

Chapter A-E 3

PROCEDURE AND PRACTICE

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A-E 3.01 Definitions. As used in these rules, "certificate" means a certificate of registration as an architect, professional engineer or land surveyor, certificate-of-record as an engineer-in-training, or permit as a designer, or other grant of authority, certificate or permit issued or subject to suspension or revocation by the board or any of its sections; "board" means the Examining Board of Architects, Professional Engineers, Designers, and Land Surveyors or any of its sections; "hearing" includes a hearing by the board or any of its sections; "revocation or suspension" includes refusal to renew a certificate after expiration.

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. Register, July, 1968, No. 151, eff. 8-1-68; am. Register, January, 1971, No. 181, eff. 2-1-71.

A-E 3.02 How proceedings initiated. Proceedings to revoke or suspend a certificate may be initiated in one of two ways, except insofar as any order of suspension or revocation may issue pursuant to a statute not requiring a hearing:

(1) By any person on a verified, written complaint, filed in triplicate (original and 2 copies) with the secretary of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors; such complaint shall be signed by the complainant and state specific acts complained against.

(2) By the respective section on its own motion whenever its investigation discloses probable grounds for disciplinary action against an architect, professional engineer, designer, engineer-in-training, or land surveyor. Any member or the secretary of the board may act for the section in initiating proceedings under this subsection against architects, professional engineers, designers, engineers-in-training or land surveyors.

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. (1) and (2), Register, July, 1968, No. 151, eff. 8-1-68; am. (1) and (2), Register, January, 1971, No. 181, eff. 2-1-71.

A-E 3.03 Style of pleadings, etc. All pleadings, notices, orders and other papers filed in such proceedings shall be captioned "BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS," and shall

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be entitled "IN THE MATTER OF THE REVOCATION OF THE
----- OF ----- RESPONDENT."

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. Register, July, 1968, No. 151, eff. 8-1-68; am. Register, January, 1971, No. 181, eff. 2-1-71.

A-E 3.04 Form of charges. If the alleged violation of the law or the administrative rules of the board is a continuing one, its general nature and the approximate time covered shall be stated in the complaint; but if one or more specific incident is relied on, it shall be alleged with such particularity as to time, place and circumstances, as may be necessary to advise the respondent of the issues involved. The offense may be alleged in the language of the statute or rule claimed to have been violated, and shall conclude; "contrary to Sec. ---- of the Statutes," or "contrary to Wis. Adm. Code ----," or both. Separate charges shall be stated in separate paragraphs and shall be numbered consecutively.

A-E 3.05 Complaint on board's investigation. If the complaint is founded upon investigation made by the board and on its own motion, it shall be incorporated in the notice of hearing and statement of issues as prescribed by section A-E 3.07.

A-E 3.06 Procedure upon filing of complaint. Upon the filing of a complaint as prescribed by subsection A-E 3.02 (1) the appropriate section shall cause an investigation to be made of the matters alleged to determine whether there is a probable cause for disciplinary action and if the respective section determines that there is probable cause, it shall order a hearing as prescribed by section A-E 3.07 and notify the complainant thereof. If it is determined that no further action is warranted, the section shall notify the complainant, who may appeal in writing to the section, which shall review its files and may affirm previous action, order further investigation or order a hearing on the charges, provided, that in any case where a hearing has been ordered, the respondent has no standing to attack the determination of the section in ordering such hearing, but shall be required to plead to the merits.

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. Register, January, 1971, No. 181, eff. 2-1-71.

A-E 3.07 Notice of hearing and statement of issues. Notices of hearing shall be addressed to the respondent at his last known post office address, shall include the statement of issues and shall be substantially the following form:

(1) If on complaint filed as provided by section A-E 3.02 (1), such complaint shall be attached to the following notice:

"To ----- Name
----- Street
-----, Wis.
Respondent

"Please take notice that a hearing will be held on the ----- day of -----, 19--, at ----- in the city of -----, Wis., at ---- o'clock -- m., or as soon thereafter as the matter may be reached, on the question of whether the ----- (permit or certificate) heretofore issued to the above named Respondent pursuant to sec. -----, Stats.,

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shall be suspended or revoked. The issues involved and the charges there to be considered are as set forth (in the attached complaint) to which you are required to make answer in writing at least _____ days before the time set for said hearing.

"Dated at Madison, Wisconsin this _____ day of _____, 19___.

"EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND
LAND SURVEYORS,
By _____"

Secretary or Board Member

(2) If the hearing is to consider only part of the charges set forth in such complaint, the form set forth in subsection (1) shall be altered, by inserting the following in lieu of the matter enclosed in brackets: (in paragraphs _____, _____, _____ and _____ of the attached complaint).

(3) If the hearing is to consider in part charges set forth in the complaint and in part charges initiated by the board on its own motion, the form set forth in subsection (1) or (2) shall be altered by adding: "together with the following additional issues and charges:

- "1. _____
- "2. _____
- "3. _____"

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. (1), Register, July, 1968, No. 151, eff. 8-1-68; am. (1), Register, January, 1971, No. 181, eff. 2-1-71.

A-E 3.08 Answer. A verified answer in writing shall be required in all cases involving revocation or suspension of certificates, and shall be filed with the secretary of the board in triplicate (original and 2 copies) within at least one-half the time intervening between the date of service or the mailing of the notice of hearing and the time set for said hearing, and such time for answer shall be stated in said notice as required by section A-E 3.07. The answer must contain:

- (1) A specific denial of each material allegation of the complaint or charges controverted by the respondent.
- (2) A statement of any new matter constituting a defense or in mitigation of the offense charged.

A-E 3.09 Admission by not denying. Every material allegation of the charges not controverted as prescribed shall be taken as a verity, but new matter in the answer shall be deemed controverted without any reply being served or filed.

A-E 3.10 Default; relief therefrom. If the respondent fails to submit an answer as required by section A-E 3.08, or fails to appear at the hearing at the time fixed therefor, the charges specified may be taken as true and the section may make findings and enter its order on the basis of the facts revealed by its investigation.

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. Register, January, 1971, No. 181, eff. 2-1-71.

A-E 3.11 Service and filing of papers. Unless otherwise provided by law, all orders, notices and other papers may be served by the

secretary of the board by first class, certified mail addressed to the party at his last known post office address, or to his attorney of record. In the event that such service is refused, service may be made by sheriff without amendment of the original Order, Notice or other paper.

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. Register, January, 1971, No. 181, eff. 2-1-71.

A-E 3.12 Conduct of hearings; continuances; appearances; examination of witnesses. Unless otherwise ordered by the board, all hearings shall be conducted and presided over on behalf of the board by the chairman. The chairman or any member of the board or its secretary may administer oaths or affirmations. Continuances and adjournments may be granted by the chairman or presiding officer for cause shown. The respondent may appear in person or by a duly authorized attorney-at-law and if a corporation, by any of its active officers. Witnesses may be examined on behalf of the board by the secretary of the board, the board's attorney, a representative of the attorney general acting as counsel for the board or by any member of the board. The respondent or any of its officers, agents or employees may be examined adversely as prescribed by section 885.14, Wis. Stats.

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. Register, January, 1971, No. 181, eff. 2-1-71.

A-E 3.13 Subpoenas; witness fees. Subpoenas may be signed and issued by the chairman or secretary of the board or the clerk of any court of record. Witness fees and mileage of witnesses subpoenaed on behalf of the board shall be paid at the rate prescribed for witnesses in circuit court, upon filing with the board their affidavits of attendance and travel, and shall be charged to the appropriation for the administration of section 443.01 or 443.02, Wis. Stats., as applicable.

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. Register, January, 1971, No. 181, eff. 2-1-71.

A-E 3.14 Prehearing conferences. Pre-hearing conferences may be held at the convenience of the parties and may be conducted by any member of the board, its attorney or secretary, who shall keep and preserve a record of any agreement or stipulation as to the issues or admission of any fact which may be made at such conference. Such record shall be attached to the file and constitute a part of the official record of the case.

A-E 3.15 Arguments. Except as provided in section 227.12, Wis. Stats., arguments shall be submitted to the board in writing unless otherwise ordered. Ten copies of such written arguments shall be filed with the secretary of the board within such time as may be fixed by the board at the hearing.

A-E 3.16 Variances. The provisions of section 263.28, Wis. Stats., with reference to variances between the allegations and the proofs, shall apply to proceedings under these rules.

A-E 3.17 Petition for rules or declaratory rulings. Petitions for the adoption, repeal or amendment of rules and for declaratory rulings

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shall be governed by the rules of procedure for the state board of health, insofar as applicable, with the following exceptions:

(1) The petitions shall be captioned "BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS".

(2) The duties with reference to investigation, filing of papers, giving of notices, etc., therein imposed on the state health officer shall be performed by the chairman or secretary of the board.

(3) Hearings shall be conducted by the chairman of the joint board unless otherwise ordered by the board.

(4) All final determinations shall be made by the board.

History: Cr. Register, March, 1962, No. 75, eff. 4-1-62; am. (1), Register, July, 1968, No. 151, eff. 8-1-68; am. (1) and (3), Register, January, 1971, No. 181, eff. 2-1-71.