

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	05/30/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 7/11/2014

2. COMAR Codification

**Title Subtitle Chapter Regulation**

09 28 04 01 -.11

3. Name of Promulgating Authority

Department of Labor, Licensing, and Regulation

**4. Name of Regulations Coordinator Telephone Number**  
Donnice M Turner 410-230-6008

**Mailing Address**

500 N. Calvert Street, 4th Floor

**City State Zip Code**  
Baltimore MD 21202

**Email**  
donniturner@dllr.state.md.us

**5. Name of Person to Call About this Document Telephone No.**  
Pamela J. Edwards 410-230-6262

**Email Address**  
pam.edwards@maryland.gov

6. Check applicable items:  
X- New Regulations

- Amendments to Existing Regulations
    - Date when existing text was downloaded from COMAR online: .
  - Repeal of Existing Regulations
  - Recodification
  - Incorporation by Reference of Documents Requiring DSD Approval
  - Reproposal of Substantively Different Text:
    - : Md. R
    - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

- Yes  No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Milena Y. Trust, Assistant Attorney General, (telephone #410-230-6139) on May 27, 2014. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Pamela J. Edwards

**Title**

Executive Director

**Telephone No.**

410-230-6262

**Date**

May 27, 2014

# **DEPARTMENT OF LABOR, LICENSING, AND REGULATION**

## **Subtitle 28 BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS**

### **09.28.04 Continuing Professional Competency Requirements**

Authority: Business Occupations and Professions Article, §9-309(f), Annotated Code of Maryland

#### **Notice of Proposed Action**

□

The Board of Examiners of Landscape Architects proposes to adopt new Regulations .01 - .11 under a new chapter, COMAR 09.28.04 Continuing Professional Competency Requirements.

This action was considered by the Board of Examiners of Landscape Architects at a public meeting held on May 13, 2014, notice of which was given by publication in the Daily Record on May 5, 2014, pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

#### **Statement of Purpose**

The purpose of this action is to ensure that individuals licensed by the Board of Examiners of Landscape Architects comply with the continuing professional competency requirements as a condition of license renewal. Compliance with the CPC requirements is imperative in achieving the enhanced and contemporary knowledge level of those individuals who offer landscape architectural services and serves a significant role in assuring the health, safety, and welfare of the general public who utilize professional services of Maryland licensed landscape architects.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

##### **I. Summary of Economic Impact.**

Licensees may have to pay for some or all CPC courses in order to accumulate the 24 units required to renew a license on a bi-annual basis. Various public and private agencies, as well as other approved providers, that sponsor CPC activities can benefit by receiving additional revenues from licensees who attend the courses. The American Society of Landscape Architects, a pre-approved CPC provider under these regulations, estimates the cost per professional hour to be at \$40 on average. However, it is expected that a number of consultants and vendors will provide courses sponsored by them for no additional cost to members of landscape architectural firms as a networking/business development activity. Costs may also be lessened by virtue of the fact that Maryland licensees who are licensed in other states requiring compliance with continuing

competency or education will be able to use those courses for credit in Maryland.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Licensees	(-)	approx. \$480 per year
E. On other industries or trade groups:		
Continuing education providers	(+)	approx. \$480 or more per year
F. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

D. Based on the approximate per hour cost of \$40, a licensee would pay \$480 per year to comply with the CPC regulations, based on the requirement of 12 CPC hours per year.

E. Providers will collect revenue from licensees. The amount is based on the assumption of \$40 per credit hour.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Pamela J. Edwards, Executive Director, Professional Licensing Boards, 500 N. Calvert Street, Room 308, Baltimore, MD 21202, or call 410-230-6262, or email to [pam.edwards@maryland.gov](mailto:pam.edwards@maryland.gov), or fax to 410-333-0021. Comments will be accepted through September 15, 2014. A public hearing will be held, on September 15, 2014, 2 pm, at 500 N. Calvert Street, Baltimore, MD 21202, to hear comments from the public. Written comments may be sent to Pamela J. Edwards, 500 N. Calvert Street, Room 308, Baltimore, MD 21202.

**Open Meeting**

Final action on the proposal will be considered by the Board of Examiners of Landscape Architects during a public meeting to be held on January 20, 2015, 2 p.m., at 500 N. Calvert Street, Third Floor Conference Room, Baltimore, MD 21202.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

State Occupational and Professional Licensing Boards' Fund

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Small businesses will receive additional revenues from Maryland licensees who will be required to comply with continuing competency requirements to maintain their Maryland licenses. However, some of those licensees may be licensed in other jurisdictions and courses taken to satisfy requirements in other states can be used to satisfy Maryland's requirements.

G. Small Business Worksheet:

The intended beneficiaries of the regulations are the licensees and the public. Compliance with the continuing professional competency requirements will enhance the knowledge level of licensees and will serve a vital role in assuring the protection of the general public.

Small businesses who are providers of continuing professional competency courses will benefit from additional revenues they would receive from Maryland licensees.

Attached Document:

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## **Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION**

### ***Subtitle 28 BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS***

#### **Chapter 04 Continuing Professional Competency Requirements**

**.01 Purpose.**

The State legislature has determined that in order to safeguard the public's health, safety and welfare of Maryland citizens, licensed landscape architects must comply with the continuing professional competency requirements as a prerequisite to the renewal of a license.

**.02 Definitions.**

A. In this chapter, the following terms have the meaning indicated.

B. Terms Defined.

- (1) "Authorized activities" means professional development activities that satisfy the following requirements:
  - (a) Meet the criteria set forth in Regulation .04; and
  - (b) Are approved and accepted for credit by (i) the American Society of Landscape Architects ("ASLA"); (ii) the Landscape Architecture Continuing Education System ("LACES"); or (iii) the Board.
- (2) "Board" means the State Board of Examiners of Landscape Architects.
- (3) "Category A/Category B programs" means the types of programs set forth in Regulation .04 of this chapter.
- (4) "CLARB" means the Council of Landscape Architecture Registration Boards.
- (5) "Health, safety and welfare subjects" means technical and professional subjects more specifically described in Regulation .04 below that the Board deems necessary and appropriate and that are related to the practice of landscape architecture, as defined in §9-101 of the Business Occupations and Professions Article, Annotated Code of Maryland.
- (6) "Professional Development Hour (PDH)" means one continuous instructional hour spent attending and completing the professional development activity. One PDH means a minimum of 50 minutes of face-to-face or distance learning instruction per 60-minute hour and is equivalent to a comparable single educational unit that may be utilized by ASLA, LACES, or CLARB.

**.03 Requirements.**

A. A licensee shall complete, as a condition of a license renewal, a minimum of 24 PDHs in each individual 2-year licensing term with a:

- (1) Minimum of 16 PDHs in Category A programs, including a minimum of 1 PDH in content areas related to the professional ethics; and
- (2) Maximum of 8 PDHs in Category B programs.

B. A maximum of 12 PDHs earned in excess of 24 PDHs that are required for a license renewal during the licensing term may be carried forward to apply as credit toward the next individual licensing term.

**.04 Professional Development Activities.**

A. Professional Development Activity shall meet at least the following criteria in order to be considered qualifying activity:

- (1) Maintain and enhance professional competency of licensed landscape architects;
- (2) Foster improvement, advancement, and extension of professional skills and knowledge related to the practice of landscape architecture;
- (3) Offer learning experiences relevant to current landscape architectural practices as they relate to the public health, safety, and welfare; and
- (4) Be presented, led or taught at a professional level by well-qualified professionals in the learning environment conducive to learning and appropriate for accomplishing learning objectives described in these regulations.

B. Qualifying activities may fall into one or more of the following categories:

- (1) Category A programs shall have the content areas that focus on the following issues:
  - (a) Research, analysis, assessment, conservation, preservation, and enhancement of land use;
  - (b) Selection and allocation of cultural, historic and natural resources;
  - (c) Laws and regulations applicable to the practice of landscape architecture in Maryland;
  - (d) Standards of practice or care;
  - (e) Professional ethics; or
  - (f) Similar topics aimed to maintain, improve or expand the skills and knowledge relevant to the practice of landscape architecture.
- (2) Category B activities shall have content areas that focus on the following issues:
  - (a) Business or government administration; or
  - (b) Development of traits, skills, or behavioral patterns geared towards improved communications skills, oral and written skills, personal management skills, or other similar programs which contain a clear purpose of improving a licensee's methods of practice or operations or advancing professionally - related skills and practices as applicable to the practice of landscape architecture.

C. A professional development activity shall provide for clear outcome measures in the form of a narrative, quiz, test, questions and answers, project, or any other appropriate form or method.

D. A professional development activity may be presented by the following methods:

- (1) Classroom instruction;
- (2) In-house presentation;
- (3) Distance learning delivery;
- (4) On-line instruction; or
- (5) Other formats approved by the Board.

**.05 Submissions for Approval.**

A. Entities or individuals, including, but not limited to, professional firms conducting in-house presentations, may submit a specific professional development activity for review and approval by the Board.

B. During the application process, the Board will evaluate the suitability of the activity and its presenter.

C. The presenter shall submit adequate information to enable the Board to evaluate the professional development activity. At a minimum, the Board requires the following information to be submitted with each application for approval:

- (1) The types and descriptions of proposed or existing programs intended to be offered;
- (2) The number of PDHs to be awarded for each activity;
- (3) The identity and qualifications of the instructors;
- (4) The explanation and sample of outcome measures; and
- (5) The sample course outlines detailing the content of activity to be offered.

D. The Board may approve an activity only if it meets all of the following criteria:

- (1) The activity's main content areas are in the health, safety, and welfare subjects; and
- (2) The activity enables a licensee to further the licensee's competency and professionalism as a licensed landscape architect.

E. The Board may suspend or revoke its approval of an activity if, in the judgment of the Board, the intent of Business Occupations and Professions Article, §9-309, Annotated Code of Maryland, is no longer served or a presenter materially changed the content of the activity without the prior written approval of the Board.

**.06 Record Keeping.**

A. Responsibility to Maintain Records.

(1) The responsibility of maintaining records to be used to support the continuing professional competency credit claim is the responsibility of each licensee.

(2) A licensee shall maintain the records for a period of at least 2 years from the date of completion of the qualifying program.

B. Documentation referred to in §A (2) of this regulation, includes, but is not limited to, the following:

- (1) Certificates of participation;
- (2) Transcripts; or
- (3) Any other appropriate evidence acceptable to the Board.

**.07 Reporting Requirements for License Renewal.**

A. A licensee shall attest on the license renewal form to the fact that the licensee has completed all applicable CPC requirements set forth in this chapter by the last day of the month preceding the month in which the licensee's individual license is to be renewed for the following 2-year licensing term.

B. The Board at its discretion may audit randomly selected licensees to ascertain compliance with CPC requirements.

C. Licensees who are audited shall provide within 30 days of receipt of electronic notice of audit from the Board any additional documentation required by the Board to complete the audit.

**.08 Extenuating Circumstances/Exceptions.**

A. Notwithstanding other requirements set forth in this chapter, a licensee may renew a license for the next full term without complying with the CPC requirements if:

- (1) A licensee has been granted an initial license and is renewing a license for the next full term; or
- (2) A licensee qualifies under the criteria set forth in Title 2.5, Business Regulation Article, Annotated Code of Maryland.

B. Compliance Exception Request.

(1) If a licensee is unable to comply with all or part of CPC requirements due to physical disability, illness, or other extenuating circumstances, the licensee may request the Board to grant a one-time exception from compliance ("Compliance Exception Request"), provided that the Compliance Exception Request is filed with the Board at least 60 days prior to the license expiration date.

(2) If a Compliance Exception Request is based on physical disability or illness, the licensee must provide the Board with a written documentation acceptable to the Board supporting the basis for the request.

(3) A Compliance Exception Request must be accompanied by a detailed proposal acceptable to the Board indicating a licensee's intended plan of compliance with the CPC requirements within no later than 6 months after the

*license expiration date. Failure to provide the acceptable plan of compliance within the time period specified in this regulation may result in the Board's administrative dismissal of the Compliance Exception Request.*

***.09 Failure to Meet the CPC Requirements.***

*A. In the event the licensee fails to respond to the Board's notice within 30 days as described in Regulation .07, the Board shall provide the licensee with the written notice affording the licensee additional 30 days from the date of the notice to provide evidence acceptable to the Board of compliance with applicable CPC requirements.*

*B. In the event the licensee does not respond to the Board's notice or otherwise fails to comply with the CPC requirements set forth in this chapter, the Board, subject to the hearing provisions of Business Occupations and Professions Article, §9-312, Annotated Code of Maryland, may take any and all available disciplinary actions under Business Occupations and Professions Article, §9-310, Annotated Code of Maryland.*

***.10 Reinstatement of License.***

*A licensee who wishes to reinstate a license after failing to complete the CPC requirements shall fulfill past due CPC requirements for the immediately preceding CPC reporting periods up to 24 PDHs and pay all applicable fees. The Board may consider waiving, if the extenuating circumstances so warrant, all or part of applicable reinstatement fees.*

***.11 PDHs Earned in Other States.***

*The Board will accept PDHs earned for activities completed in other jurisdictions, provided that the activities and programs are consistent with and comply with the requisite criteria set forth in this chapter and the licensee otherwise fulfills all other applicable license renewal requirements of this chapter.*

CHRISTOPHER SCHEIN, Chair  
STATE BOARD OF EXAMINERS FOR LANDSCAPE ARCHITECTS