

North Carolina Board of Architecture & Registered Interior Designers  
434 Fayetteville Street Suite 2005  
Raleigh, NC 27601  
984-328-1161  
ncba@ncbarch.org

*The purpose of this guidance is to help the regulated public comply with the Board's laws and rules. Please be advised that the guidance below is subject to change. If you disagree with the guidance, you may have the right to request a declaratory ruling from, or hearing before, the Board pursuant to Chapter 150B of the N.C. General Statutes. Moreover, an occupational licensing board does not have the authority to order an unlicensed person or entity to discontinue its practices. Only a court may determine whether an unlicensed person or entity has violated or is violating any law and, if appropriate, impose a remedy or penalty for the violation.*

### Guidelines for Design/Build Arrangements

A "Design/Build" undertaking by an architect or registered interior designer is a method of project delivery whereby a duly licensed or registered person, corporation, or entity that, under a single contract, offers to provide or provides design services and general contracting services where services within the scope of the practice of professional engineering as defined in Chapter 89C, architecture or registered interior design as defined in Chapter 83A are performed respectively by a licensed engineer, licensed architect, or registered interior designer and where services within the scope of the practice of general contracting are performed by a licensed general contractor.

#### Commentary

Licensed Architects or Registered Interior Designers who offer design/build services as both a licensed or registered design professional AND a General Contractor, must maintain a standard of care to appropriately provide services as the architect, registered interior designer or the other design entity respectively with each avoiding any conflict of interest in the fair representation of the client and the public. In addition to separate business entities, this shall include separate contracts, contract changes, change orders, accounting practices, invoicing, etc. and clear and transparent documented communication as to which entity you are representing.

The relevant rule to review is as follows:

#### **21 NCAC 02 .0203 RULES OF PROFESSIONAL CONDUCT**

All persons licensed or registered under the provisions of Chapter 83A of the North Carolina General Statutes are charged with having knowledge of the rules of this Chapter and are deemed to be familiar with their provisions and to understand them. Each licensed or registered person and entity shall sign a statement on the renewal notice affirming understanding of the laws and rules.

- (1) Licensees and registrants shall conduct their practice in order to safeguard life, health and property as provided in G.S. 83A-12. The licensee or registrant shall always recognize the primary obligation to protect the public in the performance of

the professional duties. If the licensee or registrant's professional judgment is overruled under circumstances where the licensee or registrant, in their professional judgment, believes health, safety, and welfare of the public are endangered, the licensee or registrant shall inform the employer, the client, the contractor, other affected parties, and any appropriate regulatory agency of the possible consequences of the situation.

- (2) In designing a project, the licensee or registrant shall consider all applicable federal, State and municipal building laws and rules. A licensee or registrant shall undertake to perform professional services only when they, together with those whom the licensee or registrant may engage as consultants, are qualified by education, training and experience in the specific technical areas involved. While a licensee or registrant may rely on the advice of other professionals such as attorneys, engineers, or other qualified persons as to the intent and meaning of such laws and rules, once having obtained advice, a licensee or registrant shall not design a project in violation of laws and rules.
- (3) In practicing architecture or interior design, the licensee or registrant shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects or interior designers of good standing.
- (4) Responsible Control. "Responsible Control" means responsibility for exercising the ultimate authority over, and possessing the knowledge and ability to oversee, delegate, and integrate the design and technical decisions related to the preparation of the project's instruments of service and the project's implementation in conformance with the standard of care. Instruments of service are defined as the collection of documents, drawings, specifications, calculations, and other tangible materials produced by design professionals during the various stages of a project. Standard of care is defined as the care usually exercised by one in the profession, on the same type of project, at the same time and in the same place, under similar circumstances and conditions. No architect or registered interior designer shall affix his or her seal and signature to contract documents developed by others not under the architect's or registered interior designer's responsible control.
- (5) An architect or registered interior designer shall not deliberately make a false statement or deliberately fail to disclose a fact requested in connection with their application for license or registration renewal.
- (6) An architect or registered interior designer shall not assist in the application for licensure or registration of a person known by the architect or registered interior designer to be unqualified with respect to education, training, experience, or character.
- (7) An architect or registered interior designer shall issue public statements only in an unbiased and truthful manner and:
  - (a) shall be objective and truthful in all professional reports, statements, or testimony. The architect or registered interior designer shall include all relevant and pertinent information in such reports, statements or testimony;
  - (b) when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon knowledge of the facts at issue, upon a background of

technical competence in the subject matter, and of the accuracy and propriety of the individual's testimony;

(c) shall issue no statements, criticisms, or arguments on architectural or interior design matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the architect or registered interior designer has prefaced the comment by explicitly identifying their name, by disclosing the identities of the party or parties on whose behalf the architect or registered interior designer is speaking, and by revealing the existence of any pecuniary interest the architect or registered interior designer may have in the matters; and

(d) shall not attempt to harm the professional reputation, prospects, practice, or employment of another architect or registered interior designer, nor indiscriminately criticize another architect's or registered interior designer's work. Indiscriminate criticism is a statement without basis or cause or that is not objective and truthful or that fails to include all factual information. If the architect or registered interior designer believes that another architect or registered interior designer is in violation of G.S. 83A or the Rules of this Chapter, such information shall be presented to the North Carolina Board of Architecture and Registered Interior Designers in writing.

(8) An architect or registered interior designer shall avoid conflicts of interest and:

(a) shall inform the employer or client, and any reviewing agency, of any business association, interests, or circumstances that attempts to influence the judgment or the quality of services of the architect or registered interior designer. If, in the course of their work on a project, an architect or registered interior designer becomes aware of a decision taken by their employer or client, against their advice, which violates applicable State or municipal building laws or federal regulations and which will, in their judgment, affect adversely the safety to the public of the finished project, the architect or registered interior designer shall:

(i) report the decision to the local building inspector or other public official charged with the enforcement of the applicable State or municipal building laws and regulations;

(ii) refuse to consent to the decision;

(iii) in circumstances where the architect or registered interior designer reasonably believes that other such decisions will be taken notwithstanding his or her objection, terminate their services with reference to the project; and

(iv) in the case of termination in accordance with clause in Sub-Item (a)(iii) of this Rule, the architect or registered interior designer shall have no liability to his or her client or employer on account of such termination.

(b) shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties;

- (c) shall not solicit or accept financial or other valuable considerations from material, furniture, fixtures, or equipment suppliers for specifying their products unless disclosed to the client;
- (d) shall not pay or offer to pay, a commission, political contribution, gift, or other consideration in order to secure work. Gifts of nominal value including entertainment and hospitality are permitted;
- (e) when in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or registrant or the licensee's or registrant's firm in private architectural or registered interior design practices;
- (f) shall not engage in any false, deceptive, fraudulent, or misleading advertising;
- (g) shall not attempt to supplant another architect or registered interior designer on a specific project after becoming aware that the other has been selected for the employment;
- (h) when acting as the interpreter of building contract documents and the judge of contract performance, an architect or interior designer shall render decisions in an impartial manner;
- (j) if an architect or registered interior designer has any business association or financial interest which influences their judgment in connection with the performance of professional services, they shall disclose in writing to their client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, they will either terminate such association or interest or offer to give up the commission or employment;
- (k) an architect or registered interior designer making public statements on architectural or interior design questions shall disclose when they are being compensated for making such statements.

(9) A licensee or registrant shall solicit or accept work on the basis of qualifications and:

- (a) shall not offer to pay any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;
- (b) shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, or deceptive statement or claim regarding the cost, quality, or extent of services to be rendered;
- (c) shall, with regard to fee bidding on public projects, comply with, and not knowingly cooperate in any violation of the provisions of G.S. 143-64.31(a), (a1), (e), and (f) for state projects and, with the Brooks Act, 40 U.S.C. 541 et seq. for federal projects; and
- (d) shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded unless it is stated that no degree or certificate was awarded; and

- (e) shall represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit. Misrepresentation shall be found if any of the following is not complied with:
  - (i) Each licensee or registrant shall state their prior professional experience and the firm they are representing while presenting qualifications to all prospective clients. If the licensee or registrant uses visual representations of prior projects or experience, all designers or architects of record shall be identified.
  - (ii) An architect or registered interior designer who has been an employee of another firm may not claim credit for projects contracted for in the name of the previous employer. They shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee and identify the previous firm. The architect or registered interior designer shall also describe the nature and extent of their participation in the project.
  - (iii) An architect or registered interior designer who presents a project that has received awards or public recognition shall comply with the requirements in this Sub-Item with regard to project presentation to the public and prospective clients.
  - (iv) Projects that remain unconstructed and are listed as credits in presentation items shall be listed as "unbuilt" or a similar designation, as determined by the architect or registered interior designer.
- (10) A licensee or registrant shall perform services in compliance with all of the provisions of this Chapter and any federal, State, and municipal laws or regulations that apply and:
  - (a) shall not knowingly associate with or permit the use of the licensee's or registrant's name or firm name in a business venture by any person or firm which the licensee or registrant knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not licensed or registered;
  - (b) if the licensee or registrant has knowledge or reason to believe that another person or firm may be in violation of the rules of this Chapter or of the North Carolina Architectural and Registered Interior Design Practice Act (G.S. 83A), they shall present such information to the Board in writing and shall cooperate with the Board in furnishing further information or assistance as may be required by the Board.
  - (c) An architect or registered interior designer shall cooperate with the Board in connection with any inquiry it shall make. Cooperation includes responding to all inquiries from the Board or its representative and claiming correspondence from the U. S. Postal Service, or other delivery service, sent to the licensee or registrant from the Board in a timely manner. The Board shall utilize electronic mail as its primary method of communication with licensees and registrants. "Timely" is defined as within the time specified in

the correspondence, or if no time is specified, within 15 business days of receipt.

- (11) An architect or registered interior designer who has received a reprimand or civil penalty or whose professional license or registration is revoked, suspended, denied, refused renewal, refused reinstatement, put on probation, restricted, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's or registrant's action constitutes a violation of G.S. 83A or the rules of this Chapter adopted by the Board.
- (12) In addition to the grounds stated in G.S. 83A-14 and G.S. 83A-15(3), the following acts or omissions may be deemed to be "unprofessional conduct" and to be cause for the levy of a civil penalty or for denial, suspension, or revocation of a license or registration or firm certificate of licensure or registration to practice architecture or registered interior design:
  - (a) An architect or registered interior designer shall not, in the conduct of their professional practice, knowingly violate any State or federal criminal law. A criminal conviction shall be deemed prima facie evidence of knowingly violating the law.
  - (b) Evasion of professional duties.
    - (i) An architect or registered interior designer shall not, through employment by contractors whether or not the contractors are licensed under G.S. 87, or by another individual or entity not holding an individual or firm registration from the Board, enable the employer to offer or perform architectural services or registered interior design services. In design/build arrangements, the architect or registered interior designer shall not be an employee of a person or firm not holding a license to practice architecture or registered interior design in North Carolina.
    - (ii) An architect or registered interior designer shall not furnish limited services in such manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of Chapter 83A, G.S. 133-2, G.S. 153A, G.S. 153A-357, G.S. 160A-412, or G.S. 160A-417.
    - (iii) When building plans are begun or contracted for by persons not licensed or registered and qualified, an architect or registered interior designer shall not take over, review, revise, or sign or seal such drawings or revisions thereof for such persons or do any act to enable either persons or the project owners to evade the requirements of Chapter 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.
  - (c) It is unprofessional conduct for an architect or registered interior designer to be found by a court to have infringed upon the copyrighted works of other architects, registered interior designers or other design professionals.
- (13) An architect, registered interior designer or firm shall not maintain or represent by sign, listing, or other manner that they have a physical presence in North Carolina unless such office employs a licensed architect or registered interior designer who is a resident in North Carolina whose principal place of business takes place in that

office. This item does not apply to on-site project offices during construction of a project.

- (14) An architect or registered interior designer shall not knowingly continue to offer or render architectural or registered interior design services as set forth in G.S. 83A after their license or registration expires, is placed on delinquent status, is revoked, or suspended for failure to renew.
- (15) Architects or registered interior designers preparing plans for building permits shall submit plans that are complete and buildable. Such plans shall conform with the State Building Code and local plan submission requirements. Professional judgment shall be exercised to reflect sufficient documentation necessary for plan approval. Provided, however, this Rule does not alter any standard of liability applicable to licensees or registrants.

The relevant law is as follows:

**§ 83A-13. Exemptions.**

(a) Nothing in this Chapter shall be construed to prevent the practice of general contracting under the provisions of Article 1 of Chapter 87, or the practice by any person who is qualified under law as a "registered professional engineer" of such architectural work as is incidental to engineering projects or utilities, or the practice of any other profession under the applicable licensure provisions of the General Statutes.

(b) Nothing in this Chapter shall be construed to prevent a duly licensed general contractor, professional engineer, architect, or registered interior designer acting individually or in combination thereof, from participating in a "Design/Build" undertaking including the preparation of plans and/or specifications and entering individual or collective agreements with the owner in order to meet the owner's requirements for pre-determined costs and unified control in the design and construction of a project, and for the method of compensation for the design and construction services rendered; provided, however, that nothing herein shall be construed so as to allow the performance of any such services or any division thereof by one who is not duly licensed to perform such service or services in accordance with applicable licensure provisions of the General Statutes; provided further, that full disclosure is made in writing to the owner as to the duties and responsibilities of each of the participating parties in such agreements; and, provided further, nothing in this Chapter shall prevent the administration by any of the said licensees of construction contracts and related services or combination of services in connection with the construction of buildings.

Approved by the Board July 12, 2024