to contain, a mandatory continuing education requirement for any occupation or profession, the practice of which requires a state of Colorado license, certificate, or registration, the group or association proposing such mandatory continuing education requirement shall first submit information concerning the need for such a requirement to the office of the executive director of the department of regulatory agencies. The executive director shall impartially review such evidence, analyze and evaluate the proposal, and report in writing to the general assembly whether mandatory continuing education would likely protect the public served by the practitioners. Proposals may include, but need not be limited to: Information that shows that the knowledge base for the profession or occupation is changing; that mandatory continuing education of this profession or occupation is required in other states; if applicable, that any independent studies have shown that mandatory continuing education is effective in assuring the competency of practitioners. The proposal may also include any assessment tool that shows the effectiveness of mandatory continuing education and recommendations about sanctions that should be included for noncompliance with the requirement of mandatory continuing education. The provisions of this section shall not be applicable to:

(a) Any profession or occupation that, as of July 1, 1991, has mandatory continuing education requirements in place;

(b) Any bill that is introduced as a result of a legislative interim committee and that as introduced in the general assembly includes a mandatory continuing education requirement.

Before beginning the review of mandatory continuing education for architects, the Executive Director evaluated the application to determine if the review was necessary under the requirements of the statute. The evaluation revealed that a mandatory continuing education program for architects did not meet any of the exemptions from the statute and, therefore, was subject to review by the Executive Director.

Proposal for Continuing Education

The American Institute of Architects, Colorado Component (AIA CO) submitted information dated December 7, 2007 to the Executive Director of the Department of Regulatory Agencies proposing mandatory continuing education for licensed architects in Colorado.

The AIA CO proposes that all architects take 16 hours of continuing education every two years. AIA CO proposes that the 16 hours of continuing education should be limited to the knowledge areas of health, safety and welfare. The continuing education proposal requires that mandatory continuing education implementation and process be set by rule by the Department of Regulatory Agencies. In practice, such rules would be promulgated by the Colorado State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors.

Regulation of Architects

Architects provide professional design services to individuals and organizations planning construction projects. Architects may be involved in all phases of development, from initial discussions with the client through the entire construction process, or they may only participate in an isolated aspect of a given project.

In developing a project, the architect considers the client's objectives, requirements and budget. Pre-design services may include conducting feasibility and environmental impact studies, selecting a suitable building site and specifying the requirements that the ultimate design must satisfy.

After reaching agreement with the client on the project's scope, the architect develops and coordinates final construction plans that show the building's appearance and details for its construction. These detailed plans include the building's structural system; heating, ventilation and air-conditioning systems; electrical and plumbing systems; communications systems; and, possibly, landscape plans. Additionally, these plans must comply with any applicable building and fire codes to ensure the life safety of the completed project's occupants. Very often, various elements of these plans are prepared by other design professionals, such as engineers, interior designers and landscape architects.

Aside from their traditional role as designers, architects may also assist their clients in obtaining construction bids, selecting contractors, negotiating construction contracts and managing the overall construction process. This often requires the architect to visit the construction site to ensure that plans are followed, that the project remains on schedule, that specified materials are used, that the quality of the work being performed is acceptable and to resolve any issues that develop during the construction process.

In the end, the extent of a given architect's duties on a given construction project is determined by the architect's competencies and the contract with the client.

Most individuals pursuing careers as architects earn master's degrees in architecture, though some may cease their formal educations after earning bachelor's degrees in fields such as environmental design.

Colorado has one National Architectural Accrediting Board-accredited master's level architectural program at the University of Colorado at Denver. Additionally, the University of Colorado at Boulder offers a non-accredited bachelor's degree in environmental design.

All 50 states regulate architects, and all 50 require some combination of education, experience and passage of an examination as preconditions to licensure.

The architect practice act (Act) can be found at section 12-25-301, *et seq.*, Colorado Revised Statutes (C.R.S.).

Pursuant to section 12-25-302(6)(a), C.R.S., the practice of architecture means:

The performance of the professional services of planning and design of buildings, preparation of construction contract documents including working drawings and specifications for the construction of buildings, and the observation of construction pursuant to an agreement between an architect and any other person, but does not include the performance of the construction of buildings.

The Act also contains several exemptions from the practice of architecture, including:

- One-, two-, three- and four-unit dwellings;
- Garages, industrial buildings, offices, farm buildings and buildings for the marketing, storage or processing of farm products, and warehouses that do not exceed one story in height and that are not designed for occupancy by more than 10 people; and
- Nonstructural alterations of any nature to any building if such alterations do not affect the life safety of the occupants of the building.

Additionally, the Act exempts employees of the federal government and licensed professional engineers.

The Act was rewritten in 2006 and the profession is now regulated by the Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors that enforces the Act. In addition to three architect members, there are four professional engineers, three professional land surveyors and three public members who are appointed by the Governor. Members of the Board are limited to serving two, four-year terms.

The Act empowers the Board to, among other things:

- Adopt rules to implement the Act;
- Examine and license qualified candidates;
- Conduct hearings;
- Discipline licensees; and

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- Require every licensed architect to have a stamp.

To become a licensed architect in Colorado, a candidate must satisfy certain education, experience and examination requirements. The Act establishes four tracks for satisfying experience requirements, depending upon the education of the individual candidate:

- Candidates with master's degrees from National Architectural Accrediting Board (NAAB)-accredited programs must obtain approximately three years of experience after their first year of school, and candidates with bachelor's degrees from NAAB-accredited programs must obtain approximately three years of experience after their third year of school.
- Candidates with four-year architectural degrees from non-NAAB-accredited programs must obtain approximately five years of experience after their third year of school.
- Candidates with non-architectural degrees must obtain varying levels of experience, depending upon the degree held. Candidates with bachelor's degrees in engineering, construction management or interior design must obtain seven years of experience after graduation. Candidates with any other type of bachelor's degree must obtain eight years of experience after graduation. Candidates with any type of associate's degree must obtain nine years of experience after graduation.
- Candidates without college degrees must obtain 10 years of experience.

Only natural persons may be licensed as architects, but firms may use the term "architect" in their business names if a majority of the officers and directors, members or partners are licensed architects or persons who qualify for a license by endorsement under §12-25-314, C.R.S. Furthermore, any firm engaging in the practice of architecture must ensure that such practice is performed under the direct supervision of a licensed architect who is in responsible control of any plans, designs, drawings, specifications or reports.

Additionally, the firm must maintain an insurance policy of at least \$75,000 per licensed architect, up to a maximum of \$500,000, and the firm's organizing documents must specify agreement by all shareholders, members or partners that they share liability for all acts, errors and omissions of the employees, members and partners of the firm.

Analysis

The AIA CO proposal for mandatory continuing education (MCE) acknowledges that there are no independent studies that demonstrate the effectiveness of MCE. Instead of such studies, the proposal argues that the need for MCE should be evaluated on the changing knowledge base of the profession and the number of states that require MCE.

To substantiate the claim that the architectural knowledge base is changing the AIA CO cites a periodic practice analysis conducted by the National Council of Architectural Registration Boards (NCARB). One outcome of the practice analysis is to update the Architect Registration Examination (ARE) which is the examination used for entry into the profession. The ARE was changed in 2001 after the conduct of a Practice Analysis. A 2007 Practice Analysis was recently completed and the AIA CO proposal includes documentation of the 2007 Practice Analysis. Thus, according to the proposal, if the entry level examination must be changed to reflect what is required to practice, currently licensed architects must be deficient since they passed a previous examination. As stated previously, AIA CO proposes 16 hours of training every two years to ensure that licensed architects remain current with the changing knowledge base.

To the point of MCE requirements by other states, AIA CO provided significant documentation of mandatory continuing education requirements across the nation. According to the National Council of Architectural Registration Boards' website, 32 states require mandatory continuing education completion. The proposal under review asserts that six states bordering Colorado require mandatory continuing education: Kansas, Nebraska, New Mexico, Oklahoma, Utah and Wyoming. AIA CO provided copies of each state's regulatory statute highlighting the relevant sections pertaining to mandatory continuing education.

The AIA CO proposal that all MCE requirements of architects focus on health, safety and welfare addresses one of the shortcomings of MCE: namely, that the MCE can take any type of course, such as marketing, to complete his or her requirements.

There is interest in this type of business related coursework in architecture as in most professions. As an example, in the conduct of the 2007 Practice Analysis of Architecture, survey respondents identified “the business side of architecture/construction administration” as a needed area of professional development.¹ Although such courses serve to increase the wealth of the MCE participant, it is often acceptable to the state as fulfilling MCE requirements. It is noteworthy, therefore, that the AIA CO MCE proposal attempts to eliminate such business-related courses from the state MCE requirement by limiting acceptable MCE course to those that deal with health, safety and welfare issues.

Conclusion

Colorado’s statutory directive to the Executive Director of the Department of Regulatory Agencies is to determine whether mandatory continuing education would likely protect the public served by the practitioners. Such a conclusion cannot be drawn from the submission under review.

The first factor that prevents the proposal from meeting the statutory burden is the lack of a mechanism to determine what areas of improvement are needed by the architect. Although under the MCE proposal all approved courses would be related to health, safety and welfare, the courses chosen by the architect may do nothing at all to increase his or her personal knowledge base. As an example, the architect may be aware of the material and any health, safety, or welfare applications, but take the MCE offering anyway because the course is inexpensive, convenient, or the licensee needs to complete the state requirement quickly in order to successfully renew his or her license. Absent a needs assessment of the licensee, the state cannot responsibly verify that the practitioner is competent to continue practice. Such verification by the state is the sole legitimate purpose of MCE as a condition of license renewal.

Second, there is no mechanism to measure retention of the information presented at the MCE course. The AIA CO proposal alludes to this:

An alternate means of measuring licensees’ with respect to the current knowledge base would be some form of examination for continued competency. Although a valid and defensible exam could certainly be developed by the state or by others for use by the state of Colorado, this would be at a considerable expense. A requirement for mandatory continuing education as a condition for re-licensure is a well-tested and reasonable means to accomplish this goal.

¹ 2007 Practice Analysis of Architecture, November 2007, National Council of Architecture Registrations Boards, p. VII

Although the MCE proposal appears to speak to re-licensure, the same rationale applies to MCE coursework in that the proposal offers no measurement standards for attendees. Few, if any, MCE courses examine attendees and no doubt one of the reasons for this is the same as that described by AIA CO concerning re-licensure. It may indeed be expensive to develop MCE examinations that are defensible. However, until such examinations are developed as part of an MCE course, the costs remain unknown. Further, without measurement of participant retention of the course material, MCE cannot be a reliable predictor of continued competence. However, absent such mechanisms, MCE requirements are not reliable predictors of continued competence.

Therefore, it is the conclusion of this review that the current proposal does not establish that a MCE requirement of architects is likely to protect the public.