

Recommended Guidelines for the UIA Accord On Recommended International Standards of Professionalism in Architectural Practice Policy on Registration/Licensing/Certification of the Practice of Architecture

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UIA Professional Practice Program Joint Secretariat

The American Institute of Architects
Co-Director James A. Scheeler, FAIA
1735 New York Avenue, NW
Washington, DC 20006
Telephone: 202 626 7315
Facsimile: 202 626 7421

The Architectural Society of China
Co-Director Zhang Qinnan, Vice President
Bai Wan Zhuang, West District
Beijing, China 100835
Telephone: 86 10 6839 3428
Facsimile: 86 10 6831 1585

Accord Policy on Registration/Licensing/Certification of the Practice of Architecture

That the UIA promote the registration/licensing/certification of the function of architects in all countries. In the public interest, provision for such registration/licensing/certification should be by statute.

Introduction

Registration/Licensing Certification

Registration/licensing/certification is the official legal recognition of an individual's qualification allowing her or him to practice as an independent architect, associated with regulations preventing unqualified persons from performing certain functions. Given the public interest in a high-quality, sustainable built environment and the dangers and consequences associated with the construction industry, it is important that architectural services are provided by properly qualified professionals in order to provide adequate protection for the public.

Registration/licensing/certification is based on minimum standards of competency relative to education, experience, and examination to ensure that the public interest is served. Occupational licensure is an exercise of the state's inherent police power to protect the health, safety, and welfare of its citizens. Five generally accepted criteria indicate when licensure is appropriate: 1) unregulated practice of the occupation poses a serious risk to a consumer's life, health, safety, or economic well-being and the potential for harm is recognizable and likely to occur; 2) the practice of the occupation requires a high degree of skill, knowledge, and training; 3) the functions and responsibilities of the practitioner require independent judgment and the members of the occupational group practice independently; 4) the scope-of-practice of the occupation is distinguishable from other licensed and unlicensed occupations; 5) the economic and cultural impact on the public of regulating this occupational group is justified. The practice of architecture meets these classic criteria.

Practice Regulation vs. Title Registration

"Practice regulation" i.e. regulation of the practice of a profession, means that only those individuals who meet specific legislated criteria (of education, training, and testing) may perform the services of a profession.

Practice regulation or licensure--because of its cost to the state and consumers and because it limits entry into a profession--is traditionally reserved for professions and occupations that if unregulated pose a serious threat to public health, safety, and welfare. In evaluating whether a profession should be regulated by practice regulation, most states apply a set of objective criteria, which include: Is the public being harmed by lack of regulation and can such harm be documented? Are there alternatives to state regulation? Is the public protected by existing laws, codes, or standards, and would strengthening such laws solve the problem? What is the cost to the state and the public of regulating the profession and will the public benefit from such regulation?

"Title registration" means individuals must still meet specific qualifications criteria, but only the use of the title is controlled. Individuals who do not have the title may continue to perform the services. Title registration should confer only a protected title. A title bill should not affect the scope of that group's practice or permit those individuals to do anything they were not already legally entitled to do. (NOTE: Title registration is called "certification" in most states. The word "licensing," though often used as an umbrella term for state regulation, is used by most states to mean practice regulation.)

Title registration is intended to provide a means that the public can use for distinguishing trained/qualified practitioners or providers of a service from untrained or unqualified individuals. Title registration does not prevent other less qualified individuals from providing the services; it simply establishes a measuring stick against which their qualifications can be judged. Title registration is considered appropriate when no serious threat to the public is involved, but consumers may be confused and misled about providers' qualifications.

Title registration achieves the goal of enabling the public and consumers of services to differentiate, with minimal cost to the state and consumers, trained, qualified individuals from those who are untrained. With title registration, those individuals who do not meet the registration requirements are not deprived of their livelihoods. These individuals can continue to provide services; they are simply constrained from using a protected title.

Proposed Legislative Guidelines

The International Union of Architects recommends that legislation or statutes regulating the profession of architecture should be based on regulation of the practice of architecture. The following guidelines reflect that recommendation and set forth provisions to deal with a limited number of problem areas of state regulation that have implications beyond the boundaries of an individual state. For the sake of brevity, the term «registration» is used throughout the guideline to denote «registration/ licensing/certification.» It should be noted that in any mutual recognition agreement between national and international jurisdictions, the UIA takes the position that only registered architects (whether with practice registration or title registration) are recognized.

Guidelines rather than draft statutory language are recommended because the laws of states represented by the member sections of the UIA contain language, organization, and provisions reflecting the unique political and cultural characteristics of those states. It would undoubtedly be disruptive and confusing to try to suggest exact statutory language on an international basis.

1. Definition

1.1 Practice of Architecture: For the purpose of a registration statute, the definition of the practice of architecture should be the definition adopted by the UIA in the Accord on Recommended International Standards of Professionalism in Architectural Practice:

The practice of architecture consists of the provision of professional services in connection with town planning and the design, construction, enlargement, conservation, restoration, or alteration of a building or group of buildings. These professional services include, but are not limited to planning; strategic and land-use planning; urban design; provision of preliminary studies, designs, models, drawings, specifications, and technical documentation; coordination of technical documentation prepared by others as appropriate and without limitation (consulting engineers, landscape architects, and

other specialist consultants); construction economics; contract administration; monitoring of construction (referred to as supervision in some countries); and project management.

This definition of the practice of architecture covers the wide variety of services that architects normally furnish and for which they are specifically trained and in which they are required to demonstrate professional competency. In some jurisdictions where the education and training and competency standards are more narrowly drawn, the UIA Accord definition may need to be amended to reflect these narrower standards.

No person should be permitted to engage in the practice of architecture unless registered or otherwise permitted to practice under the registration statute. No person should be permitted to use the title "architect" or otherwise represent to the public that he or she is an architect unless he or she is registered to practice architecture.

In some instances, state statutes may exempt various categories of related design professionals from the purview of the statute to the extent that the exercise of their profession may incidentally involve them in the practice of architecture. It is important that these exemptions be carefully thought out to serve as a means for setting off other legitimate design activities from the practice of architecture.

In many jurisdictions, engineering registration laws permit the engineer to design structures as well as a multitude of other projects. The architectural profession is often restricted by law to designing only buildings and ancillary facilities "for human habitation." The UIA advocates that statutes regulating the profession of architecture should not unduly narrow the scope of practice and should recognize that architects, through their practices, express the roots of a society's cultural and aesthetic values through the architecture they design.

2. Regulation of Conduct of Registrants

2.1 Authorization: Clearly the authorization of an architectural registration agency to adopt rules or regulations governing the conduct of architects should be covered by statute. Rule-making power coupled with a power of revocation or suspension of registration based on misconduct implicitly requires further description by the rule-making process of what will constitute misconduct.

2.2 Rules of Conduct: The statute should authorize the architectural registration agency to promulgate, as part of its regulatory function, rules of conduct governing the practice of registered architects. The statute should contain standards for the scope and content of such rules. The statute should also provide that violation of the rules of conduct promulgated by the architectural registration agency is one of the enumerated grounds for revocation or suspension of registration or for the imposition of a civil fine.

3. Qualification for Registration

Qualification criteria for registration should be objective and transparent. For the purpose of a registration statute, care should be taken to assure that the statute appropriately reflects the "UIA Accord on Recommended International Standards of Professionalism in Architectural Practice" policies and guidelines on fundamental requirements of an architect, education, accreditation/validation/recognition, practical experience/ training/internship, and practical

examination/demonstration of professional knowledge and ability. It is not appropriate that statutes contain requirements for citizenship or residency to enter into the profession.

3.1 Degree: An applicant for registration should be required to hold an accredited professional degree in architecture. The UIA recommends that the UIA/UNESCO Charter for Architectural Education be established as the minimum criteria for architectural education.

3.2 Practical Training: The UIA recommends that an applicant for registration have such practical training as set out in the Accord Policy.

3.3 Examination: To be registered, the applicant should be required to pass examinations covering such subjects and graded on such basis as the registration agency shall, by regulations, decide.

3.4 Personal Interview: Registration agencies may require a personal interview with a candidate for registration.

3.5 Moral Character: If the state wishes to invest its registration agency with discretion to reject an applicant who is not of "good moral character," the statute should specify only the aspects of the applicant's background germane to the inquiry, such as:

- Conviction for commission of a felony;
- Misstatement or misrepresentation of fact by the applicant in connection with his or her application;
- Violation of any of the rules of conduct required of registrants and set forth in the statutes or regulations;
- Practicing architecture without being registered in violation of registration laws of the jurisdiction in which the practice took place.

If the applicant's background includes any of the foregoing, the registration agency should be allowed, notwithstanding, to register the applicant on the basis of suitable evidence of reform.

4. Reciprocity Procedure

The statute should make provision for registering nonresident applicants in addition to the provisions outlined in the section 3, Qualifications for Registration, and to any provisions in the statute providing other forms of reciprocity.

4.1 Nonresident Applicant Seeking to Practice: Every nonresident applicant seeking to practice architecture in a jurisdiction should be registered, if the applicant:

- Holds a current and valid registration issued by a registration authority recognized by mutual recognition agreement by the jurisdiction;
- Files an application with the jurisdiction, on a form prescribed by the jurisdiction, containing such information satisfactory to the jurisdiction concerning the applicant as the jurisdiction considers pertinent.

4.2 Nonresident Applicant Seeking a Commission: A nonresident applicant seeking an architectural commission in a jurisdiction in which he or she is not registered should be

admitted to the jurisdiction for the purpose of offering to render architectural services and for that purpose only without having first been registered by the jurisdiction, if the applicant:

- Holds a current and valid registration issued by a registration authority recognized by mutual recognition agreement by the jurisdiction;
- Notifies the board of the jurisdiction in writing that (a) he or she holds a current valid registration issued by a registration authority recognized by mutual recognition agreement by the jurisdiction but is not currently registered in the jurisdiction and will be present in the jurisdiction for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice referred to in (a) to every potential client to whom the applicant offers to render architectural services, and (c) he or she shall apply immediately to the board for registration if selected as the architect for a project in the jurisdiction.

The applicant should be prohibited from actually rendering architectural services until he or she has been registered.

4.3 Design Competition: A person seeking an architectural commission by participating in an architectural design competition for a project in a jurisdiction in which he or she is not registered should be permitted to participate in the competition, if the person:

- Holds a current and valid registration issued by a registration authority recognized by mutual recognition agreement by the jurisdiction;
- Notifies the jurisdiction in writing that he or she is participating in the competition and holds a current and valid registration issued by a registration authority recognized by mutual recognition agreement by the jurisdiction;
- Undertakes to apply to the jurisdiction for registration immediately on being chosen as an architect for the project.

5. Form of Practice

If architectural services are provided by corporate entities, they should be required to be under the effective control of architects and required to conform to and maintain the same professional standards of service, work, and conduct as individual architects.

A majority of member sections responding to the UIA Professional Practice Commission questionnaire indicated that their states permitted the practice of architecture in partnerships and conventional corporate forms. The restrictions placed on corporate practice and the newer limited-liability company are often onerous. The great variety of these restrictions suggest that a guideline is needed to seek a reasonable, international provision respecting firm practice while assuring the public of the integrity of architectural services performed.

5.1 Practice Structure: The UIA guidelines recommend that statutes provide that a partnership (including a registered limited liability partnership), a limited liability company, or a corporation should be admitted to practice architecture in a jurisdiction if:

- At least two-thirds of the general partners, if a partnership; or two-thirds of the directors, if a limited liability company or a corporation, are registered under the laws of any state or country to practice architecture;

- The person having the practice of architecture in her or his charge is herself or himself a general partner, if a partnership; a director, if a limited liability company; or a director, if a corporation, and registered to practice in that jurisdiction.

The statute should empower the registration agency to require, by regulations, any partnership, limited liability or unlimited company, or corporation practicing architecture in that state to file information concerning its officers, directors, managers, beneficial owners, and other aspects of its business organization on such forms as the agency prescribes.

5.2 Firm Name: A firm otherwise qualified to practice in a state or country should be permitted to practice in that state or country under a name that does not include the names of every director, if a corporation; every manager, if a limited liability company; or every general partner, if a partnership, registered in any state or country to practice architecture, provided the firm complies with reasonable regulations of the registration agency requiring the firm to file the names, addresses, and other pertinent information concerning the directors, managers, or general partners of the firm.

6. Engagement of an Architect During Construction of a Project

Construction administration services, including periodic site visits, shop drawing review, and reporting violations of codes or substantial deviations from the contract documents constitute an important responsibility of the architect and assure the public health, safety, and welfare. The following guidelines are intended to ensure that at least the minimum of construction services are provided by the design architect:

- 6.1 An owner who proceeds to have constructed a project having as its principal purpose human occupancy or habitation shall be deemed to be engaged herself or himself in the practice of architecture unless she or he has employed an architect to perform at least minimum construction administration services, including periodic site visits, shop drawing review, and reporting to the owner and building official any violations of codes or substantial deviations from the contract documents that the architect observed.
- 6.2 It shall be the project design architect's obligation to report to the registration jurisdiction and to the building official if he or she is not engaged to provide construction administration services described in Paragraph 1, above.
- 6.3 A registration jurisdiction may waive these requirements with respect to a particular project or class of projects if it determines that the public is adequately protected without the necessity of an architect performing the services described in Paragraph 6.1.

7. Regulation of Unregistered Persons Practicing Architecture

The unregistered practice of architecture can endanger the public health, safety and welfare. The following guidelines provide a basis and means for enforcing the statute:

- 7.1 Although violation of the architectural registration statute by unregistered persons should be a crime, the registration agency should also be authorized, after a hearing, to impose civil fines of up to a stated amount and to issue orders to cease against unregistered persons and persons aiding and abetting unregistered persons. The registration agency as well as the government's attorney general and other local law enforcement authorities, should be authorized to seek injunctions against practice by unregistered persons and the aiding or abetting of such practice, and judicial enforcement of civil fines imposed by the registration agency.
- 7.2 All plans, specifications, and other technical submissions prepared in the course of practicing architecture (as defined in Guideline 1) required to be filed with the state or local building or public safety officials should be sealed by an architect. If state law provides certain exceptions to the general requirement that technical submissions be sealed, then the person filing the technical submissions should specify on them the state law exempting the preparation of those technical submissions. Any permit issued on the basis of technical submissions not complying with these requirements shall be invalid.