



COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

**2016 Sunset Review:
Landscape Architects Professional Licensing
Act**

October 14, 2016





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**Department of
Regulatory Agencies**

Executive Director's Office

October 14, 2016

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:

This year, Colorado's sunset review process celebrates its 40th anniversary with the publication of the 2016 sunset reports. The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Since that time, Colorado's sunset process has gained national recognition and is routinely highlighted as a best practice as governments seek to streamline regulation and increase efficiencies.

The Colorado Office of Policy, Research and Regulatory Reform (COPRRR), located within my office, is responsible for fulfilling these statutory mandates. To emphasize the statewide nature and impact of this endeavor, COPRRR recently launched a series of initiatives aimed at encouraging greater public participation in the regulatory reform process, including publication of a new "Citizen's Guide to Rulemaking" (available online at www.dora.colorado.gov/opr).

Section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), directs the Department of Regulatory Agencies to:

- Conduct an analysis of the performance of each division, board or agency or each function scheduled for termination; and
- Submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination.

Accordingly, COPRRR has completed the evaluation of the Landscape Architects Professional Licensing Act. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2017 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Article 45 of Title 12, C.R.S. The report also discusses the effectiveness of the Landscape Architects Board and Division of Professions and Occupations staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Joe Neguse
Executive Director





COLORADO

Department of Regulatory Agencies

Colorado Office of Policy, Research &
Regulatory Reform

2016 Sunset Review Landscape Architects Professional Licensing Act

SUMMARY

What Is Regulated?

The Landscape Architects Professional Licensing Act (Act) provides regulatory oversight of landscape architects (LAs).

Why Is It Regulated?

The purpose of the Act is to ensure that LAs have achieved the minimum competency requirements through education and/or supervised work experience. In order to obtain a license to practice, candidates are also required to pass the Council of Landscape Architectural Registration Boards examination.

Who Is Regulated?

In fiscal year 14-15, there were 877 licensed LAs.

How Is It Regulated?

The Act is enforced by the State Board of Landscape Architects (Board), which is comprised of five members (three professional and two public). The Board is a Type 1 policy autonomous board with the authority to impose discipline on LAs, promulgate rules and establish policy.

What Does It Cost?

In fiscal year 14-15, the total expenditures for the oversight of LAs were \$125,686. There were 1.0 full-time equivalent employees associated with this regulatory oversight.

What Disciplinary Activity Is There?

In fiscal year 14-15, there was one disciplinary action imposed on an LA, which was a cease and desist order. The cease and desist order was issued because the LA was practicing on an expired license.

KEY RECOMMENDATIONS

Continue the Act for 11 years, until 2028.

Although this sunset review did not identify any instances where consumers were harmed by LAs, the Act, which was established by the General Assembly in 2007, via Senate Bill 07-107 has created an environment where local governments rely on the standards prescribed by the State of Colorado to ensure that LAs are competent to practice.

Since regulation of LAs provides a level of assurance that LAs are competent to practice, the General Assembly should continue the Act for 11 years, until 2028. Doing so will maintain the status quo concerning the regulation of LAs, and may provide some level of comfort for local governments such that they can easily identify LAs who are properly licensed and able to use their stamps on documents submitted for projects.

Sunset the Board.

This sunset reviewed revealed that the Board rarely imposes discipline on practitioners, and when it does, LAs are disciplined for practicing without a valid license. In fact, in fiscal years 10-11 through 14-15, all of the discipline imposed, including fines, was for LAs practicing without a valid license.

Since few disciplinary actions were imposed by the Board, none of which required the subject matter expertise of LAs, the General Assembly should sunset the Board. The regulation of LAs should be assumed through a director model program, where the Director of the Division of Professions and Occupations assumes all of the duties of the Board. Doing so will not compromise consumer protection; instead, it will remove the requirement of the Board to provide oversight of LAs and potentially streamline regulation.

METHODOLOGY

As part of this review, staff of the Office of Policy, Research and Regulatory Reform attended Board meetings; interviewed Board members and Division staff; reviewed Division records and minutes; interviewed officials with state and national professional associations; interviewed stakeholders; reviewed Colorado statutes and rules; and reviewed the laws of other states.

MAJOR CONTACTS MADE DURING THIS REVIEW

American Council of Engineering Companies
American Institute of Architects
City and County of Denver Planning Division
City of Loveland Parks Planning Department
Colorado Chapter of the American Society of Landscape Architects
Colorado Counties, Inc.
Colorado Department of Transportation

Council of Landscape Architect Registration Boards
Division of Professions and Occupations
State Board of Landscape Architects
University of Colorado Denver
United States Department of Agriculture, Forest Service
United States Department of the Interior, Bureau of Land Management

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are prepared by:
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Colorado Office of Policy, Research and Regulatory Reform
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Background

Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

¹ Criteria may be found at § 24-34-104, C.R.S.

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- Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification; and
 - Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Types of Regulation

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection - only those individuals who are properly licensed may use a particular title(s) - and practice exclusivity - only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements - typically non-practice related items, such as insurance or the use of a disclosure form - and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency - depending upon the prescribed preconditions for use of the protected title(s) - and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review via COPRRR's website at: dora.colorado.gov/opr.

The regulatory functions of the State Board of Landscape Architects (Board) as enumerated in Article 45 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2017, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the administration of the Board pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether Article 45 of Title 12, C.R.S., should be continued and to evaluate the performance of the Division of Professions and Occupations (Division) staff. During this review, the Board and Division must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, COPRRR staff attended Board meetings; interviewed Board members and Division staff; reviewed Division records and minutes; interviewed officials with state and national professional associations; interviewed stakeholders; reviewed Colorado statutes and rules; and reviewed the laws of other states.

Profile of the Profession

Landscape architects (LAs) plan and design a variety of places including, but not limited to parks, residential developments, campuses, gardens, cemeteries, commercial centers, resorts, transportation facilities, corporate and institutional centers and waterfront developments.² Within these areas, they also plan the locations of buildings, roads, walkways, flowers, shrubs and trees.³

Specific examples of LAs' duties include, but are not limited to:

- Playground design and layout,
- Site planning, and
- Grading.

LAs often are the design professionals assigned responsibility for layout and specification of playground materials.⁴ Clients for playground design and layout include park and school districts as well as private businesses and associations.⁵

Playground design and layout provides an environment that will stimulate play and imagination, while also implementing the safest possible plan.⁶ LAs are trained and knowledgeable in creating fall zones, appropriate materials for playground equipment, and possess knowledge of hardscape, grading and drainage features associated with playgrounds.⁷

Additionally, LAs are, at times, responsible for site planning. A site plan establishes the basic organization of uses and activities on a tract of land. Site plans may feature such things as plantings, site furnishings, fences and walls.⁸

² American Society of Landscape Architects. *Landscape Architecture Education and Development*. Retrieved January 6, 2016, from <https://www.asla.org/ContentDetail.aspx?id=12206&PageTitle=Education&RMenuId=54>

³ United States Department of Labor, Bureau of Labor and Statistics. *What Landscape Architects Do*. Retrieved May 11, 2016, from <http://www.bls.gov/ooh/architecture-and-engineering/landscape-architects.htm#tab-2>

⁴ The American Society of Landscape Architects. *Regulation of Landscape Architecture and the Protection of Public Health, Safety, and Welfare*. Retrieved June 2, 2016, from http://nsbla.nv.gov/uploadedFiles/nsblanvgov/content/Board/Justification_for_regulation_of_the_landscape_architecture_profession.pdf

⁵ The American Society of Landscape Architects. *Regulation of Landscape Architecture and the Protection of Public Health, Safety, and Welfare*. Retrieved June 2, 2016, from http://nsbla.nv.gov/uploadedFiles/nsblanvgov/content/Board/Justification_for_regulation_of_the_landscape_architecture_profession.pdf

⁶ The American Society of Landscape Architects. *Regulation of Landscape Architecture and the Protection of Public Health, Safety, and Welfare*. Retrieved June 2, 2016, from http://nsbla.nv.gov/uploadedFiles/nsblanvgov/content/Board/Justification_for_regulation_of_the_landscape_architecture_profession.pdf

⁷ The American Society of Landscape Architects. *Regulation of Landscape Architecture and the Protection of Public Health, Safety, and Welfare*. Retrieved June 2, 2016, from http://nsbla.nv.gov/uploadedFiles/nsblanvgov/content/Board/Justification_for_regulation_of_the_landscape_architecture_profession.pdf

⁸ The American Society of Landscape Architects. *Regulation of Landscape Architecture and the Protection of Public Health, Safety, and Welfare*. Retrieved June 2, 2016, from http://nsbla.nv.gov/uploadedFiles/nsblanvgov/content/Board/Justification_for_regulation_of_the_landscape_architecture_profession.pdf

LAs utilize technical knowledge related to grading. Specifically, LAs provide technical knowledge of angles or repose, compaction and practical limits of slopes in various applications (e.g., shorelines and ball field areas).⁹

In order to ensure compliance with, among other things, local planning codes, LAs work with city planners, civil engineers and other professionals, and play an important role in environmental protection by designing and implementing projects that respect both the needs of people and the environment. Landscape architects design areas that are easy to use and are also harmonious with the natural environment.

During the course of duties, landscape architects utilize several technologies. For example, using computer-aided design and drafting software, landscape architects prepare models of their proposed work.¹⁰

In Colorado, the University of Colorado Denver (UCD) and Colorado State University (CSU) offer degree programs in landscape architecture. Both schools' programs are accredited by the Landscape Architectural Accreditation Board.

UCD offers a Master of Landscape Architecture (MLA) degree for first professional degree students (students who do not hold a Bachelor of Landscape Architecture or Bachelor of Architecture degree) and post-professional students (those who already have a Bachelor of Landscape Architecture or Bachelor of Architecture degree).¹¹ The MLA program's curriculum is designed to provide students with fundamental knowledge, skills and critical and creative thinking to succeed as LAs.¹²

The first professional degree students are required to complete a minimum of 90 credit hours, which typically takes three years to complete.¹³

The post-professional students are required to complete 60 semester hours of course work, which typically takes two years of full-time study to complete.¹⁴

CSU offers both graduate and undergraduate degrees in Landscape Architecture. Similar to UCD, the MLA program at CSU includes a first professional degree, as well as a second professional degree.

⁹ The American Society of Landscape Architects. *Regulation of Landscape Architecture and the Protection of Public Health, Safety, and Welfare*. Retrieved June 2, 2016, from http://nsbla.nv.gov/uploadedFiles/nsblanvgov/content/Board/Justification_for_regulation_of_the_landscape_architecture_profession.pdf

¹⁰ U.S. Bureau of Labor Statistics Occupational Outlook Handbook. *What Landscape Architects Do*. Retrieved May 11, 2106, from <http://www.bls.gov/ooh/architecture-and-engineering/landscape-architects.htm>

¹¹ University of Colorado Denver. *College of Architecture and Planning*. Retrieved June 2, 2016, from <http://www.ucdenver.edu/academics/colleges/ArchitecturePlanning/Academics/DegreePrograms/MLA/Pages/MLA.aspx>

¹² University of Colorado Denver. *College of Architecture and Planning*. Retrieved June 2, 2016, from <http://www.ucdenver.edu/academics/colleges/ArchitecturePlanning/Academics/DegreePrograms/MLA/Pages/MLA.aspx>

¹³ University of Colorado. *College of Architecture and Planning Program Requirements*. Retrieved June 6, 2016, from <http://www.ucdenver.edu/academics/colleges/ArchitecturePlanning/Academics/DegreePrograms/MLA/Pages/ProgramRequirements.aspx>

¹⁴ University of Colorado. *College of Architecture and Planning Program Requirements*. Retrieved June 6, 2016, from <http://www.ucdenver.edu/academics/colleges/ArchitecturePlanning/Academics/DegreePrograms/MLA/Pages/ProgramRequirements.aspx>

The first professional degree path for students is a three-year curriculum, and students are required to complete a minimum of 74 semester hours.¹⁵

The second professional degree path is a two-year curriculum, and requires students to complete a minimum of 45 semester hours.¹⁶

CSU's undergraduate degree, Bachelor of Science in Landscape Architecture, is a four-year program that requires students to complete a minimum of 125 semester hours.¹⁷

¹⁵ Colorado State University. *College of Agricultural Sciences. Landscape Architecture*. Retrieved June 2, 2016, from <http://la.agsci.colostate.edu/students/graduate-curriculum/>

¹⁶ Colorado State University. *College of Agricultural Sciences. Landscape Architecture*. Retrieved June 2, 2016, from <http://la.agsci.colostate.edu/students/graduate-curriculum/>

¹⁷ Colorado State University. *The Oval at Colorado State University*. Retrieved June 2, 2016, from <https://la.agsci.colostate.edu/files/2015/12/Curriculum.pdf>

Legal Framework

History of Regulation

In Colorado, the General Assembly sunset the regulation of Landscape Architects (LAs) in 1976 via House Bill 76-1034.

After approximately 20 years absent formal regulation by the State of Colorado, there were three sunrise applications submitted to the Department of Regulatory Agencies (DORA) to review the need for regulation. DORA subsequently conducted sunrise reviews in 1995, 2002 and 2005, which recommended against regulating LAs. Each report cited the lack of consumer harm as the main reason against creation of a regulatory program for LAs.

Despite DORA's consistent recommendation against regulation, the General Assembly in 2007, via Senate Bill 07-107, created a licensure program, which includes, among other items, a five member board.

Legal Summary

The Landscape Architects Professional Licensing Act (Act) is created in section 12-45-101, *et seq.*, Colorado Revised Statutes. The purpose of the Act is to provide regulatory oversight of LAs. Importantly, the Act does not apply to residential landscape design, consisting of landscape design services for single- and multi-family residential properties of four or fewer units.¹⁸ The Act applies to commercial, public and residential properties with more than five units.

LAs apply the use of higher education, training and experience, as well as mathematical, physical and social science skills, to consult, evaluate, plan and design projects and improvements principally directed at the functional and aesthetic uses of land.¹⁹

LAs also work with architects and engineers during the design of public infrastructure projects such as roads, bridges and buildings, concerning the functional and aesthetic requirements of an area and project site.²⁰

Additionally, LAs often assist in the preparation and administration of construction documents, contracts and contract offers related to site landscape improvements.²¹

¹⁸ § 12-45-118(1)(d), C.R.S.

¹⁹ § 12-45-103(8)(a)(I), C.R.S.

²⁰ § 12-45-103(8)(a)(II), C.R.S.

²¹ § 12-45-103(8)(a)(III), C.R.S.

State Board of Landscape Architects

The State Board of Landscape Architects (Board) consists of five members, and its composition is as follows:²²

- Three members who are licensed LAs and who have a minimum of three years of experience as an LA, and
- Two members of the public who do not have a current or prior significant personal or financial interest in the practice of landscape architecture.

All members of the Board are appointed by the Governor and appointments are for four-year terms.²³ The Board is required to meet at least twice per year.²⁴

The Board is a Type 1 policy autonomous board that provides regulatory oversight of LAs.

Licensure Requirements

There are three avenues by which one can secure a license to practice as an LA in Colorado:²⁵

- Licensure by examination,
- Licensure by endorsement, and
- Licensure by practice experience.

Licensure by examination requires an applicant to pass the Landscape Architect Registration Examination (L.A.R.E.), which is administered by the Council of Landscape Architectural Registration Boards, and to attain a minimum number of years of experience under the direct supervision of a licensed LA.

For example, a candidate who graduates from Colorado State University with a Bachelor of Science degree in Landscape Architecture must pass the L.A.R.E. and attain two years of supervised work experience.

An applicant who possesses an undergraduate degree not related to landscape architecture must pass the L.A.R.E. and complete a minimum of five years' supervised work experience.

In order to secure a LA license by endorsement, an applicant must complete an application and must hold a current valid license or registration in a jurisdiction requiring qualifications substantially equivalent to the aforementioned requirements.²⁶

²² § 12-45-105(1)(a-c), C.R.S.

²³ § 12-45-105(2), C.R.S.

²⁴ § 12-45-105(3), C.R.S.

²⁵ §§ 12-45-110(1)(c)(I,II and III), C.R.S.

²⁶ § 12-45-110(4), C.R.S.

The applicant may also provide verification of an active license from a second jurisdiction’s licensing board and disciplinary history from the jurisdiction where licensure was originally obtained.²⁷

An applicant who does not possess a college degree must attain at least six years’ supervised work experience and pass the L.A.R.E.

Landscape Architect’s Stamp

The Act authorizes LAs to use a stamp on landscape architecture documents they create. The stamp identifies the practitioner as licensed by the State of Colorado. LAs must obtain a stamp containing the legend “Colorado–Licensed Landscape Architect.”²⁸ The stamp design, which is authorized by the Board, must include the following:²⁹

- Name of licensee,
- Date of licensure, and
- License number.

LA’s records and documents must be prepared, recorded and retained.³⁰ The stamp, signature of the LA whose name appears on the stamp and date of the LA’s signature must be placed on reproductions of drawings in order to establish a record set of contract documents.³¹ The record set must be prominently identified and must be for the permanent record of the LA, project owner and regulatory authorities who have jurisdiction over the project.³² Any addenda, revisions, clarifications or other modifications must be properly identified and dated for the record set.³³

Disciplinary Authority

The Board is responsible for, among other duties and responsibilities, imposing discipline on practitioners for violations of the Act. Specifically, the Board is authorized to deny, refuse to renew, suspend or revoke, place licensees on probation or place conditions or limits on a licensee.³⁴

The Board is also authorized to issue cease and desist orders to licensees if a licensee is acting in a manner that is an imminent threat to the health and safety of the public or an LA is practicing without the required license.³⁵

The Board may, in lieu of revoking a license, impose a fine on a licensee, which cannot exceed \$5,000.

²⁷ Department of Regulatory Agencies. Colorado Board of Landscape Architects Rules. Rule 4.1.1.8(b).

²⁸ § 12-45-117(1), C.R.S.

²⁹ § 12-45-117(1), C.R.S.

³⁰ § 12-45-117(2), C.R.S.

³¹ § 12-45-117(2)(a), C.R.S.

³² § 12-45-117(2)(b), C.R.S.

³³ § 12-45-117(2)(d), C.R.S.

³⁴ § 12-45-114(1), C.R.S.

³⁵ § 12-45-114(6)(a), C.R.S.

Grounds for discipline include, but are not limited to:³⁶

- Fraud or material misstatement of facts made in procuring or attempting to procure a license,
- Fraud or deceit in the practice of landscape architecture,
- Affixing a seal or authorizing a seal to be affixed to a document if the act misleads another to incorrectly believing that a licensed LA was the document's author, or
- The LA performs services beyond his or her competence, training or education.

³⁶ §§ 12-45-113(2)(a),(c), (d) and (m), C.R.S.

Program Description and Administration

The Landscape Architects Professional Licensing Act (Act) is created in section 12-45-101, *et seq.*, Colorado Revised Statutes (C.R.S.). The purpose of the Act is to provide regulatory oversight of licensed Landscape Architects (LAs).

The regulation of LAs is vested in the State Board of Landscape Architects (Board) within the Department of Regulatory Agencies (DORA). The Board is a Type 1, policy autonomous board, and is responsible for, among other duties and responsibilities, imposing discipline on practitioners, rulemaking and policymaking. The Board is comprised of five members, three of which are LAs and two are public members, who are appointed by the Governor.

The Division of Professions and Occupations, (Division), within DORA is responsible for various administrative functions related to the Board. For example, Division staff is responsible for issuing licenses, conducting investigations and preparing meeting agendas for the Board, and advising Board members on regulatory issues.

In fiscal year 14-15, the Division devoted 1.0 full-time equivalent (FTE) employees to provide professional support to the Board. The FTE are as follows:

- Administrative Assistant III,
- Program Management I, and
- Technician IV.

The aforementioned FTE do not include staffing in the centralized offices of the Division, which include the following:

- Director's Office,
- Office of Investigations,
- Office of Expedited Settlement,
- Office of Examination Services,
- Office of Licensing, and
- Office of Support Services.

Table 1 highlights the total expenditures for the regulation of LAs in fiscal years 10-11 through 14-15.

Table 1
Total Expenditures in Fiscal Years 10-11 through 14-15

Fiscal Year	Total Program Expenditures
10-11	\$116,234
11-12	\$116,122
12-13	\$129,030
13-14	\$127,577
14-15	\$126,686

Licensing

In order to practice landscape architecture in Colorado, practitioners are required to secure a license from the Division. Each candidate for licensure must pass the Landscape Architect Registration Examination (L.A.R.E.).

Also, a candidate must both possess a formal undergraduate education and complete a minimum number of years of supervised work experience, or candidates who do not have a formal undergraduate education must complete a minimum of six years' supervised work experience.

Table 2 illustrates the total number of licensed LAs in fiscal years 10-11 through 14-15.

Table 2
Total Number of Licensed LAs in Fiscal Years 10-11 through 14-15

Fiscal Year	Total Number of Licensed LAs
10-11	755
11-12	781
12-13	821
13-14	868
14-15	877

Table 2 shows that the total number of licensed LAs has increased in each of the fiscal years indicated. Generally, the increase is attributable to the overall growth of the industry.

An LA who is licensed in another state may apply to the Board for licensure by endorsement. In order to be eligible for licensure by endorsement, a candidate must possess a current valid license or registration in a jurisdiction requiring qualifications substantially equivalent to Colorado.³⁷

In fiscal year 14-15, the fee to obtain a license by endorsement was \$375.

Table 3 delineates the total number of original, renewal and reinstatement licenses issued in fiscal years 10-11 through 14-15.

³⁷ § 12-45-110(4), C.R.S.

Table 3
Total Number of Original, Renewal and Reinstatement Licenses
in Fiscal Years 10-11 through 14-15

Fiscal Year	Original	Renewal	Reinstatement	Active Licenses
10-11	60	703	11	755
11-12	42	736	15	781
12-13	64	760	11	821
13-14	33	0	14	868
14-15	56	837	7	877

In fiscal year 13-14, there were zero license renewals because the Division changed its renewal process from an annual to a biennial requirement.

In fiscal year 14-15, the fee to obtain an original license was \$375, and the renewal fee was \$278.

Practitioners who allow their license to expire are required to submit a reinstatement application to the Division and pay a \$308-fee.

Examinations

A candidate for licensure is required to take, and pass, an examination. The purpose of the examination is to test a candidate's knowledge (competence) to practice as an LA.

The LA examination utilized in Colorado is the L.A.R.E., which was developed by the Council of Landscape Architectural Registration Boards. Pearson VUE administers the L.A.R.E. at its three professional centers in Colorado: Greenwood Village, Pueblo and Westminster.

The L.A.R.E. is a computer-based examination, consisting of four sections:³⁸

- Section 1 - Project and Construction Management (100 questions);
- Section 2 - Inventory and Analysis (80 questions);
- Section 3 - Design (100 questions); and
- Section 4 - Grading, Drainage and Construction Documentation (120 questions).

The Project and Construction Management portion of the L.A.R.E. tests a candidate's knowledge on issues ranging from establishing a project schedule to performing the final inspection on a completed project.³⁹

³⁸ Council of Landscape Architectural Registration Boards. *Landscape Architect Registration Examination (L.A.R.E.) Orientation guide*. Retrieved June 7, 2016, from <http://www.clarb.org/docs/default-source/take-the-exam/lareorientationguide.pdf?sfvrsn=4>

The Inventory and Analysis section tests a candidate’s knowledge on a variety of issues, including but not limited to, completing a site inventory. A site inventory includes determining applicable codes, regulations and permitting requirements.⁴⁰

This section also tests a candidate’s knowledge on the analysis of existing conditions of a project. For example, the examination contains questions related to analyzing codes and regulations for design impact and interpreting floodplain conditions.⁴¹

The Design portion of the test includes questions related to concept development and design development. Concept development questions include creating design alternatives and refining conceptual designs.⁴²

The design development section includes questions related to developing master plan documents (e.g., land-use, circulation, phasing plan and guidelines) and investigating, verifying availability and selecting design materials and components.⁴³

The final section of the L.A.R.E. focuses on the design construction documentation. Subject areas include: preparing layout and material plans and preparing grading plans.⁴⁴

The test fee for sections one and two is \$350 (per section), and the test fee for sections three and four is \$540 (per section).⁴⁵

Table 4 illustrates the total number of candidates in Colorado who completed each section of the L.A.R.E. for April, August and December in 2015.

³⁹ Council of Landscape Architectural Registration Boards. *Landscape Architect Registration Examination (L.A.R.E.) Orientation guide*. Retrieved June 7, 2016, from <http://www.clarb.org/docs/default-source/take-the-exam/lareorientationguide.pdf?sfvrsn=4>

⁴⁰ Council of Landscape Architectural Registration Boards. *Landscape Architect Registration Examination (L.A.R.E.) Orientation guide*. Retrieved June 7, 2016, from <http://www.clarb.org/docs/default-source/take-the-exam/lareorientationguide.pdf?sfvrsn=4>

⁴¹ Council of Landscape Architectural Registration Boards. *Landscape Architect Registration Examination (L.A.R.E.) Orientation guide*. Retrieved June 7, 2016, from <http://www.clarb.org/docs/default-source/take-the-exam/lareorientationguide.pdf?sfvrsn=4>

⁴² Council of Landscape Architectural Registration Boards. *Landscape Architect Registration Examination (L.A.R.E.) Orientation guide*. Retrieved June 7, 2016, from <http://www.clarb.org/docs/default-source/take-the-exam/lareorientationguide.pdf?sfvrsn=4>

⁴³ Council of Landscape Architectural Registration Boards. *Landscape Architect Registration Examination (L.A.R.E.) Orientation guide*. Retrieved June 7, 2016, from <http://www.clarb.org/docs/default-source/take-the-exam/lareorientationguide.pdf?sfvrsn=4>

⁴⁴ Council of Landscape Architectural Registration Boards. *Landscape Architect Registration Examination (L.A.R.E.) Orientation guide*. Retrieved June 7, 2016, from <http://www.clarb.org/docs/default-source/take-the-exam/lareorientationguide.pdf?sfvrsn=4>

⁴⁵ CLARB. *Deadlines and Fees*. Retrieved June 7, 2016, from <http://www.clarb.org/take-the-exam/view-exam-dates-deadlines-and-fees>

Table 4
Candidates in Colorado Who Completed Each Section of the L.A.R.E. in 2015

Date of Examination	Section 1	Section 2	Section 3	Section 4
April 2015	16	17	11	10
August 2015	8	5	9	8
December 2015	6	12	12	11

As delineated in Table 4, the number of Colorado candidates who completed the various sections of the L.A.R.E. varied in 2015.

Table 5 highlights the pass rates for each section of the L.A.R.E. for April, August and December in 2015.

Table 5
Pass Rate Percentage for Each Section of the L.A.R.E. in 2015

Date of Examination	Section 1	Section 2	Section 3	Section 4
April 2015	88%	94%	100%	80%
August 2015	100%	80%	56%	63%
December 2015	83%	92%	83%	64%

As highlighted in Table 5, the pass rate in each section varied in 2015.

Complaints/Disciplinary Actions

Since the implementation of the licensure requirement of LAs in 2008, there have been few complaints filed against practitioners. Table 6 highlights the total number of complaints to the Board in fiscal years 10-11 through 14-15.

Table 6
Total Number of Complaints to the Board in Fiscal Years 10-11 through 14-15

Nature of Complaint	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Unlicensed Practice	11	10	3	3	4
Substandard Practice	0	0	0	1	0
Total	11	10	3	4	4

As highlighted in Table 6, most of the complaints to the Board were not practice-related complaints (e.g., consumer harm); instead, the complaints were related to the unlicensed practice of landscape architecture.

Additionally, Table 7 shows the total number of disciplinary actions imposed by the Board on LAs in fiscal years 10-11 through 14-15.

Table 7
Total Number of Disciplinary Actions in Fiscal Years 10-11 through 14-15

Type of Action	FY 10-11	FY 11-12	FY 12-13	FY13-14	FY 14-15
Revocations	0	0	0	0	0
Suspensions	0	0	0	0	0
Revocation/Suspensions Held in Abeyance or Stayed or Stayed Suspended	0	0	0	0	0
Stipulations	2	2	0	1	0
Letters of Admonition	0	4	0	0	0
Cease and Desist	3	1	0	1	1
Total Disciplinary Actions	5	7	0	2	1
Dismiss	5	3	3	2	2
Letter of Concern	1	0	0	1	1
Total Dismissals	6	3	3	3	3

As Table 7 delineates, there were few disciplinary actions imposed by the Board on LAs in the past five fiscal years. Also, none of the disciplinary actions imposed by the Board were related to instances where consumers were harmed. Instead, all of the disciplinary actions were for LAs practicing on expired licenses and the unlicensed practice of landscape architecture.

Table 8 highlights the total fines imposed by the Board in fiscal years 10-11 through 14-15.

Table 8
Total Fines Imposed by the Board in Fiscal Years 10-11 through 14-15

Fiscal Year	Total Fines Imposed
10-11	\$500
11-12	\$1,000 (2)
12-13	0
13-14	\$500
14-15	0

In Table 8, there were a total of four fines imposed on LAs in the past five fiscal years, including two fines in fiscal year 11-12. The fines were for LAs practicing in Colorado on an expired license exceeding two years. The fines were imposed in conjunction with a stipulation (Letter of Admonition) from the Board.

Collateral Consequences – Criminal Convictions

Section 24-34-104(6)(b)(IX), C.R.S., requires the Colorado Office of Policy, Research and Regulatory Reform to determine whether the agency under review, through its licensing processes, imposes any disqualifications on applicants or licensees based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

The Board has the authority, in section 12-45-113(2)(f), C.R.S., to deny, revoke or suspend an LA if the practitioner is convicted of a felony or if a court accepts a plea of nolo contendere to a felony. During the past five fiscal years, the Board did not deny, revoke or suspend any LAs based on past criminal history.

Analysis and Recommendations

Recommendation 1 – Continue the Landscape Architects Professional Licensing Act for 11 years, until 2028.

Landscape architects (LAs) provide a variety of services. They plan and design places including, but not limited to parks, residential developments, campuses, gardens, cemeteries, commercial centers, resorts, transportation facilities, corporate and institutional centers and waterfront developments.⁴⁶ Within these areas, they also plan the locations of buildings, roads, walkways, flowers, shrubs and trees.⁴⁷

The purpose of state occupational regulation is to, among other things, provide protection to consumers. That is, state regulation insulates consumers from the incompetent actions of practitioners. In fact, the first sunset criterion asks whether regulation is necessary to protect the health, safety and welfare of the public.

Although this sunset review did not identify any instances where consumers were harmed by LAs, the regulatory structure that was established by the General Assembly in 2007, via Senate Bill 07-107 (Landscape Architecture Professional Licensing Act (Act)), has created an environment where local governments rely on the standards prescribed by the State of Colorado to ensure that LAs are competent to practice. For example, LAs utilize a stamp on planning documents submitted to planning departments for various projects. The stamp is a state identification that ensures LAs have met the minimum standards to practice in Colorado and that they are currently licensed.

Since regulation of LAs provides a level of assurance that LAs are competent to practice, the General Assembly should continue the Act for 11 years, until 2028. Doing so will maintain the status quo concerning the regulation of LAs and may provide some level of comfort for local governments such that they can easily identify LAs who are properly licensed through their use of their stamps on documents submitted for projects.

Recommendation 2 – Sunset the Board of Landscape Architecture.

The Board of Landscape Architecture (Board) is a policy autonomous board charged with, among other things, rulemaking, policymaking and, when necessary, imposing discipline on LAs who violate the Act or applicable rules. In fiscal year 14-15, total expenses for the Board were approximately \$3,334.

⁴⁶ American Society of Landscape Architects. *Landscape Architecture Education and Development*. Retrieved January 6, 2016, from <https://www.asla.org/ContentDetail.aspx?id=12206&PageTitle=Education&RMenuld=54>

⁴⁷ United States Department of Labor, Bureau of Labor and Statistics. *What Landscape Architects Do*. Retrieved May 11, 2016, from <http://www.bls.gov/ooh/architecture-and-engineering/landscape-architects.htm#tab-2>

This sunset review revealed that the Board rarely imposes discipline on practitioners, and when it does, LAs are disciplined for practicing without a valid license. In fact, in fiscal years 10-11 through 14-15, all of the discipline imposed, including fines, was for LAs practicing without a valid license.

Many practice acts in Colorado utilize boards, which are comprised of practitioners and public members. One of the main purposes for inclusion of professional members on boards is to utilize their professional expertise to discern whether a violation of the practice act or applicable rules occurred. Professional members, at times, may be able to more clearly identify if a practitioner has violated a practice act.

However, the Board has not been tasked with reviewing complex disciplinary matters in determining whether LAs have violated the Act or applicable rules. Instead, the Board has imposed discipline for LAs practicing without a valid license. The analysis of the Board indicates that it is unnecessary, and oversight of the Act could easily be accomplished through a director model program. A director model program is one in which the Director of the Division of Professions and Occupations (Director) would assume the responsibilities of the Board.

Since few disciplinary actions were imposed by the Board, none of which required the subject matter expertise of LAs, the General Assembly should sunset the Board. The regulation of LAs should be assumed through a director model program, where the Director assumes all of the duties of the Board. Doing so will not compromise consumer protection; instead, it will remove the requirement of the Board to provide oversight of LAs, streamlining regulation. Also, eliminating the Board will provide a marginal cost savings for the State of Colorado.