

Readopt with amendment Lsa 500, effective 9-30-14 (Document #10679), to read as follows:

CHAPTER Lsa 500 ETHICAL STANDARDS; ***AND*** PROFESSIONAL CONDUCT;
~~ADMINISTRATIVE FINES AND LICENSE SURRENDER~~

PART Lsa 501 ETHICAL STANDARDS/ ***AND*** PROFESSIONAL CONDUCT

Lsa 501.01 Purpose and Scope.

(a) ***The purpose of this chapter is*** ~~to~~ establish and maintain a high standard of integrity, skills, and practice in the profession of landscape architecture. ~~; the following ethical standards/rules of professional conduct are adopted in accordance with RSA 310-A, and~~

(b) ***This chapter*** shall be binding upon every person holding a license ***to practice landscape architecture*** issued by the board ***or OPLC***.

Lsa 501.02 Obligation To Obey ~~Comply~~.

(a) The ethical standards set forth in this part shall bind all licensees, and violation of any such standard shall result in disciplinary sanctions ***constitute misconduct subject to disciplinary action***.

(b) All persons licensed under RSA 310-A:140-160 shall be considered to have knowledge of the existence of these ethical standards/***and*** rules of professional conduct, and shall be deemed to be familiar with their several provisions. Such knowledge shall encompass the understanding that the practice of landscape architecture is a privilege, as opposed to a right, and the licensee shall be forthright and candid in the licensee's statements or written response to the board, ***the OPLC***, or its representatives, on matters pertaining to professional conduct.

Lsa 501.03 Professional Standards of Conduct.

(a) ~~The licensee shall:~~ (1) ***Licensees shall*** ~~not~~ attempt to practice in any professional field in which the licensee is not certified, registered, licensed ***or and competent***.

(2) (b) ***Licensees shall*** ~~undertake only work~~ ***only*** for which the licensee is qualified by education and experience. ~~;~~ ***and***

(3) (c) When serving as an expert or technical witness before any court, commission, or other tribunal, ***licensees shall*** express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the testimony.

Lsa 501.04 Conflicts of Interest

~~(b) The licensee shall:~~

(1) (a) ***Licensees shall*** ~~clearly identify himself or herself, his or her employer, and in whose interest he or she is working~~ ***themselves, their employer, and the interests they represent***;

(2) (b) ***Licensees shall*** ~~clearly define the scope of his/her~~ ***their*** responsibility in connection with work for which the landscape architect is claiming responsibility;

~~(3) Conscientiously avoid conflicts of interest or even the appearance of such conflicts;~~

~~(4) (c) If despite such precaution, a conflict of interest is discovered, it~~ ***Licensees*** shall be promptly and fully disclosed to the client/~~or employer~~ ***all conflicts of interest***, and the licensee shall ~~be prepared to act immediately to resolve the conflict. ; and~~

~~(5) (d) Licensees shall disclose~~ fully to ~~the~~~~their~~ clients any financial or purchase interest the licensee has in the land on which ~~he or she is~~ ***they are*** working.

Lsa 501.05 Professional Integrity.

~~(e) The licensee shall:~~

~~(1) (a) Licensees shall~~ ~~not~~ knowingly issue a false statement or false information. ;

~~(2) (b) Licensees shall~~ ~~ad~~advertise only in truthful manner, stating the services the licensee is qualified and prepared to perform. ;

~~(3) (c) Licensees shall~~ ~~not~~ falsify or permit misrepresentation or exaggeration of the licensee's or the licensee's associates', academic or professional qualifications.

~~(4) (d) Licensees shall~~ ~~not~~ misrepresent or exaggerate the licensee's degree of responsibility in, or for the subject matter of, prior assignments. ;

~~(5) (e) Licensees shall~~ ~~not~~ misrepresent pertinent facts in brochures or other presentations incident to the solicitation of employment concerning employers, employees, associates, joint ventures, or the licensee or their past accomplishments with the intent and purpose of enhancing the licensee's qualifications and work. ;

~~(6) Issue no statements, criticisms, or arguments on landscape architecture matters which are inspired or paid for by an interested party, or parties, unless such comments are prefaced by explicit identification of the licensee and by disclosing the identities of the party or parties on whose behalf the licensee is speaking;~~

(f) Licensees shall not engage in or participate in professional or business practices of a fraudulent or dishonest nature.

~~(7) (g) Licensees shall~~ ~~not~~ attempt to injure by false statement or dishonest action either directly or indirectly, the professional reputation, prospects, or business of another. ; ~~and~~

~~(8) (h) Licensees shall~~ ~~be~~ objective and truthful in all professional reports, statements, or testimony, and include only relevant and pertinent information in such reports, statements, or testimony. ;

(i) Licensees shall conscientiously avoid conflicts of interest or the appearance of such conflicts.

Lsa 501.06 Disclosures.

~~(d) The licensee shall:~~

~~(1) (a) Licensees shall~~ ~~disclose~~ fully all direct or indirect costs or obligations of services provided, by the licensee or under the licensee's supervision, including hourly or daily rates and commissions. ;

~~(2)~~ ***(b) Licensees shall*** provide complete services requested by client or disclose clearly that such services cannot be provided. ;

~~(3)~~ ***(c) Licensees shall*** not disclose information concerning the affairs of the landscape architect's client without the client's express permission. ;

~~(4)~~ ***(d) Licensees shall*** not accept compensation or expenses from more than one employer ~~or~~ client for the same service, unless the parties involved are informed and consent. ; ~~and~~

~~(5)~~ ***(e) Licensees shall*** not solicit or accept gratuities or referral fees, directly or indirectly, from contractors, their agents, or other parties dealing with the licensee's client in connection with the work for which the licensee is responsible.

(f) Licensees shall issue no statements, criticisms, or arguments on landscape architecture matters that are inspired or paid for by an interested party, or parties, unless such comments are prefaced by explicit identification of the licensee and by disclosing the identities of the party or parties on whose behalf the licensee is speaking.

Lsa 501.07 Contractual Conduct and Practice

~~(e)~~ The licensee shall:

~~(1)~~ ***(a) Licensees shall***, at all times in the performance of services, abide by applicable federal, state and municipal laws and regulations. ;

~~(2)~~ ***(b) When*** asked to practice landscape architecture ~~which~~ ***in a way that*** deviates from accepted professional standards, ***the licensees shall*** advise the client or employer in writing in advance of the known consequences of such deviation. ;

~~(3)~~ ***(c)*** While in public service as a member, advisor, or employee of a governmental body or department, ***licensees shall*** not participate in considerations or actions with respect to private landscape architecture services provided by the licensee or by the licensee's organization. ;

~~(4)~~ ***(d) Unless*** the circumstances are fully disclosed to all parties, ***licensees shall*** not solicit or accept a landscape architecture contract from a government body on which a principal or officer of the licensee's organization serves as a member. ;

~~(5)~~ ***(e) Licensees shall*** not contract for the completion of another licensee's contracted work unless reasonable effort has been made to consult with the prior licensee by letter sent via U.S. mail or electronic mail. ; ~~and~~

~~(6)~~ Not engage in or participate in professional or business practices of a fraudulent or dishonest nature.

Lsa 501.08 Duty to Cooperate.

~~(f)~~ The licensee shall:

~~(1)~~ ***(a) Licensees shall*** cooperate with investigations and requests for information from the board ***OPLC*** and the board's ***OPLC's*** representatives. ;

~~(2)~~ ***(b) Licensees shall*** present information to the board of landscape architects ***OPLC*** for action, ***in accordance with Plc 204.02***, if the licensee has evidence of unprofessional conduct of another landscape

architect provided that the licensee possesses reasonably clear evidence that such misconduct is occurring. ;

~~(3) If she/he possesses reasonably clear evidence that a~~ ***(c) Licensees shall report to OPLC, in accordance with Plc 204.02, any person who the licensee believes to be is practicing as a landscape architect without a license or otherwise violating RSA 310-A:140-160., report said person to the board***

~~(4)~~ ***(d) Licensees shall*** Submit only truthful and correct information in any application or other document filed with or statement made to the board ~~OPLC.~~ ;

~~(5)~~ ***(e) Licensees shall comply with Plc 307.*** Inform the board of a principal business/home address to which all official board communications should be directed, and also of all addresses where he/she is practicing landscape architecture;

~~(6)~~ Report to the board the establishment of a business/home address or the change or abandonment of a business/home address within 30 days; and

~~(7)~~ Not engage in or participate in professional or business practices of a fraudulent or dishonest nature.

Lsa 501.09 Seals and Endorsements.

~~(g)~~ The licensee shall:

~~(1)~~ ***(a) Licensees shall*** ~~Nnot sell nor permit~~ ***allow any other person to*** the use of a ***the licensee's*** seal to anyone, recognizing that the seal indicates the licensee's personal responsibility for the work bearing the licensee's seal. ~~and;~~

~~(2)~~ ***(b) Licensees shall*** ~~Nnot~~ affix a signature ~~and/or~~ seal to any map or document dealing with subject matter in which the licensee lacks competence by virtue of education and/or experience. ;

~~(3)~~ ***(c) Licensees shall*** ~~Nnot~~ affix the licensee's signature ~~and/or~~ seal to any map or document not prepared by licensee or under the licensee's direct supervisory control. ;

~~(4)~~ ***(d) Licensees shall*** ~~A~~affix seal to all plans, maps, ***and*** reports submitted for regulatory approval prepared by the licensee.; ~~and~~

~~(5)~~ ***(e) Licensees shall*** ~~affix his/her~~ ***their*** seal and signature to drawings and documents depicting the work of 2 or more professionals provided he/she the ***licensee*** designates by a note under his/her ***their*** seal the specific subject matter for which he/she ***the licensee*** is responsible.

Repeal Lsa 502, effective 9-30-14 (Document #10679), as follows:

PART Lsa 502 VOLUNTARY LICENSE SURRENDER

~~Lsa 502.01 Procedure for Surrendering a License.~~ Any person holding a license may voluntarily surrender that license by returning it to the board accompanied by a signed letter stating that he/she intends to surrender his/her license.

~~Lsa 502.02 Effect of Voluntary License Surrender.~~

~~(a) A licensee who voluntarily surrenders a license shall retain no right or privilege of a New Hampshire license unless such a right or privilege is expressly preserved in the board order or settlement agreement authorizing the voluntary surrender. Subject to such possible preservations, a person who reapplies for licensure in New Hampshire after a voluntary surrender shall have the burden of proving compliance with all of the requirements then in effect for new applicants and professional character requirements.~~

~~(b) Non-renewal of a license shall not preclude the board from investigating or completing a disciplinary proceeding based upon the licensee's professional conduct while the license was still in effect. Nor shall surrender of a license preclude the board from investigating disciplinary proceedings not expressly refereneed in the voluntary surrender order or settlement agreement. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.~~

~~Lsa 502.03 Voluntary Surrender When Misconduct Allegations are Pending.~~

~~(a) A licensee who wishes to surrender his or her license as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.~~

~~(b) Any settlement agreement reached under (a), above, shall include the following concessions:~~

- ~~(1) That the license surrender has occurred in settlement of pending disciplinary charges; and~~
- ~~(2) That the pending disciplinary allegations shall be fully resolved in any future application filed by the licensee in New Hampshire.~~

~~(c) The board shall decline to accept a settlement agreement under (a), above, if the board believes the licensee has unreasonably declined to disclose material information concerning the alleged misconduct or has refused to stipulate to the truth of specific material facts concerning the alleged misconduct which would be necessary to protect the public interest in the event the licensee subsequently reapplies for a license.~~

~~(d) A licensee's stipulation of facts shall be exempt from public disclosure to the extent permitted by RSA 91-A and if the public portion of the settlement agreement or surrender document expressly states that a separate, confidential stipulation of facts is on file with the board.~~

~~(e) The fact of license surrender and the terms of any settlement agreement pertaining thereto shall be distributed to all relevant licensing authorities and professional societies in the same manner as a final decision containing specific finding of professional misconduct.~~

APPENDIX I

RULE	STATUTE IMPLEMENTED
Lsa 501	RSA 310-A:143, I(f); RSA 310-A:152
Lsa 502 (repeal)	RSA 310-A:143, I(f)