



Landscape Architecture Licensure Laws

ASLA Summary of Provisions

MONTANA

Montana Code: Title 37, Chapter 1, Chapter 66
Montana Administrative Procedure Act: Chapter 24

Type of Law: Practice/title act.

Board of Architects and Landscape Architects

The board consists of two landscape architects, three architects and one public member appointed by the Governor subject to Senate confirmation. Financed through dedicated fund.

Powers: Set and enforce standards and rules governing the licensing, certification, registration, and conduct of licensees.

Definitions

Landscape architect: A person who holds a certificate to practice landscape architecture in Montana.

Landscape architecture: Performing services in conjunction with all aspects of the planning and design of the exterior environment for human use and environmental protection. It is the design discipline specifically oriented to addressing the problems involved in adapting the uses of land to the characteristics of the exterior environment both functionally and aesthetically. The term includes regional planning of natural resources; urban and rural planning and design; institutional design; park and recreation planning and design; contract negotiations; the preparation of project master plans, contract documents, construction specifications, construction cost estimates, and project contracts; project management, and construction management. The term does not include the design of structures or facilities with separate and self-contained purposes that are ordinarily included in the practice of engineering or architecture and does not include the making of land surveys or final land plats for official approval or recording.

Exemptions

Interprofessional practice: The law exempts licensed architects, engineers and land surveyors.

Exempt persons:

- It is generally stated that none of the provisions of the law shall require the hiring of a landscape architect.
- Employees of landscape architects acting under the instruction, control, or supervision of their employers.
- Any person engaged in business as a horticulturist, nursery operator, or landscape nursery operator, gardener, landscape gardener, landscape designer, landscape artist, landscape contractor, or land use planner, as these terms are generally used. However, no such person shall use the title landscape architect, landscape architecture, or any description tending to convey the impression that he is a licensed landscape architect.
- Any person performing services on his or her own property.

Eligibility Requirements – Initial Licensure

[Applicants must meet one of the following combinations of education and experience: (1) an accredited landscape architecture degree and two years of practical experience in landscape architecture; (2) a non-accredited landscape architecture degree and three years; (3) a bachelor's degree and four years; or (4) eight years of practical experience in landscape architecture. Experience must be gained under the direct supervision of a licensed design professional, with 2/3 of the experience under the direct supervision of a licensed landscape architect. The remainder can be earned under the supervision of a licensed civil engineer,

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licensed architect, or certified planner. Practical experience is defined as a diversity of experience directly related to landscape architecture.] Candidates must pass the [LARE].

[Fee: Initial license, \$325. Annual renewal, \$250.]

Eligibility Requirements – Reciprocal Licensure

Licensure in another state with substantially equivalent licensure standards at the time of application, including passage of the CLARB written examination.

[Fee: Initial license, \$325. Annual renewal, \$250.]

Practice Entities

Licenses may be issued to individuals only. The law does not prevent a licensee from performing services for a corporation, firm, partnership, or association. Each partner in a partnership of landscape architects must be licensed to practice landscape architecture. Subject to this requirement, a partnership of landscape architects may use a partnership name if the name consists of: the names of two or more landscape architects; or the names of one or more landscape architects and one or more professional engineers, architects, or planners. A person applying to the licensing official of any county or city for a business license to practice landscape architecture must, at the time of application, exhibit to the licensing official satisfactory evidence that the applicant possesses a current license. The license may not be granted until such evidence is presented.

Seal Requirements

All drawings and title pages of specifications prepared by a landscape architect or under the licensee's supervision must be stamped with the seal. [When the efforts of more than one landscape architect combine to produce documents requiring a seal, only one licensee is required to seal the document]. The seal requirement may not be construed to permit the seal of a landscape architect to serve as a substitute for the seal of an architect, engineer, or land surveyor.

Enforcement

Board powers: set and enforce standards and rules governing the licensing and conduct of the members of the profession; sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession; suspend, revoke, or deny a license of a person who the board determines is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system; consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion; establish the qualifications of applicants to take the licensure examination; determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination; examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations; require continuing education for licensure. A board may request an applicant to make a personal appearance before the board for non-routine license applications.

Department powers: establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, receiving and processing routine applications for licenses as defined by a board, issuing and renewing routine licenses as defined by a board, disciplining licensees, setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing; standardize policies and procedures and keep in Helena all official records of the boards; make arrangements and provide facilities in Helena for all meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board; contract for or administer and grade examinations required by each board; investigate complaints received by the department of illegal or unethical conduct of a member of the profession; assess the costs of the department

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American Society of Landscape Architects

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to the boards and programs on an equitable basis as determined by the department; adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses; issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's board after a finding of reasonable cause by a screening panel of the board; provide notice to a board and to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner, suspend all duties related to the board except for services related to renewal of licenses, review the need for a board and make recommendations to the legislative interim committee with monitoring responsibility for the boards for legislation revising the board's operations to achieve fiscal solvency, and recover the costs by one-time charges against all licensees of the board; monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary; establish policies and procedures to set fees for administrative services, commensurate with the cost of the services provided; adopt uniform rules for all boards and department programs to comply with the public notice requirements.

Prohibitions/penalties: [Violation of any of these standards by a licensee constitutes unprofessional conduct and is grounds for disciplinary action: being incompetent or negligent, or using any practice or procedure in the practice of the profession which creates an unreasonable risk of physical harm or serious financial loss to the client or to the public; practicing beyond the scope of knowledge and expertise of the licensee as defined by law; failing to supervise the work of another whereby the supervisor has both responsible control over and detailed professional knowledge of the work prepared under the supervisor's supervision; accepting compensation for professional services from more than one party on a project, unless the circumstances are fully disclosed to and agreed to in writing by all interested parties; soliciting or accepting compensation from material or equipment suppliers in return for specifying or endorsing their products; misrepresenting to a prospective or existing client or employer the licensee's qualifications and the scope of responsibility in connection with work for which the licensee is claiming credit or being compensated; offering or making any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the licensee is interested; making public statements on professional questions, without disclosing that the licensee is being compensated for making such statements; knowingly injuring or attempting to injure, falsely or maliciously, directly or indirectly, the professional reputation, prospects or practice of another licensed architect or landscape architect; representing the work of others as the licensee's own; using or altering material prepared by another person without the knowledge and consent of that person; performing professional services which have not been authorized by the client or the client's legal representative; failure to disclose in writing to a client any business association or direct or indirect financial interest that is substantial enough to influence the licensee's professional judgment in connection with the performance of services to a client; signing or attaching a seal to drawings, specifications, reports, or other professional work for which the licensee does not have responsible control or direct professional knowledge; willfully making or filing false reports or records; and failure to comply with the law.]

Licensees or license applicants may be disciplined for: conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending; permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure; fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure; signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement; a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession; offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation; denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by another jurisdiction if the action is not on appeal, under judicial review, or has

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been satisfied; (8) failure to comply with a term, condition, or limitation of a license by final order of a board; revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law; use of alcohol, a habit-forming drug, or a controlled substance to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties; having a physical or mental disability that renders the licensee or license applicant unable to practice the profession with reasonable skill and safety; engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice; misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds; interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed; assisting in the unlicensed practice of a profession or allowing another person or organization to practice or offer to practice by use of the licensee's license; conduct that does not meet the generally accepted standards of practice.

Upon a decision that a licensee or license applicant has violated the law or is unable to practice with reasonable skill and safety due to a physical or mental condition, the board may issue an order providing for one or any combination of the following sanctions: revocation of the license; suspension of the license for a fixed or indefinite term; restriction or limitation of the practice; satisfactory completion of a specific program of remedial education or treatment; monitoring of the practice by a supervisor approved by the disciplining authority; censure or reprimand, either public or private; compliance with conditions of probation for a designated period of time; payment of a fine not to exceed \$1,000 for each violation; denial of a license application; refund of costs and fees billed to and collected from a consumer. A sanction may be totally or partly stayed by the board. To determine which sanctions are appropriate, the board shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the board consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.

Prohibitions/penalties for unlicensed practice: The department shall investigate complaints or other information received concerning practice by an unlicensed person of a profession for which a license is required. A board may file an action to enjoin a person from practicing, without a license, a profession or occupation for which a license is required by this title. A person violating an injunction issued pursuant to this section may be held in contempt of court. A person subject to an injunction for practicing without a license may also be subject to criminal prosecution. A person practicing a licensed profession without complying with the licensing provisions is guilty of a misdemeanor punishable by a fine of not less than \$250 or more than \$1,000, imprisonment in the county jail for not less than 90 days or more than 1 year, or both. Each violation of the provisions of this chapter constitutes a separate offense.

Mandatory Continuing Education

The general statute for all regulatory boards authorizes the board to establish continuing education requirements, but it has not yet done so.

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