



To: Economic Affairs Interim Committee

From: Board of Architects and Landscape Architects

Date: June 10, 2013

Subject: HB525 – ARC response to the Economic Affairs Interim Committee questions

1. What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

The board protects the public from unprofessional, improper, unauthorized and unqualified practice of architecture and landscape architecture. The board accomplishes this mission through the performance of three key functions: licensure, regulation, and discipline.

2. If your profession/occupation were not licensed, what public protection would be lost?

The public would have very little recourse except through the legal system, which can be very costly and time consuming. Under the current system, the board ensures the public's protection through minimum qualifications for licensure and discipline of licensees for unprofessional conduct fairly quickly and with little or no cost to the public.

3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes. The Board of Architects was established in 1917. The Board of Landscape Architects was established in 1975. The Boards of Architects and Landscape Architects were combined in 2007. The board protects the public from unprofessional, improper, and unauthorized, unqualified providers of architecture and landscape architecture through the licensure process.

4. Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes. Practicing as an architect and landscape architect without a license or with an expired license are the most common unlicensed practice issues to come before the board.

5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The Legislature finds and declares that the practice of architecture and landscape architecture in the state affects the public health, safety, and welfare. Unlicensed individuals who may be qualified must be licensed before they can practice in the profession. The statutes and rules governing licensure ensure that an individual meets the minimum education and experience requirements required to practice.

6. How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

The Business Standards Division provides board member training for all members to attend that provides instruction regarding recusing oneself when there is actual, or the appearance of, a conflict of interest or bias.

Additionally, the board's composition serves to monitor bias. There are six members appointed by the Governor. The composition of the board is two licensed architects who have been in continuous practice for 3 years before their appointment, one licensed architect who is on the staff of the Montana State University-Bozeman school of architecture, two licensed landscape architects and one representative of the public who is not engaged in or directly connected with the practice of architecture or landscape architecture. The makeup of the board was determined by the number of licensees in each profession.

Finally, board member bias toward a particular applicant or licensee is kept to a minimum by following the rules and regulations that are in place for the board.

7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

No. The mission of associations is to promote the profession and advocate for the industry. The board's mission is to protect the public through the licensure and regulation of architecture and landscape architecture. Furthermore, it is believed that the current licensure mechanism is the most practical, efficient, and unbiased approach to meeting this requirement. An association does not have the legal authority to investigate complaints or discipline professionals.

8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

The board does not facilitate the billing of insurance claims in the same manner as many of the licensed health care boards do.

9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

Five board members are peers of the licensees they oversee and have knowledge of and expertise in the regulated profession. In addition, the board includes public representation of at least one individual. This broad representation ensures an unbiased and fair approach to discipline and other regulatory issues.

10. Is there an optimum ratio between licensees, board size, or public representation?

Yes, the board regulates 1,430 active architects and 105 active landscape architects. The board's current composition balances the number of licensees and public members while remaining small enough to function efficiently.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

No. A disinterested third party would spend significant time and money either learning the profession or hiring consulting architects or landscape architects in various areas of the profession to address practice and conduct issues. The board can more efficiently and effectively handle complaints and other business pertinent to its professions.

The Board, through the complaint process, monitors fraud on a licensee level. The board has the ability to respond to fraud issues or to forward them to the Attorney General's Office if necessary.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

Each profession has a specific scope of practice and educational requirements.

13. Should any board have the ability to limit use of certain terminology to only a licensee?

Yes. An individual must have the training, education and qualifications verified by examination to be licensed in the profession of architecture and landscape architecture. There are exemptions in the statutes regarding those in an educational or working condition. (Reference 37-65-103, 37-66-105, MCA)