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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2985

03/20/2023

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The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act

1.2 relating to occupations and professions; modifying board member qualifications

1.3 and licensing requirements for architects, engineers, surveyors, landscape architects,

1.4 geoscientists, and interior designers; amending Minnesota Statutes 2022, sections

1.5 326.05; 326.10, subdivisions 1, 2, 10; 326.111, subdivisions 3, 4, 5, by adding a

1.6 subdivision.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2022, section 326.05, is amended to read:

1.9 **326.05 QUALIFICATIONS OF BOARD MEMBERS.**

1.10 Each member of the board ~~shall~~ must be a resident of this state at the time of and

1.11 throughout the member's appointment. Each member except the public members ~~shall~~ must

1.12 have been engaged in the practice of the relevant profession for at least ~~ten~~ five years and

1.13 shall have been in responsible charge of professional work requiring licensure as an architect,

1.14 engineer, land surveyor, landscape architect, or geoscientist, or certification as an interior

1.15 designer for at least ~~five~~ two years.

1.16 Sec. 2. Minnesota Statutes 2022, section 326.10, subdivision 1, is amended to read:

1.17 Subdivision 1. **Issuance.** The board shall on application therefor on a prescribed form,

1.18 and upon payment of a fee prescribed by rule of the board, issue a license or certificate as

1.19 an architect, engineer, land surveyor, landscape architect, geoscientist, or certified interior

1.20 designer. A separate fee shall be paid for each profession licensed.

1.21 (1) To any person ~~over 25 years of age, who is of good moral character and repute,~~ who

1.22 complies with the Rules of Professional Conduct established in rules by the board and who

1.23 has the experience and educational qualifications ~~which~~ that the board by rule may prescribe.

2.1 (2) To any person who holds an unexpired certificate of registration or license issued
 2.2 by proper authority in the District of Columbia, any state or territory of the United States,
 2.3 or any foreign country, in which the requirements for registration or licensure of architects,
 2.4 engineers, land surveyors, landscape architects, geoscientists, or certified interior designers,
 2.5 respectively, at the time of registration or licensure in the other jurisdiction, were ~~equal, in~~
 2.6 ~~the opinion of the board,~~ substantially equivalent as established in rules by the board to
 2.7 those fixed by the board and by the laws of this state, and in which similar privileges are
 2.8 extended to the holders of certificates of registration or licensure issued by this state. The
 2.9 board may require such person to submit a certificate of technical qualification from the
 2.10 National Council of Architectural Registration Boards in the case of an architect, from the
 2.11 National Council of Examiners for Engineering and Surveying in the case of an engineer,
 2.12 from the Council of Landscape Architectural Registration Boards in the case of a landscape
 2.13 architect, and from the National Council for Interior Design Qualification in the case of a
 2.14 certified interior designer.

2.15 Sec. 3. Minnesota Statutes 2022, section 326.10, subdivision 2, is amended to read:

2.16 Subd. 2. **Examination.** ~~The board, or a committee of the board, may subject any applicant~~
 2.17 ~~for licensure or certification to such examinations as may be deemed necessary to establish~~
 2.18 ~~qualifications.~~

2.19 ~~In determining the qualifications of applicants, at least one member determining the~~
 2.20 ~~qualifications must be licensed or certified in the same profession as that being evaluated.~~

2.21 An applicant for licensure or certification must provide evidence of passing the required
 2.22 examinations as prescribed by the board in rules.

2.23 Sec. 4. Minnesota Statutes 2022, section 326.10, subdivision 10, is amended to read:

2.24 Subd. 10. **Temporary military license.** The board shall establish a temporary license
 2.25 in accordance with section 197.4552 for the practice of architecture, professional engineering,
 2.26 geosciences, land surveying, landscape architecture, and interior design. The fee for the
 2.27 temporary license under this subdivision for the practice of architecture, professional
 2.28 engineering, geosciences, land surveying, landscape architecture, or interior design is ~~\$132~~
 2.29 \$0.

2.30 Sec. 5. Minnesota Statutes 2022, section 326.111, subdivision 3, is amended to read:

2.31 Subd. 3. **Cease and desist orders.** (a) The board, or the complaint committee if
 2.32 authorized by the board, may issue and have served upon a person an order requiring the

3.1 person to cease and desist from the unauthorized practice of architecture, engineering, land
3.2 surveying, landscape architecture, geoscience, or the unauthorized use of the titles architect,
3.3 professional engineer, land surveyor, landscape architect, professional geologist, professional
3.4 soil scientist, certified interior designer, or violation of the statute, rule, or order. The order
3.5 shall be calculated to give reasonable notice of the rights of the person to request a hearing
3.6 and shall state the reasons for the entry of the order.

3.7 (b) Service of the order is effective if the order is served on the person or counsel of
3.8 record personally or by certified mail to the most recent address provided to the board for
3.9 the person or counsel of record. Service of the order may be by first class United States
3.10 mail, including certified United States mail, or overnight express mail service with the
3.11 postage prepaid and addressed to the party at the party's last known address. Service by
3.12 United States mail, including certified mail, is complete upon placing the order in the mail
3.13 or otherwise delivering the order to the United States mail service. Service by overnight
3.14 express mail service is complete upon delivering the order to an authorized agent of the
3.15 express mail service.

3.16 (c) Unless otherwise agreed by the board, or the complaint committee if authorized by
3.17 the board, and the person requesting the hearing, the hearing shall be held no later than 30
3.18 days after the request for the hearing is received by the board.

3.19 (d) The administrative law judge shall issue a report within 30 days of the close of the
3.20 contested case hearing record, notwithstanding Minnesota Rules, part 1400.8100, subpart
3.21 3. Within 30 days after receiving the report and any exceptions to it, the board shall issue
3.22 a further order vacating, modifying, or making permanent the cease and desist orders as the
3.23 facts require.

3.24 (e) If no hearing is requested within 30 days of service of the order, the order becomes
3.25 final and remains in effect until it is modified or vacated by the board.

3.26 (f) If the person to whom a cease and desist order is issued fails to appear at the hearing
3.27 after being duly notified, the person is in default and the proceeding may be determined
3.28 against that person upon consideration of the cease and desist order, the allegations of which
3.29 may be considered to be true.

3.30 Sec. 6. Minnesota Statutes 2022, section 326.111, subdivision 4, is amended to read:

3.31 Subd. 4. **Actions against applicants and licensees.** (a) The board may, by order, deny,
3.32 refuse to renew, suspend, temporarily suspend, or revoke the application, license, or
3.33 certification of a person; censure or reprimand that person; condition or limit the person's

4.1 practice; refuse to permit a person to sit for examination; or refuse to release the person's
4.2 examination grades if the board finds that the order is in the public interest and the applicant,
4.3 licensee, or certificate holder:

4.4 (1) has violated a statute, rule, or order that the board has issued or is empowered to
4.5 enforce;

4.6 (2) has engaged in conduct or acts that are fraudulent, deceptive, or dishonest whether
4.7 or not the conduct or acts relate to the practice of architecture, engineering, land surveying,
4.8 landscape architecture, geoscience, or certified interior design, providing that the fraudulent,
4.9 deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to
4.10 engage in the practice of architecture, engineering, land surveying, landscape architecture,
4.11 geoscience, or certified interior design;

4.12 (3) has engaged in conduct or acts that are negligent or otherwise in violation of the
4.13 standards established by Minnesota Rules, chapters 1800 and 1805, where the conduct or
4.14 acts relate to the practice of architecture, engineering, land surveying, landscape architecture,
4.15 geoscience, or use of the title certified interior designer;

4.16 (4) has been convicted of or has pled guilty or nolo contendere to a felony, an element
4.17 of which is dishonesty or fraud, whether or not the person admits guilt, or has been shown
4.18 to have engaged in acts or practices tending to show that the applicant or licensee is
4.19 incompetent or has engaged in conduct reflecting adversely on the person's ability or fitness
4.20 to engage in the practice of architecture, engineering, land surveying, landscape architecture,
4.21 geoscience, or use of the title certified interior designer;

4.22 (5) employed fraud or deception in obtaining a certificate, license, renewal, or
4.23 reinstatement or in passing all or a portion of the examination;

4.24 (6) has had the person's architecture, engineering, land surveying, landscape architecture,
4.25 geoscience, or interior design license, certificate, right to examine, or other similar authority
4.26 revoked, suspended, canceled, limited, or not renewed for cause in any state, commonwealth,
4.27 or territory of the United States, in the District of Columbia, or in any foreign country;

4.28 (7) has had the person's right to practice before any federal, state, or other government
4.29 agency revoked, suspended, canceled, limited, or not renewed;

4.30 (8) failed to meet any requirement for the issuance or renewal of the person's license or
4.31 certificate;

4.32 (9) has attached the person's seal or signature to a plan, specification, report, plat, or
4.33 other architectural, engineering, land surveying, landscape architectural, geoscientific, or

5.1 interior design document not prepared by the person sealing or signing it or under that
 5.2 person's direct supervision; or

5.3 (10) with respect to temporary suspension orders, has committed an act, engaged in
 5.4 conduct, or committed practices that may, or has in the opinion of the board, or the complaint
 5.5 committee if authorized by the board, resulted in an immediate threat to the public.

5.6 (b) In lieu of or in addition to any remedy provided in paragraph (a), the board may
 5.7 require, as a condition of continued licensure, possession of certificate, termination of
 5.8 suspension, reinstatement of license or certificate, examination, or release of examination
 5.9 grades, that the person:

5.10 (1) submit to a quality review of the person's ability, skills, or quality of work, conducted
 5.11 in such fashion and by such persons, entity, or entities as the board may require including,
 5.12 but not limited to, remedial education courses; and

5.13 (2) complete to the satisfaction of the board such continuing professional education
 5.14 courses as the board may specify by rule.

5.15 (c) ~~Service of the order is effective if the order is served on the licensee, certificate~~
 5.16 ~~holder, applicant, person, or counsel of record personally or by certified mail, to the most~~
 5.17 ~~recent address provided to the board for the licensee, certificate holder, applicant, person,~~
 5.18 ~~or counsel of record.~~ may be by first class United States mail, including certified United
 5.19 States mail, or overnight express mail service with the postage prepaid and addressed to the
 5.20 party at the party's last known address. Service by United States mail, including certified
 5.21 mail, is complete upon placing the order in the mail or otherwise delivering the order to the
 5.22 United States mail service. Service by overnight express mail service is complete upon
 5.23 delivering the order to an authorized agent of the express mail service. The order shall state
 5.24 the reasons for the entry of the order.

5.25 (d) All hearings required by this section shall be conducted in accordance with chapter
 5.26 14, except with respect to temporary suspension orders, as provided for in subdivision 5,
 5.27 paragraph (d).

5.28 Sec. 7. Minnesota Statutes 2022, section 326.111, subdivision 5, is amended to read:

5.29 Subd. 5. **Procedure for temporary suspension of license or certificate.** (a) When the
 5.30 board, or the complaint committee if authorized by the board, issues a temporary suspension
 5.31 order, the suspension is in effect upon service of a written order on the licensee or counsel
 5.32 of record, specifying the statute, rule, or order violated. The order remains in effect until

6.1 the board issues a final order in the matter after a hearing or upon agreement between the
6.2 board and the licensee.

6.3 (b) Service of the order ~~is effective if the order is served on the licensee or counsel of~~
6.4 ~~record personally or by certified mail, to the most recent address provided to the board for~~
6.5 ~~the licensee or counsel of record.~~ may be by first class United States mail, including certified
6.6 United States mail, or overnight express mail service with postage prepaid and addressed
6.7 to the party at the party's last known address. Service by United States mail, including
6.8 certified mail, is complete upon placing the order in the mail or otherwise delivering the
6.9 order to the United States mail service. Service by overnight express mail service is complete
6.10 upon delivering the order to an authorized agent of the express mail service.

6.11 (c) The order shall set forth the rights to a hearing contained in this subdivision and shall
6.12 state the reasons for the entry of the order.

6.13 (d) Within ten days after service of the order, the licensee may request a hearing in
6.14 writing. The board shall hold a hearing before its own members within five working days
6.15 of receipt of a request for hearing on the sole issue of whether there is a reasonable basis
6.16 to continue, modify, or lift the temporary suspension. This hearing is not subject to chapter
6.17 14. Evidence presented by the board or the licensee shall be in affidavit form only. The
6.18 licensee or counsel of record may appear for oral argument.

6.19 (e) Within five working days after the hearing, the board shall issue its order and, if the
6.20 suspension is continued, schedule a contested case hearing within 30 days after issuance of
6.21 the order. The administrative law judge shall issue a report within 30 days after closing of
6.22 the contested case hearing record, notwithstanding the provisions of Minnesota Rules, part
6.23 1400.8100, subpart 3. The board shall issue a final order within 30 days after receipt of that
6.24 report and any exceptions to it.

6.25 Sec. 8. Minnesota Statutes 2022, section 326.111, is amended by adding a subdivision to
6.26 read:

6.27 Subd. 8. **Actions against a person with a lapsed license or certificate.** If a person's
6.28 license or certificate lapses; is surrendered, withdrawn, or terminated; or otherwise becomes
6.29 ineffective, the board may institute a proceeding against the person under this subdivision
6.30 within two years after the license or certificate was last effective and enter a revocation or
6.31 suspension order as of the last date on which the license or certificate was in effect or impose
6.32 a civil penalty as provided in subdivision 6.