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calendar

- February 9, 2011, 9 am – Next Scheduled Board meeting
- March, 25 - 26, 2011 – WCARB Regional Meeting, Cleveland, OH

moving? new job?

Visit the following link to update your personal info:

[update license](#)

board members

Jeanne M. Jackson, AIA, NCARB, LEED AP, Board Chair

Mary W. Bearnson

Hans Hoffman, AIA, NCARB, LEED AP

Bryan J. Turner, AIA

board staff

Richard J. Oborn, Bureau Manager

Lee Avery, Board Secretary

congratulations to Board Member Jim Nielson!

Greetings, and Happy 2011 to all of you!

Welcome to the January edition of the Utah Architects Licensing Board Newsletter!

It's been another busy and productive year for the Board...we have enacted a couple of changes to the Architect Licensing Act Rule, which are discussed in this newsletter. Another important change is one to our Board – Jim Nielson, AIA, LEED AP, resigned from the Board in December. The reason? Jim was elected this November to serve as District 19's new representative in the Utah legislature. While we will miss Jim's thoughtful counsel and commentary, from which we have benefited for the past 5 years, we congratulate him, and wish him all the best in his new civic position. Jim, thanks for all your wonderful service to our profession!

about the Board...

The Utah Architects Licensing Board is composed of four licensed architects as well as a member from the public sector. They are joined by a Bureau Manager, a Board Secretary, and a number of other excellent DOPL staff members who work diligently to help ensure that the public health, safety, and welfare are preserved.

Ever wonder what it's like to serve your profession as a member of a licensing board? Wonder no longer! Check out the two articles below, the first from Jim Nielson, the second from our public member, Mary Bearnson...

Jim Nielson, AIA, LEED AP

I've Done my Time . . .

After four and a half years on the Utah Architects Licensing Board, I'm resigning to spend more time with my family. Seriously, though, as many of you know I was elected to the State Legislature in November. I resigned from my position on the board shortly thereafter. Jeanne Jackson, Board Chair, wouldn't let me go without having me agree to pen a "swan song" about my time on the board.

In every way it has been a privilege and a pleasure to serve. I will truly miss this avenue of service, and I will miss the remarkable professionals, public, and staff members with whom I've been privileged to work. Service on the board has been both rewarding and challenging. We have dealt with discipline and rules, with continuing education funding and legislative policy issues. Board membership also gave me the opportunity to serve on national committees affecting licensure for the profession as a whole.

What follows is a sort of captain's log about my experiences and the board's accomplishments during my years as a member of the licensing board....



Discipline

I found the disciplinary process we dealt with fascinating. In the case of a formal hearing, the Board served as an advisory panel, as a sort of a jury, but there was an interesting wrinkle they ought to consider in justice courts with juries. That is, after the opposing counsels presented their arguments, we as board members had a chance to ask questions of either side and get responses to the concerns that were on our minds. Only then did we confer and decide on a recommendation.

We only had one such formal hearing during the time I was on the Board. (I think architects make up a pretty well-behaved profession.) We also had one interview during a board meeting with a licensee that was facing potential action. In both cases, the action in question wasn't about professional actions of the licensee but rather about other behavior that could legally have an impact on the individual's license.

And in both cases we recommended that the individual's license be maintained or reinstated.

Administrative Rules

One of the functions of the Board is to develop administrative rules to implement Utah's Architect Licensing Act. As events and information came to our attention, we worked within the parameters of the Department of Commerce's rulemaking authority to establish new or modified rules.

Making rules (or regulations) meant debating them internally, repeating that process as often as needed in order to reach consensus, obtaining review by department staff and counsel, publishing a draft for public comment, holding a public hearing, and publishing the new rule. During all of this, we have to allow certain fixed timetables for public involvement. The end results were regulations that we believed would better guide licensees and code officials, protect the health, safety, and welfare of the public, and preserve the legitimate interests of licensed architects and emerging professionals (those not yet licensed).

Certifying Intern Experience

For example, one thing we changed during my service was to make it a violation of the state's professional code of conduct for a supervisor to refuse to review and certify experience legitimately completed and reported by an emerging professional (intern) that works for him or her. So a supervisor that holds certification of such report over an intern's head in order to exercise undue influence over the employee will potentially be eligible for action against his license due to unprofessional conduct. We thought this rule was important to ensure that the validation of intern experience would not become a tool that employers could use to harass or exploit employees seeking licensure.

Incidental Practice

We also spent more than two years creating a new incidental practice rule—certainly the most substantive rule we dealt with during my time on the board. This rule included quantitative thresholds for cost and occupant loads that code officials could apply without having to make a subjective judgment on a licensee's capabilities. Under the previous rules, we had come to learn, some jurisdictions simply disallowed incidental practice altogether, not wanting to make judgment calls. The result was sometimes costly additional services by other licensed professionals for very minor work. At the other extreme, some jurisdictions interpreted incidental practice allowances so liberally as to allow engineers to do virtually any amount of architecture and architects to do all the engineering they wanted. Working jointly with the engineer licensing board:

- We worked to develop common goals
- We paused to wait for the outcome of a bill introduced by Representative Larry Wiley (supported by many of his fellow code officials) that would have eliminated incidental practice outright
- We looked at what other states were doing
- We hammered out consensus language



- We issued the draft rule for comment, and
- We implemented a common-sense solution that code officials across the state are beginning to put into practice.

Utah's incidental practice rule is now being considered as a model by other states such as Idaho.

Education and Enforcement Fund

The state board also oversees the state's Education and Enforcement Fund for licensed architects. A portion of license and renewal fees goes into this fund. The Board uses this fund to support educational programs and enforcement initiatives to help licensed professionals protect the health safety and welfare of the public. During the first two or three years I was on the Board, we watched the fund grow larger until it was very close to \$100,000, the statutory limit. Any funds beyond that amount would revert to the general fund.

The Board felt strongly that these funds should not lapse but should be used for their intended purposes. Working with education providers such as the University of Utah and professional associations such as the AIA, over the past couple of years the Board has helped fund increased educational offerings at reduced or no cost to licensees. Since then the Board has been authorizing the expenditure of slightly more out of the Architect Education and Enforcement fund than has been coming in. The balance has now dropped comfortably below the statutory maximum. The Board plans to continue to monitor the fund to ensure that the money accumulating in the fund is used for the purpose intended and does not lapse.

Policy Issues

At one Board meeting fairly early in my tenure, I asked whether there was interest in reconsidering the possibility of an alternate path to licensure, or licensure by experience. That's a policy I've always taken an interest in. Then and there I gained a practical understanding of the Board's role in policy matters. The Board's role is advisory to the administration, and the administration's goal is to implement policy established by statute.

Accordingly, it is not the Board's place to champion legislative policy changes. But the questions sometimes came up. As potential needs for policy changes have become apparent, the Board has brought the issue to the attention of members of the profession and AIA Utah to advocate if they choose to.

One of the issues we considered during my time on the Board was the fines set by statute for violations of the licensing law. In light of other states' policies, the Board felt that members of the profession or its association may wish to ask the legislature to consider raising the maximum amounts.

Also, after implementing the incidental practice rules mentioned previously, an architect approached the Board about a provision in statute that was in conflict with the new rules. We were asked to consider adjusting our incidental practice provisions to eliminate the conflict. In reviewing the matter, however, the recommendation of the Board was instead to suggest that the statutory loophole be closed to match the intent of the new rule. We then presented this issue to the AIA Government Affairs committee for consideration and further action.

I don't know where any of these policy matters will lead, but I will note that if the AIA or any members of the profession decide to pursue these or other policy issues, I know a legislator that would be happy to run a bill.

National Service

Service to the architecture profession at the state level opened up opportunities to serve at the national level as well—a distinct privilege. Utah's Board is one of 54 boards that make up the National Council of Architectural Registration Boards (NCARB). NCARB coordinates licensing requirements nationally and prepares model laws, model regulations, and other model documents to facilitate reciprocity between jurisdictions. NCARB also administers the Architectural Records Exam (ARE), the national licensing exam and the Intern Development Program (IDP) for emerging professionals.



During my time on the Board I served on committees and attended meetings in places ranging from Santa Monica, California to Portland, Maine, from Minneapolis, Minnesota to Austin, Texas, and places in between (including Salt Lake City). With people coming from different parts of the country (and in some cases Canada), the meetings moved around so everyone had a chance to meet close to home. In one meeting we piloted new test questions for the ARE. Most memorable, however, were the two years working on task forces charged with evaluating and simplifying the IDP. We had long, spirited discussions, and ultimately we agreed unanimously to recommend dramatic changes to the program, including reducing the number of work settings to two (plus a supplemental experience setting outside the workplace) and allowing emerging professionals to begin the IDP at the start of their professional education.

The changes we worked on were ultimately approved by NCARB and most of them became known as IDP 2.0. It was a great privilege working with experienced and newly registered professionals along with NCARB personnel from around the country on these committees. We made the process of becoming a licensed architect easier to understand, more flexible, and more accessible for emerging professionals—all the while continuing to protect the health, safety, and welfare of the public.

It was good to see the service other Board members rendered in similar fashion. Chair Jeanne Jackson spent hundreds of hours authoring and reviewing new material for the ARE. Board Member Hans Hoffman served on a national code of conduct committee and brought back concrete information about what other states are doing to police our profession.

All in all, national service opportunities added a rewarding and stimulating dimension to service on the state Board.

Newsletter

And then there is the newsletter. This was really our chair, Jeane Jackson's brainchild. Regular communication about rule changes, upcoming NCARB changes (having to do with governance, ARE, IDP, continuing education, or reciprocity), local enforcement activities, new licensees (like Frank Gehry!), and license renewal schedules are a valuable tool in the hands of our over 2,000 Utah license holders. And they are just plain interesting. **(So keep your email current in order to keep getting this newsletter!)** This can be done electronically at <https://secure.utah.gov/doplrenewal/doplrenewal?page=updateLicenseRecordNoLogin>

Now this is my last article for the newsletter. Just as I've enjoyed the other aspects of Board membership, I've appreciated a chance to do a little something to keep my fellow architects apprised of what's going on at NCARB and at your Architects Licensing Board. It's all been a good ride.

As a parting shot, if you find yourself up on Capitol Hill this session, please don't hesitate to stop in and say hello.

Mary Bearson, Public Member

Serving on a State Licensing Board as a public member has been a very rewarding and enlightening experience. It is an opportunity I wish every citizen of our state could participate in. I have learned so much about how our state works, how laws and rules are created and passed, and the importance of knowing what those laws and rules are and where to find them. It has also been important for me to realize that government and its agencies are here for the protection and betterment of all of us. I have learned so much about many of the professions which are overseen by DOPL, and I have gained a great respect for those professionals who practice here in our state. I have had the opportunity to serve on four separate licensing boards, and with each board I have observed that the main interest of each board is in the protection of health, safety, and welfare of the public. Because the protection of the public is my main function on the Board, this has made my job much easier. Utah is a great state. I am proud of the fine men and women who serve our citizens. I am grateful for the opportunity to serve in my capacity as the public member on the Architects Licensing Board.



rule changes

The Board is always working to improve the clarity and accuracy of the Architect Licensing Act Rule, as well as identifying changes that may be beneficial to our profession. Accordingly, a recent topic has been the idea of inactive status for architectural licensees. What does inactive status mean, and how does it work?

1. First, you have to certify that you won't practice architecture while your license is on inactive status (except to identify yourself as an inactive licensee.)
2. Your license, prior to being placed on inactive status, shall be active and in good standing.
3. Inactive status licensees don't have to fulfill the continuing education requirement.
4. In addition to the requirements in Subsection R156-1-305(6) to reactivate an inactive license, you have to provide documentation that within two years of the license being reinstated, you completed 16 hours of continuing education.
5. Prior to a license being reactivated, a licensee shall meet the requirements for license renewal.
6. See the DOPL website for additional info on this rule.

Including the inactive status discussed above, the following amendments to the Architect Licensing Act Rule became effective Nov. 8, 2011. The amendments were reviewed and approved by the Board at the Oct. 20 Board meeting. Here is a summary of the amendments:

- Section 102, paragraph (6)(d) and (f), updated the referenced International Building Code from the 2006 edition to the 2009 edition.
- Section 103: Capitalized the term "division".
- Added Section 306 which allows a licensed architect to place their license on an inactive status.
- Section 501 renumbered to Section 503 and administrative penalties/fine schedule was changed to a table format.

As always, a current copy of the rule is posted on the DOPL website and available at the following link:

<http://www.dopl.utah.gov/laws/R156-3a.pdf> .

professional conduct

Board member Hans Hoffman has been serving our profession on the NCARB Committee Professional Conduct, and is sharing his thoughts and knowledge in the article below...

"The shock of the occasional failure brings us to our senses and forces us to reevaluate our conduct."
—Robert A. Rubin and Lisa A. Banick, *"The Hyatt Regency Decision: One View"*

An architect's professional misconduct isn't always as obvious as a structure collapsing. Or even as obvious as telling your staff you are leaving to hike the Appalachian Trail... then running off with your soul mate in South America. While the architecture profession may not be as glamorous as government officials being indicted or professional athletes making front page news for using performance enhancing drugs, crossing the line of professional conduct by architects can be more frequent than expected and often confused by vague or conflicting definitions.

Phillip H. Gerou, FAIA NCARB noted in NCARB's mini-monograph *Ethics and Professional Rules of Conduct*. "Architects often view the profession, their fellow practitioners, and even themselves as somehow immune from temptation, distraction, or misbehavior. Traditionally, professions such as architecture are very highly respected.



The public expects architects to exemplify the highest ethical values. However, architects are relentlessly confronted with conflicting values, incompatible loyalties, and subtle temptations from a variety of sources. Within every project, decisions must be made about the quality of materials versus budget constraints, owner-prescribed requirements versus building codes, or client confidentiality versus legal disclosure. Often the resolution of conflicts does not require a decision about right and wrong, it requires action to resolve situations in which competing principles may be correct, but contradictory.” Every day and on every project architects are faced unique conditions and difficult decisions.

Architects in Utah are governed by licensing laws adopted by the state legislature and enforced by the Architects Licensing Board and the Utah Department of Commerce. NCARB publishes *Rules of Conduct*, which is recommended rules for licensing boards. NCARB’s monograph *Professional Conduct* (www.ncarb.org/publications/pdpmonographs.html) states: “The Rules of Conduct are, like criminal laws, standards for minimum acceptable conduct... Most architects can fairly easily meet most of the Rules of Conduct by acting on a common sense understanding of right and wrong...” The NCARB *Rules of Conduct* define specific practices expected of licensed architects. These are practices that protect the public; they are written to be enforced by state boards, which are charged with the responsibility to guard the health, safety, and welfare of the public. A violation of the Rules of Conduct that has legal consequences also constitutes a violation of professional ethical conduct.

The American Institute of Architects (AIA) has also established a definition of ethics for architects in the *Code of Ethics and Professional Conduct*. This code not only addresses public health, safety, and welfare issues, but includes rules that deal with professional interactions and aspirations, as well as mandatory rules of conduct. AIA members are held accountable for a wide range of issues, from seeking aesthetic excellence to respecting the environment. This code has five areas that prescribe broad principles of conduct:

1. General Obligations
2. Obligations to the Public
3. Obligations to the Client
4. Obligations to the Profession
5. Obligations to Colleagues

According to the AIA, the most common violations of AIA’s Code of Ethics are:

- Improper attribution of credit, such as stating or giving improper credit for project involvement
- Inaccurate representation of professional qualifications
- Misrepresentation of a project’s budget, scope, or expectations, and
- Inability to obtain examples of work from employers

Other examples of violations may include things such as that old college friend from out of state that is doing a project in St. George, and just needs you to stamp their plans. Or holding yourself out as an architect in a jurisdiction where you are not licensed. Or even signing off for an intern’s IDP progress report that you know isn’t accurate. A recent case from Texas involved an attempted bribe of a building official in which the architect had placed \$100 bills between the drawing sheets of the permit review set. Less egregious examples may be the client interested in saving some money by not providing all of the required ADA accessories for a project. These examples further illustrate situations that can be resolved by acting on a common sense understanding of right and wrong.

Architects licensed in Utah are encouraged to understand the ethical responsibilities and legal obligations of architects whether they are AIA members or NCARB Certificate holders or neither. As the architecture profession continues to change with respect to how projects are delivered, how architects contract with owners, and how architects provide drawings to contractors – common sense adherence to the canons of professional conduct shall remain at the forefront of the profession.



education and enforcement fund update

As I know you all remember from previous issues of this newsletter, the Architects Licensing Board has oversight of the Architect Education and Enforcement Fund. This fund is used for education and training for registration and continuing education credit for Utah architects.

Since the last newsletter in July, two appropriations for educational funding were unanimously approved by the Board.

Benjamin Schrieter is the appointed volunteer Intern Development Program (IDP) Coordinator for Utah, (as established in the Utah Division of Occupational and Professional Licensing Act 58-1-203 and Utah Architect Licensing Act Rule R156-3a-201). The National Council of Architectural Registration Boards (NCARB) has recently changed the ARE and the way intern experience is registered. The Board approved funding to Ben to send him as our representative to the IDP Educator Coordinators Conference held in Chicago in August 2010. Look for Ben's report/update in the next newsletter.

The Board also approved the continuation of our program to fund the initial registration for the IDP with NCARB for third year students in the University of Utah Master of Architecture program. This program has been in place since 2005.

disciplinary actions / complaints

disciplinary actions

July 2010 – January 2011:

No disciplinary actions taken against Architects by the Division of Occupation and Professional Licensing

A complete listing of all disciplinary actions and complaints can be found on the DOPL web site at <http://dopl.utah.gov/investigations/disciplinary.html>. From this page it is possible to review all citations and actions that have been taken against any licensed individual or company.

Complaints

Every day the Utah Division of Occupational and Professional Licensing (DOPL) receives complaints regarding the conduct of individuals practicing in regulated occupations and professions. Complaints are received from many sources including the general public, co-workers, licensing board members, professional associations, other state agencies, and federal disciplinary databases.

DOPL is legislatively responsible to investigate acts or practices inconsistent with generally recognized standards of conduct, unlicensed practice in regulated professions or occupations, allegations of gross negligence or incompetence, and patterns of negligence or incompetence. Until disciplinary action is taken, complaints are confidential in nature and are not generally available to the public. However, in certain situations, the information contained in a complaint may be shared with other governmental agencies, if the other agency demonstrates a legal basis for the sharing of such information. Upon submission, all complaints are entered into an investigative database in order to analyze patterns of behavior. Each complaint is then reviewed by DOPL's chief investigator or an investigative supervisor who makes one of three initial determinations:



No Violation

If it is determined that the complaint does not involve a violation, the complaint is closed and no action is taken. Additionally, no public reporting of the information will occur.

Violation which Does Not Meet Criteria for Investigation

When a complaint involves a violation, but does not meet DOPL's criteria for opening an internal investigation, the DOPL may choose to take any or all of the following actions:

- refer the complaint to another local, state, or federal agency
- invite the involved individual(s) to participate in an informal, educational interview
- Issue a letter of concern to the involved individual(s)

Violation which Does Meet Criteria for Investigation

Finally, if a complaint is determined to involve a violation and is within DOPL's jurisdiction, the complaint will be prioritized and assigned to an investigator. Investigators use their experienced judgment and established procedures to determine the type of investigation to conduct. An investigation may include any of the following elements:

- interviewing complainant(s)
- interviewing witness(es)
- interviewing involved individual(s)
- obtaining appropriate records or documentation (subpoena)
- gathering other evidence
- obtaining input from applicable experts
- drafting petitions which include a statement of the allegations

At any time, the case may be reviewed by any or all of the following: the Utah Attorney Generals Office, an expert in the respective occupation or profession, DOPL's enforcement counsel, or DOPL's bureau manager responsible for the regulation of the respective occupation or profession. DOPL may also determine that a criminal complaint is warranted and will then notify the appropriate authorities of the situation.

A complaint can be submitted to DOPL by:

- phone - (801) 530-6630. Office hours are Monday through Thursday (except legal holidays) from 7:00 a.m. to 6:00 p.m., Mountain Standard Time
- email - DOPL@utah.gov
- online - http://dopl.utah.gov/investigations/complaint_form.html



new utah licenses. . .

The Board welcomes and congratulates our **NEW** Utah licensees!

July 21, 2010 – January 09, 2011:

- Timothy Eugene Alatorre
- Joseph Donicio Alvarez
- Michael Shelton Andersen
- Lee Arnon
- Edward Claude Barcala
- Gary Lee Bastien
- Jason Douglas Boyer
- Geoffrey Joseph Bray
- Brian Kenneth Bucher
- David Michael Clayton
- John Louis Coke
- "Sumner Fiske Crowell, Jr"
- Larry R Curtis
- Joseph Michael Davis
- Mykel Katsumi Tatsuyoshi Davis
- Vassos Michael Demetriou
- Michael Adam Dolan
- Chad Jefferson Downs
- H Weston Drumheller
- Shane Hansen Fernandez
- Bradford White Fiske
- Jeffrey Marc Flanigan
- Richard N Gordon
- Daniel Scott Grant
- John Richmond Grier
- David Hughes Groseclose
- Edward Dale Hickman
- Daniel Hoffman
- Kimberly Marie Hoffmaster
- Matthew A Holleb
- Jeffrey Scott Juip
- Tracy Nick Lindquist
- Erin Kay Lucero
- Nicklaus Trevor Macneil
- Mandy Sue Martineau
- John Steven McBride
- Michele A McKay
- David Benjamin Meleca
- Anne G Mooney
- David Anthony Murray
- John Stanley York Oderda
- Theron Omega Pate
- Lynn Marie Peters
- David Cline Pfeifer
- Christopher Theodore Prevolos
- Glenn Erwin Ratajczak
- Michael Norton Riley
- Douglas Eric Robidoux
- Daniel Charles Rogers
- Chad R Spencer
- Cecilia Haydee Uriburu
- James Alexander Wilson
- Kurt Andrew Wilson

current licensees

DOPL provides the public the ability to look up information about any individual or entity holding a license at <https://secure.utah.gov/llv/llv>. From this web page it is possible to look up information by name, profession or license number. From this page it is possible to view summary information about a licensee which includes:

- Name
- City, State, Zip
- Profession
- License Type
- License Number
- License Status
- Original Issue Date
- Expiration Date

Note: Street address, phone and other protected information is not available online.

newsletter fine print. . .

This newsletter is a publication produced by the Utah Architects Licensing Board and is intended to share pertinent information with architects licensed by State of Utah, Division of Occupational and Professional Licensing. Suggestions for content for future newsletters should be sent to Jeanne Jackson, AIA, NCARB, LEED AP jjackson@vcbo.com