

Office of the Revisor of Statutes

Administrative Rules



TITLE: Adopted Permanent Rules Relating to Professional Conduct

AGENCY: Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design

REVISOR ID: R-4449

MINNESOTA RULES: Chapter 1805



The attached rules are approved for
filing with the Secretary of State

A handwritten signature in black ink, appearing to read "Sheree Speer".

Sheree Speer
Assistant Deputy Revisor

201188

1.1 **Board of Architecture, Engineering, Land Surveying, Landscape Architecture,**
1.2 **Geoscience, and Interior Design**

1.3 **Adopted Permanent Rules Relating to Professional Conduct**

1.4 **1805.0100 PROFESSIONAL CONDUCT.**

1.5 Subpart 1. **Purpose.** This chapter on professional conduct is adopted for the purpose
1.6 of implementing the laws and rules governing the practice of architecture, engineering, land
1.7 surveying, landscape architecture, and geoscience, and the use of the title use of certified
1.8 interior design.

1.9 Subp. 2. **Scope.** This chapter is applicable to and binding upon each person,
1.10 corporation, or partnership subject to the regulatory jurisdiction of the board.

1.11 Subp. 3. **Professional responsibility.**

1.12 A. The professional conduct of a licensee or certificate holder must ~~accord~~ be in
1.13 accordance with this chapter.

1.14 B. When providing professional services, the licensee's or certificate holder's
1.15 primary responsibility is the protection of the public's health, safety, and welfare.

1.16 **1805.0200 OBLIGATION TO PROVIDE FULL DISCLOSURE.**

1.17 Subpart 1. **Public statements.**

1.18 A. A licensee or certificate holder shall avoid any act that may diminish public
1.19 confidence in the profession and shall, at all times, conduct himself or herself, in all relations
1.20 with clients and the public, so as to maintain its reputation for professional integrity.

1.21 B. A licensee or certificate holder shall be objective and truthful in all professional
1.22 documents, including but not limited to plans, reports, statements, or testimony, or other
1.23 documents. The licensee or certificate holder shall ~~include all~~ consider relevant and pertinent
1.24 information in such documents or testimony and express professional opinions publicly

2.1 only when they are founded upon an adequate knowledge of the facts and a competent
2.2 evaluation of the subject matter.

2.3 Subp. 1a. **Credit.** ~~A licensee or certificate holder shall accurately represent the~~
2.4 ~~qualifications, education, training, or experience and the scope of responsibility in connection~~
2.5 ~~with work for which the licensee or certificate holder is claiming credit, as well as that of~~
2.6 ~~an employer, employees, or associates.~~ In connection with the work for which the licensee
2.7 or certificate holder is claiming credit, the licensee or certificate holder shall accurately
2.8 represent the licensee's or certificate holder's qualifications, education, and scope of
2.9 responsibility for the work. The licensee or certificate holder shall also accurately represent
2.10 the qualifications, education, and scope of responsibility of any employer, employees, or
2.11 associates.

2.12 Subp. 2. **False statements and nondisclosure.** A licensee or certificate holder shall
2.13 not make a false statement or fail to disclose a material fact requested in connection with
2.14 an application for certification, licensure, or renewal in this state or any other state.

2.15 Subp. 3. **Knowledge of unqualified applicants.**

2.16 A. A licensee or certificate holder shall not endorse an application for certification
2.17 or licensure of another person known by the licensee or certificate holder to be unqualified
2.18 in respect to character, education, experience, or other relevant factor.

2.19 B. A licensee or certificate holder possessing knowledge of an applicant's
2.20 qualifications for examination, licensure, or certification shall cooperate with the applicant
2.21 and the board by responding regarding those qualifications when requested to do so. A
2.22 licensee or certificate holder shall provide verification of employment and experience earned
2.23 by an applicant under supervision if there is reasonable assurance that the facts to be verified
2.24 are accurate. A licensee or certificate holder shall not knowingly sign a verification document
2.25 that contains false or misleading information.

3.1 Subp. 3a. **Knowledge of improper conduct by others.** A licensee or certificate holder
3.2 possessing knowledge of any acts prohibited by this chapter, chapter 1800, or Minnesota
3.3 Statutes, sections 326.02 to 326.15, by ~~another~~ a licensee, certificate holder, or unlicensed
3.4 individual shall report such knowledge to the board.

3.5 Upon questioning by the board or its representative during an official inquiry into an
3.6 alleged act, a licensee or certificate holder shall disclose any knowledge the licensee or
3.7 certificate holder may have in the matter.

3.8 Subp. 4. **General prohibitions.** A licensee or certificate holder shall not:

3.9 A. circumvent a rule of professional conduct through actions of another;

3.10 B. engage in illegal conduct involving moral turpitude;

3.11 C. engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

3.12 D. engage in conduct that adversely reflects on the licensee's fitness to practice
3.13 the profession; or

3.14 E. permit the licensee's or certificate holder's name or seal to be affixed to plans,
3.15 specifications, or other documents that were not prepared by or under the direct supervision
3.16 of the licensee or certificate holder.

3.17 **1805.0300 CONFLICT OF INTEREST.**

3.18 Subpart 1. **Employment.** A licensee or certificate holder shall not accept a project
3.19 where a duty to the client or the public would conflict with the personal interest of the
3.20 licensee or certificate holder or the interest of another client. Prior to accepting a project,
3.21 the licensee or certificate holder shall disclose to a prospective client such facts as may give
3.22 rise to a conflict of interest.

3.23 Subp. 2. **Compensation.** A licensee or certificate holder shall not accept compensation
3.24 for services relating or pertaining to the same project from more than one party unless:

4.1 A. there is a unity of interest between or among the parties to the project and
4.2 ~~unless;~~

4.3 B. the licensee or certificate holder makes full disclosure; and

4.4 C. the licensee or certificate holder obtains the express consent of all parties from
4.5 whom compensation will be received.

4.6 Subp. 3. **Gifts.**

4.7 A. ~~A Without the knowledge and approval of the client or the employer,~~ a licensee
4.8 or certificate holder shall not, directly or indirectly, solicit or accept any compensation,
4.9 gratuity, or item of value from contractors, their agents, material or equipment suppliers,
4.10 or other persons dealing with the client or employer in connection with the work for which
4.11 the licensee or certificate holder has been retained ~~without the knowledge and approval of~~
4.12 ~~the client or the employer.~~

4.13 B. A licensee or certificate holder shall neither offer nor make any payment or
4.14 gift to a government official, whether elected or appointed, with the intent of influencing
4.15 the official's judgment in connection with a prospective or existing project in which the
4.16 licensee or certificate holder is interested or involved.

4.17 Subp. 4. **Interpretations.** When acting as the interpreter of project contract documents
4.18 or as the judge of contract performance, a licensee or certificate holder shall render decisions
4.19 impartially, using the professional judgment of their licensed or certified discipline.

4.20 **1805.0400 IMPROPER SOLICITATION OF EMPLOYMENT.**

4.21 A. A licensee or certificate holder shall seek and engage in only the professional
4.22 work or employment the professional is competent and qualified to perform by reason of
4.23 education, training, or experience.

B. A licensee or certificate holder shall not tender any gift, pay, or offer to pay, directly or indirectly, anything of substantial value, whether in the form of a commission or otherwise, as an inducement to secure employment. A licensee or certificate holder is not prohibited from paying a commission to a licensed employment agency for securing a salaried position.

1805.0500 FALSE OR MALICIOUS STATEMENTS.

A licensee or certificate holder shall not make false or malicious statements that may have the effect, directly or indirectly, or by implication, of injuring the personal or professional reputation or business of another member of the profession.

1805.0650 COMPETENCE.

Subpart 1. **Standards of competence.** In practicing architecture, engineering, land surveying, landscape architecture, geoscience, or when using the title of certified interior designer, each licensee or certificate holder shall act with reasonable care and competence and shall apply the knowledge and skill that is ordinarily applied by such professionals.

Subp. 2. **Conformance with state and local laws and regulations.** ~~In providing professional services, a licensee or certificate holder shall take into account applicable state and local laws and regulations. While a licensee or certificate holder may rely on the advice of other professionals as to the intent and meaning of such regulations, once having obtained the advice, the licensee or certificate holder shall not violate such laws and regulations.~~ When providing professional services, a licensee or certificate holder shall not violate applicable state and local laws and regulations. Notwithstanding the duty of licensees and certificate holders to follow the law, in proceedings before the board, the board shall consider whether a licensee's or certificate holder's violation follows from incorrect advice on the meaning of a statute or regulation. In such a circumstance, the board shall consider the reasonableness of the licensee's or certificate holder's reliance on the incorrect advice in determining the appropriate sanction, if any, for the violation.

6.1 Subp. 3. **Qualifications for performing professional services.** A licensee or certificate
6.2 holder shall perform professional services only when the licensee or certificate holder,
6.3 together with those whom the licensee or certificate holder may engage as consultants, are
6.4 qualified by education, training, and experience in the specific technical areas involved.

6.5 **1805.0700 COMPLIANCE WITH LAWS.**

6.6 Subpart 1. **Violation of laws.** Convictions of a felony without restoration of civil
6.7 rights, or disciplinary action taken against a licensee or certificate holder by another
6.8 jurisdiction, if for cause which in the state of Minnesota would constitute a violation of law
6.9 or of these rules, shall be deemed to be a violation of these rules of professional conduct.

6.10 Subp. 2. **Incompetence.** A licensee or certificate holder adjudged mentally incompetent
6.11 by a court of competent jurisdiction shall, until restored to mental competency, be deemed
6.12 to be incompetent to practice the profession within the meaning of Minnesota Statutes,
6.13 section 326.11, subdivision 2 1.

6.14 **1805.0800 EMPLOYMENT PRACTICES.**

6.15 A licensee or certificate holder, as an employer, shall refrain from engaging in any
6.16 discriminatory employment practice prohibited by law.

6.17 **1805.0900 PROFESSIONAL MISCONDUCT.**

6.18 Misconduct within the meaning of Minnesota Statutes, section 326.11, subdivision 1,
6.19 shall include any act or practice in violation of the rules of professional conduct in this
6.20 chapter. A licensee or certificate holder shall not engage in conduct involving bribery,
6.21 collusion, corruption, fraud, or ~~malice~~ malfesance.

6.22 **1805.1500 REGISTRATION.**

6.23 No corporation, partnership, or other firm engaged in the practice of architecture,
6.24 engineering, land surveying, landscape architecture, geoscience, or two or more of these
6.25 professions, shall contract with or accept employment for professional services of an

7.1 architectural, engineering, land surveying, landscape architectural, or geoscience character
7.2 as defined in Minnesota Statutes, sections 326.02 to 326.15, unless a member or employee
7.3 of the corporation, partnership, or other firm in responsible charge of the work is registered
7.4 and licensed under Minnesota Statutes, sections 326.02 to 326.15, to practice the profession
7.5 called for by the employment.

7.6 **1805.1600 RESPONSIBLE CHARGE AND DIRECT SUPERVISION.**

7.7 Subpart 1. **Responsible charge; defined.** A person in responsible charge of
7.8 architectural, engineering, land surveying, landscape architectural, geoscience, or certified
7.9 interior design work as used in Minnesota Statutes, section 326.14, means the person who
7.10 determines and reviews design criteria, including technical aspects, advises with the client,
7.11 has direct supervisions of subordinates during the course of the work and, in general, the
7.12 person whose professional skill and judgment are embodied in the plans, designs, and advice
7.13 involved in the work.

7.14 Subp. 2. **Direct supervision; defined.** A person in "direct supervision" of work as
7.15 referred to in Minnesota Statutes, section 326.12, subdivision 3, means that person who is
7.16 the employer, an employee of the same firm, or who is under contract to or from another
7.17 firm and who is in responsible charge of the technical aspects of the architectural,
7.18 engineering, land surveying, landscape architectural, geoscience, or certified interior design
7.19 work in progress, and whose professional skill and judgment are embodied in the plans,
7.20 specifications, reports, plats, or other documents required to be certified pursuant to that
7.21 subdivision. A person in direct supervision of work directs the work of other licensees,
7.22 unlicensed professionals, technicians, and clerical persons assigned to that work and is in
7.23 responsible charge of the project comprising the work being supervised.

7.24 **REPEALER.** Minnesota Rules, part 1805.0600, is repealed.

September 19, 2019

VIA EMAIL ONLY

Nancy Breems
Secretary of State, Elections Division
180 State Office Building
100 Rev Dr Martin Luther King Jr Blvd
St. Paul, Minnesota 55155-1299
official.documents@state.mn.us

**Re: *In the Matter of the Proposed Amendments to Rules Governing
Professional Conduct*
OAH 8-9038-35923; R-4449**

Dear Ms. Breems:

Enclosed for filing is an electronic copy of the above-entitled adopted rules.

Please send the agency copy of the rules to:

Kay Weiss
85 E 7th Pl #160
Saint Paul, MN 55101
kay.weiss@state.mn.us

If you have any questions regarding this matter, please contact Ian Lewenstein at (651) 361-7857, ian.lewenstein@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,



IAN LEWENSTEIN
Legal Assistant

Enclosures

cc: Kay Weiss (via email)