PDHonline Course R114G (2 PDH)

The Proper Use of New York Professional Seals

Instructor: Randall W. Whitesides, PE

2012

PDH Online | PDH Center

5272 Meadow Estates Drive
Fairfax, VA 22030-6658
Phone & Fax: 703-988-0088
www.PDHonline.org
www.PDHcenter.com

An Approved Continuing Education Provider

The Proper Use of New York Professional Seals

Randall W. Whitesides, P.E.

Introduction and Overview

In order to properly use professional seals in New York, licensed professionals are required to be familiar with specific practice regulations. These regulations are contained in the collection of New York statues known as the *New York State Consolidated Laws*. The collection is subdivided into Chapters, Titles, and Articles. The Articles are further divided into Sections (§§). The primary laws in which we have interest, *i.e .*,that deal with sealing and certification, are contained in Chapter 16, *Education Law*, Title VIII, *The Professions,* and the following specific Articles:

New York Capitol Building

1. Article 147, *Architecture*
2. Article 145, *Engineering and Land Surveying*
3. Article 148, *Landscape Architecture*

A collection of laws known as the *Official Compilation, Codes, Rules and Regulations of the State of New York,* abbreviated NYCRR, adds detail, and is intended to implement the New York State Consolidated Law Chapters. The NYCRR is divided into Titles and Parts; of interest to us is Title 8, *The State Education Department.* Each of the above Consolidated Law Articles of Chapter 16 are supplemented by each of the following Parts of Title 8 of the NYCRR:

1. Part 69, *Architecture*
2. Part 68, *Engineering and Surveying*
3. Part 79-1, *Landscape Architecture*

These Parts are often referred to as *Rules* or *Regulations.* The words *parts, rules,* and *regulations* are often confusing because they are used interchangeably when reference to New York laws are made. For instance, on one hand we have the *Rules of the Board of Regents* (Part 29) and on the other hand we have the *Regulations of the Commissioner of Education* (Part 68). From here out, the repetitive literal enumeration of Article, Part, Rule, and Regulation numbers will be made by footnote reference only.

The technical professions of Architecture, Professional Engineering, Surveying, and Landscape Architecture, are regulated by the Board of Regents of the State University of New York and the New York State Education Department Office of the Professions. They jointly oversee the preparation, licensure, and practice of the professions. Currently, The Office of the Professions regulates over forty professions defined under the education law. The Board of Regents' supervision and the State Education Department's administration of professional regulation are guided by the laws and rules and supplemented by professional State Boards. Several professional State Boards have developed practice guidelines to assist licensed professionals in understanding how to apply the law and accompanying rules and regulations in their daily practice. They are intended to provide licensees with guidance to promote good practice and prevent incidents of professional misconduct.

This course is an integration of the specific sections of the numerous New York State laws that pertain to the use of professional seals and the guidelines published by the Boards. The course content is not intended as a replacement or substitute for official information sources or an understanding of the laws, rules and regulations governing the use of professional seals in New York. Hopefully it provides a useful supplement that reflects common professional practice issues and concerns regarding their use. The applicable regulations are listed in the **Reference Section**; they supersede any information contained in this course.

Even though the professions are regulated by separate Boards, the prescribed acceptable methods of professional seal use are consistent among all of the New York design professions. Unlike some States, there are essentially no distinctions between the technical professions with regard to seal use. In fact, seal protocols are so universal that the subject can be collectively covered within this course with only specific minor practice exceptions noted.

While every effort has been made to insure the accuracy and completeness of the information presented in this course, the reader is reminded that the Articles and Rules are subject to periodic revision. Consequently, while the course's base content is relatively constant, specifics are subject to variation. The reader of this course is strongly encouraged to periodically review the various regulations in order to stay informed. This is easily accomplished because the required information and the regulating agencies are readily accessible on the World Wide Web; a listing, with URLs, is provided in the **Additional Resources** section.

Nothing herein has the force of law or the intention to force any licensed professional to comply with the content.

History [1]

The word “seal” stems from the act of closing. Originally, this was the closing or securing, if you will, of a document for the purpose of security and privacy. While the original sealing methods of old could not prevent unauthorized access, an unbroken seal did at least give the intended recipient of the document an indication of its security. Over time, the seal evolved into a representation of indisputable authenticity, just as a signature is accepted in the world today. The emperor of China used his thumbprint when sealing documents in 3000 B.C. The use of seals is mentioned in the Old Testament, where Jezebel used Ahab's seal to counterfeit important documents. Royalty and governments used their own seal to affix to proclamations to give them their authoritative stamp of approval. The first Great Seal of England was that of Edward the Confessor, impressions of which can still be found. During this time, almost everyone had their own seal. While most people had just one, royalty would own several, including their "Great" seal, as well as seals for all their courts and officials. It was common practice to destroy the seal when the owner died, which is the reason so few original seals are still in existence today. Official seals of the Crown were often handed over with great ceremony, and in Medieval Times the size and motif of the seal conveyed an image of the status of it's owner. Early motifs were equestrian or heraldic in nature, or showed the owner in various pursuits like hunting or doing battle. William the Conqueror used an equestrian seal showing him armed and ready for battle. In Medieval Times, betrothals were prearranged; therefore true words of love were secretly written and the envelope's contents secured by a wax seal, so that the recipient could be assured that their passion would be unknown to others.

Background of the Seal in the U.S.

The first Seal of the United States was created by Benjamin Franklin, John Adams, and Thomas Jefferson on July 4th 1776, immediately after the Declaration of Independence was signed. Congress realized the necessity of such a seal for the newly established nation. Seals were used less frequently as literacy

increased. With the introduction of
the gummed envelope in the 19th Century, the need for privacy was reduced. Seals became a more personal expression as well as a decorative embellishment. Today, seals serve functionally as well as symbolically. Seals represent the President, Federal agencies, States, State agencies, corporations, and notaries, to name barely a few.

The necessity for professional seals springs directly from laws regulating the practice of the various professions. The State of Wyoming was the first to enact an engineering registration law in 1907 and was ironically, the last State, in 1951, to enact a law regulating the practice of Architecture. By 1952, all the States and territories had adopted licensing laws of some description regarding the primary technical design professions. New York's engineering law was enacted in 1920, and the architectural registration law dates back to 1915. The Landscape Architecture practice Article is relatively new, coming into existence in 1961.

Professional Practice Overlap

New York building code officials and other regulatory agency personnel, as well as the licensees themselves, are often confused as to the differences between how, when, and in what manner, the professions are allowed to use their seals. A frequent professional conduct violation concerns sealing improprieties. Sealing improprieties occasionally stem from the fact that there exists areas of overlap, or common practice, among the professions of Architecture, Engineering, Surveying, and Landscape Architecture. Setting aside any nefarious activity, one of the leading forms of impropriety occurs when the licensee incorrectly affixes a seal to work for which the licensee is not privileged to undertake. In order to appreciate the problems that sometimes arise from the use of the various professional seals, it is useful to study these areas of technical overlap or common practice.

Let's utilize set theory to diagrammatically examine the scope and purview of the professions. Look at Figure 1 on page 5.

Each circle is intended to graphically represent the total practice scope of each profession. The overlapping areas of the four professional practices (sets) represent the legally allowed, and generally accepted, common practice areas. You may recall that in set theory these common areas are known as *intersections*. We will address each one of these intersections individually as we

progress through the course. For now, let's begin by an examination of the intersection of Architecture and Engineering.

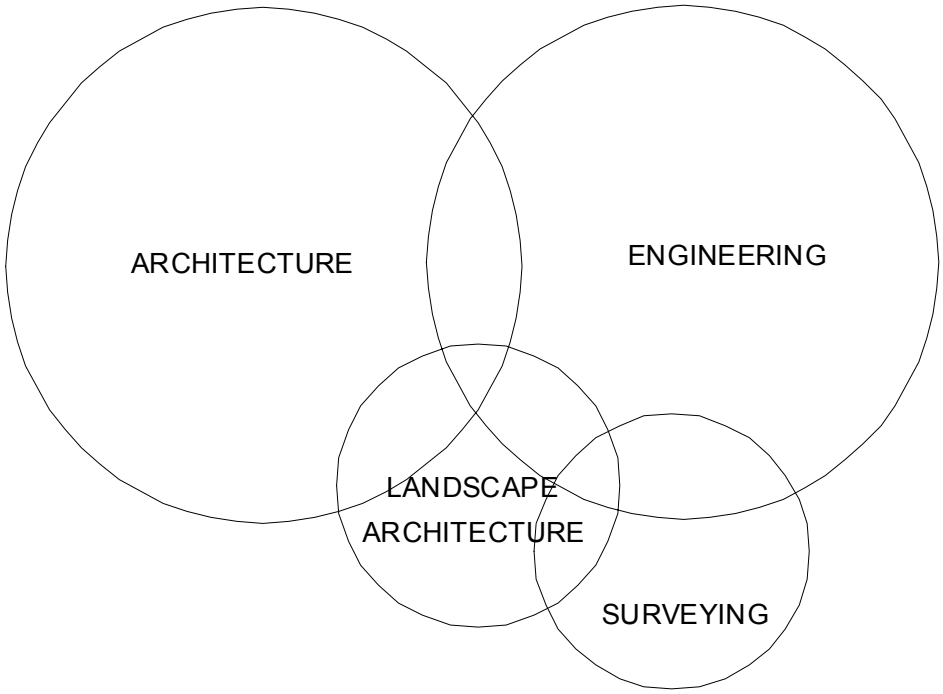

Figure 1

Comparing Apples to Oranges or Comparing Apples to Pears?

Everyone knows the difference between the practice of Architecture and the practice of Engineering, right? Well, obviously not. A broad range of viewpoints exists among the various States and territorial jurisdictions with regard to this matter. Any analysis that examines the actions of the various courts and code enforcement officials quickly reveals a difference in what is interpreted as allowable legal practice between the two. Individual State statutory definitions and court rulings range, on one end, with little or no distinction between the two professions, to the extreme of an apparent monopoly of professional authority being granted to one or the other. New York law falls into the former category, setting out no legal specifics in defining the practice bounds of the two professions. The descriptions of the practices of architecture and engineering in the

Education Law are so broad and encompassing, that in essence each profession may legally offer to provide the services of the other. New York is one of 47 States whose definition of the practice of engineering specifically includes the design of buildings.[2]

That a difference exists between Architecture and Engineering is not an issue; the precise difference is, however, conjecture. It is generally held that Architecture is the profession of designing buildings for human habitation and occupancy; Engineering, among other things, is the profession of designing structures, to include buildings, and various elements of utility that comprise the structure and make it functional. Although overly simplistic, Architecture is often discriminated from Engineering through the emphasis of interior and exterior aesthetics, and form and function with regards to occupancy and use. Key phrases often used in the practice description of Architecture are: *use, order, and beauty through the resource of design and the call for artistic and technical ability.*[3] To bolster the defense for the similarity of the two professions, the concept and term *Architectural Engineering* as a separate discipline has been offered. This term is firmly established as evidenced by the existence of Architectural Engineering curriculums at several prominent schools of higher learning and the creation of an optional Architectural Engineering format on the nationally administered National Council of Examiners for Engineering and Surveying (NCEES) exam. Although not universally accepted across the technical community, the National Council of Architectural Registration Boards (NCARB) holds that Architects, by their education and internship, are the only design professionals properly prepared to coordinate all the design disciplines and manage the typical building project.[4]

The two professions are often coupled together in legal passages by the phrase *"architect or professional engineer"* [underscored emphasis added]. This implies that regulatory officials should accept the work products of either, with more or less equal regard. Let's take a look at a passage from the Architecture Article:

> No official of this state, or of any county, city, town or village therein, charged with the enforcement of laws, ordinances or regulations relating to the construction or alteration of buildings or structures, shall accept or approve any plans or specifications that are not stamped . . . with the seal of an architect or professional engineer registered in this state.[5]

This passage is quoted from the New York City Building Code:

> All such plans shall be drawn to suitable scale and shall be reproduced upon substantial paper, plastic, or cloth, as the commissioner may require; and each plan or drawing shall contain the registration number, seal, signature, and address of the architect or engineer who prepared or supervised the preparation of the plans.[6]

Incidental Practice Activities

Incidental Practice Provisions Common to Architecture and Engineering

Incidental practice is defined as the act of conducting non-customary professional activities, which are minor or subordinate in nature, which support the primary, legally licensed practice activity. Incidental practice is a practical reality. There is no specific reference in the Articles or Regulations regarding the extent of its acceptability.

The Articles and Rules for the technical professions sometimes contain language which, albeit brief, expressly sets out which potentially intersecting professions are not mutually excluded by the existence of an Article or Rule. When a profession is exempted from a law that restricts practice, it can logically be concluded that the exempted profession can practice and offer those services unrestricted. Each of these short declarations of exemption will be presented in this course because they are so explicit and therefore useful. Accordingly, let's look at the Architecture practice Article to discover what the practice of Architecture does not preclude:

> This Article shall not be construed to affect or prevent the practice of engineering or land surveying by an engineer or land surveyor licensed in this state, or the practice of landscape architecture by a landscape architect licensed in this state, provided that no such engineer, land surveyor or landscape architect shall use the designation "architect," or "architectural" or "architecture" unless licensed as an architect in this state.[5] [Author's non-legal unofficial interpretation: Engineers can perform incidental architectural services but cannot legally hold themselves out to the public or contract to offer services as "Registered Architects"].

The Engineering practice Article contains similar language exempting Architects and Landscape Architects. The Landscape Architecture practice Article contains similar language exempting Architects, Engineers, and Land Surveyors.

Surveying Incidental to the practice of Engineering

The practice of land surveying is defined in the practice Article as a field of applied mathematics within a branch of the engineering profession. The fact that certain non-cadastral surveying functions are critical components to engineering and construction endeavors is without question. Some of these functions are horizontal and vertical control, construction layout, and earthwork quantity determination. None of the current civil engineering projects which are present today would be possible without the benefit of engineering surveys. In order to qualify this important engineering function and to clearly differentiate it from cadastral, or land surveying, the practice Article specifically states that,

> [This Article] shall not be construed to affect or prevent [the] making of surveys by professional engineers, except that the determination of real property boundaries may be done only by a licensed land surveyor.[7]

Engineering Incidental to the practice of Surveying

As it turns out, licensed Land Surveyors in New York who qualify under a grandfather clause in the Land Surveying Article are allowed reasonable latitude with regards to what normally is reserved to the sole province of Professional Engineers. From the Article, licensed Land Surveyors are permitted to:

> design roads, drainage, water supply or sanitary sewerage facilities of a minor nature in connection with subdivisions and the extension and inspection thereof, but not including sewage disposal or treatment plants, lift stations, pumping stations, commercial buildings or bridges, provided the surveyor was licensed on or before [January 1, 1971] and files evidence satisfactory to the board on or before [July 1, 1972] attesting that he is competent and experienced in the engineering required for design of such facilities appurtenant to subdivisions.[7] [Author's opinion: Given the promulgation date of this Article Section, it is doubtful that a substantial number of land surveying practitioners qualify under this grandfather clause at present].

Engineering Incidental to the practice of Landscape Architecture

In a less demonstrative fashion, the Landscape Architecture Article could be interpreted to allow some minor incidental engineering activities:

> The practice of landscape architecture is defined as performing services in connection with the . . . location and arrangement of such tangible objects and features as are incidental and necessary to the purpose . . . [of] settings, approaches or environment for structures or other improvements, natural drainage and the consideration and determination of inherent problems of the land relating to the erosion, wear, and tear, blight or other hazards.[8]

However, the Article goes on to prohibit non-incidental standalone activities by stating,

> [This Article] shall not include the design of structures or facilities with separate and self-contained purposes such as are ordinarily included in the practice of engineering or architecture.[8]

Sealing and Certification

The seal and signature, *i.e.,* certification, of a design professional on a document has been interpreted[9] as an attestation that, to the best of the licensee's belief and information, the work represented in the document:

- is accurate;
- conforms with governing codes applicable at the time of submission;
- conforms with reasonable standards of practice and with a view to the safeguarding of life, health, property and public welfare and;
- is the responsibility of the licensee.

The Rules state that it is unprofessional conduct for a design professional to certify by affixing the licensee's signature and seal to documents for which the professional services have not been performed by, or thoroughly reviewed by, the licensee; or failing to prepare and retain a written evaluation of the professional services represented by such documents.[10] The Rules do not state

that documents must be personally prepared by the licensee or be prepared under the direct supervision and responsible charge of the licensee.

Although often used interchangeably, the terms sealing and certification are not synonymous. A certified document is one that has been sealed and signed. Figure 2 below is an example of typical, properly signed New York professional seal. The signature should always be placed so as not to obscure the information contained within the seal. When an appliqué (adhesive type) seal facsimile is employed, the signature should not be applied to the actual label, but rather to the document.[9]

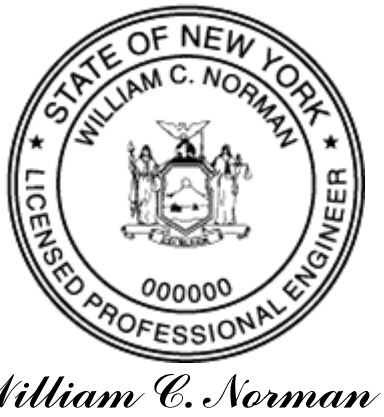

Figure 2[11]

The approved composition and seal styles of the other professions are shown below. The Board recommended approximate diameter of the outer circle in each case is 1¾ inches.

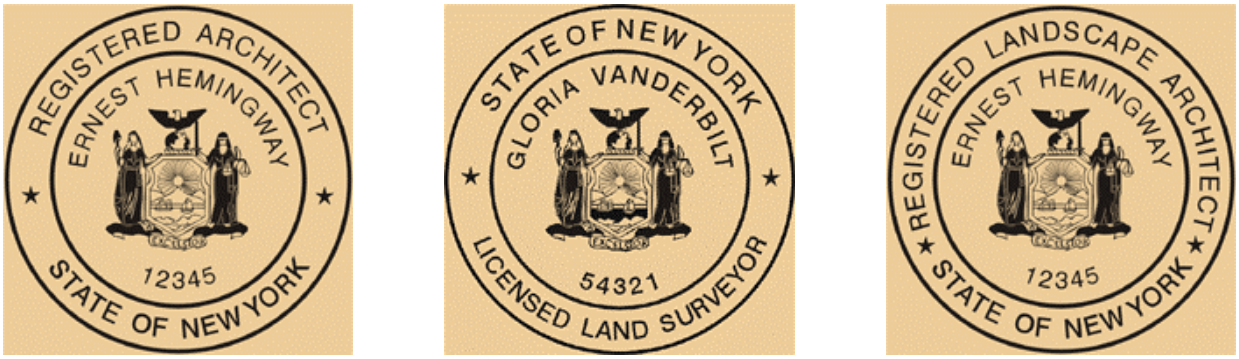

Figure 3[12]

Use of the Architect's and Engineer's Seals

We have lightly touched on the subject of the proper and allowed use of Architectural and Engineering seals in our discussion of practice overlap and incidental activity. In the absence of comprehensive, detailed statutory language which clearly delineates the practice bounds of Architecture versus Engineering, one is left to rely on generally accepted national guidelines. Relevant areas of established codes and canons of ethics[13,14] have been paraphrased and assembled below. These points take professionalism into account in determining the appropriate use of professional seals when overlapping, incidental practice is involved; they have no force of State law.

> Design professionals, in the fulfillment of their duties, shall:
>
> - Perform services only in areas of their competence;
> - Undertake assignments only when qualified by education or experience in the specific technical fields involved;
> - Not affix their signatures to any plans or documents dealing with subject matter in which they lack competence;
> - Not falsify their qualifications or permit misrepresentation of their qualifications;
> - Not accept employment to the detriment of their regular work or interest;
> - Avoid all conduct or practice that deceives the public;
> - Not attempt to obtain employment or advancement or professional engagements by untruthful, improper or questionable methods.

[Design professionals] may accept an assignment requiring education or experience outside of their own fields of competence, provided their [personal contributions to the assignment] are restricted to those phases of the project in which they are qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.[14]

While both Architects and Engineers are allowed to produce building designs in New York, based on the above guidelines, each would be expected to seal only those portions that were normally considered within their area of customary practice. Put quite simply, Architects should not generally seal mechanical, electrical, plumbing, HVAC, and structural designs, and Engineers should not generally seal floor plans, wall sections, elevations views, door and window schedules, and the like.

Seal Originals or Copies?

The Architecture practice guidelines state that "[a seal can be] applied to an original or a copy". The Architecture, Engineering, and Land Surveying Articles state that the seal shall be placed on all produced documents and "shall also be signed, on the original with the personal signature". No specific legal prohibition is apparent in any of the laws to indicate that the act of reproducing properly certified documents is illegal.

Certificate of Authorization Seal/Professional Service Corporation Seal

The corporate practice of Architecture, Professional Engineering, Land Surveying, and Landscape Architecture by a professional service corporation is allowed as long as the compositional make-up of the business entity meets the requirements specified in the respective Rules. Business entities are not eligible for registration under the respective professional practice Articles; they are intended for individual practitioners. Like many States, a *certificate of authorization* is required to undertake professional practice as a professional service corporation. Unlike some States, the application of a certificate of authorization seal or a professional service corporation seal on technical documents filed for public record in not required in New York. For this reason, the actual details of the registration of a business entity will not be covered here. Please note, however, regardless of practice profession, business size, or legal form of business, all business entities must obtain a certificate of authorization. Individual licensees may elect to obtain a certificate of authorization, but are not legally required to do so.

Drawing Classifications

Construction documents are usually composed of working drawings, specifications, and occasionally other contract documents such as Shop Drawings and Submittals. A working drawing, or design drawing, is characterized by the exhibition of a total result achieved by the integration of various elements and systems; they are prepared under the supervisory control of the licensed design professional. A Shop Drawing is more limited in scope and is characterized by the indication of fabrication and/or installation details of a larger system's components. Submittals are actual material samples, brochures, cut sheets, mockups or such other materials or samples required

by the design professional to confirm the quality of the design intent; they often represent standardized products or systems.[9]

Sealing Shop Drawings and Submittals

Shop Drawings derive their name from the fact that they were originally prepared by shop personnel in the employ of a contractor. Today, Shop Drawings are prepared by original equipment manufacturers, contractors or their subcontractors, or other specialists, such as fabricators, that are not necessarily under licensee supervisory control. If the practice of a design profession as defined in the various Articles and Rules is performed during the course of Shop Drawing preparation, then the design professional responsible for their preparation must seal and sign them. If the certified Shop Drawings represent a subcontract or OEM arrangement, the prime design professional must "review and approve" these Shop Drawings and, in doing so, accept responsibility that the design conforms to the performance specifications, the overall project design, and that they can be integrated into the total system design.[9]

Due to their standardized nature, Submittals are normally exempt from the design professional's sealing requirement. However, some Submittals will also require the seal and signature of the licensed design professional who prepared that submission. An extensive list of the types of Submittals that may require professional certification is given in the Architectural practice guidelines (Reference 9).

Use of non-New York Seals

The State boards can grant temporary or limited practice permits to persons who hold a license in another State. Individuals who are legally qualified to practice in their native jurisdiction and are otherwise legally qualified to practice in New York, can obtain a project specific limited practice permit after submitting a comprehensive package of character and professional qualification certifications. The Engineering Article limits the duration of the temporary practice to 30 days in any calendar year. All plans, specifications, plats, and reports issued by an entity holding such a

temporary license would contain his native jurisdiction's professional seal with a qualifying statement in a fashion similar to that of Figure 4.

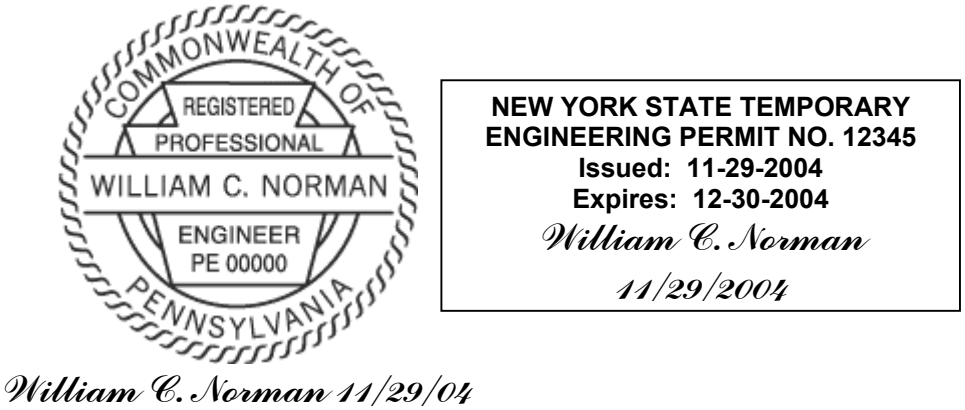

Figure 4[11]

In addition to the qualified certification, documents submitted to regulatory authorities must be accompanied by written authorization issued by the Education Department certifying that the right to temporarily practice exists for the prescribed period.

Sealing and Signing Non-technical Documents

Design professionals should not seal and sign documents whose content or preparation required no technical input or professional service. It could be considered misleading or fraudulent to sign and seal work as though it represented professional design services when, in fact, no such services are embodied in the work.[9]

Supplemental Statement

Each of the professions practice laws requires that a warning statement which prohibits the unauthorized alteration of their content, be included on all plans, specifications, and reports. An example of this statement for each profession is shown in Figure 5 on page 15.

Unauthorized alteration or addition to architectural plans or specifications bearing a licensed architect's seal is a violation of Part 69.5.b of Title 8 of the Official Compilation, Codes, Rules and Regulations of the State of New York.

Unauthorized alteration or addition to engineering technical documents bearing a licensed professional engineer's seal is a violation of Chapter 16, Title VIII, Article 145 § 7209.2 of the New York State Education Law.

Unauthorized alteration or addition to a survey map or plat bearing a licensed land surveyor's seal is a violation of Chapter 16,Title VIII, Article 145 § 7209.2 of the New York State Education Law.

Figure 5[12]

Records Retention

The Rules[10] state that it is unprofessional conduct if a licensee fails to maintain for at least six years all preliminary and final plans, documents, computations, and records relating to the work prepared by the licensee, or the licensee's employees, and to which the licensee has affixed his seal and signature. This provision includes professional evaluations.

The Adoption Law in New York

Sealing and Signing of Work Prepared by Others

Under certain circumstances, licensees may affix their seals to work not produced by the licensee or under the licensee's direct supervision. While this *"adoption"* provision initially appears to run counter to the NCEES model rules of practice[15], these same model rules state that in special circumstances, *successor licensees* may take responsible charge of certain non-original work by performing all of the professional services associated with these works.[16] In so doing, the adopting design professional is seen as accepting all responsibility for the work as though the licensee had personally prepared all the documents.[9]

Background

Ironically, the adoption provision was created in order to remedy the unlawful activity known as "rubber-stamping" whereby licensees merely seal, without review, documents prepared by unlicensed individuals or documents otherwise not prepared by them. In an attempt to prevent this unlawful act, a requirement for the licensee to produce a certified evaluation of the *"adopted"* third-party furnished work products was enacted. The fact that this evaluation process is held in strict legal regard is evident: a large quantity of the Board of Regents disciplinary actions stems from the failure of the licensee to prepare and maintain on file, the required evaluation, for the prescribed minimum period. A typical disciplinary finding summary gleaned from public records is presented below:

> Licensee admitted to charge of failing, on three separate occasions, to prepare a thorough written evaluation of architectural plans to which he affixed his signature and professional seal but which were neither prepared by him nor by an employee under his supervision. [NYSED, OP, Bd. Of Regents Cal. No. 19641, 2-12-2002].

The Certified Evaluation

The mandatory written certified evaluation should, at a minimum, contain information identifying the project name, project owner, a list of documents evaluated, the source of the documents, the date of the evaluation, and the seal and signature of the successor design professional. Statements to the effect that the documents comply with pertinent New York State or local jurisdictional codes and regulations may be applicable.

Permissible Documents

According to practice guidelines[9] the circumstances under which a licensee may appropriately sign and seal documents prepared by others might include but is not limited to:

- Documents prepared by the project owner for his/her own use;
- Documents prepared by or procured from an incapacitated or deceased practitioner;
- State exempt residential projects which are not exempted by a local jurisdiction having authority;
- House plans purchased through plan magazines or plan services.

Modifications to Original Documents

Depending on the result of the evaluation, the licensee may either correct, alter or add to the existing documents or prepare additional documents to address those items found inappropriate or missing. If the original adopted documents are modified or augmented, then a special declaration alongside the successor design professional's seal on the altered documents is required. In essence, this declaration must clearly assign the modifications to the successor design professional, and must specifically describe the alterations.[7,17] The example below is purely hypothetical but is illustrative of the minimum content that must be contained in the declaration.

ALTERED BY

William C. Norman

THIS SITE PLAN WAS DEVELOPED FROM AN ORIGINAL SURVEY PLAT PREPARED BY H.D. THOREAU, L.S. PROPOSED STRUCTURES & NEW UTILITIES SERVICES HAVE BEEN ADDED BY THE UNDERSIGNED. THIS PLAN IS NOT A REAL PROPERTY BOUNDARY SURVEY PLAT AND SHALL NOT BE USED FOR PURPOSES OF CONVEYANCE OR RECORDATION.

Figure 6[11]

Unauthorized Practice-Avoiding Misconduct

In order to avoid an act of misconduct when *"adopting"* plans and specifications produced by a third party, it is incumbent upon the licensee to determine that a violation of statutory restrictions on practice has not occurred. Let's take a look a sequence of events that would constitute an act of misconduct by the licensee.

1. An unlicensed entity undertakes a contract to provide professional design services.
2. The unlicensed entity prepares technical and design documents in consideration of the contract.
3. The unlicensed entity retains the services of a licensed professional to review and prepare a certified evaluation of the technical and design documents.
4. The unlicensed entity delivers the certified documents as fulfillment of the contract.

Non-mandatory Guidelines

In guiding the reader of this course with regards to professional successorship and document adoption, relevant areas of various generally accepted nationally recognized rules of professional conduct[13,14] have been paraphrased and assembled below with pertinent underscored emphasis added by this author.

- Design professionals shall not affix their [seal or] signatures to any plans or documents not prepared under their direction and control.
- Design professionals may assume and accept responsibility of an entire project, provided that each technical segment of the entire project is signed and sealed only by the design professional who prepared the segment.
- Design professionals shall not misrepresent or exaggerate their responsibility in subject matter.
- Design professionals shall not imply credit to themselves for work performed by others.
- Design professionals shall not review the work of another professional except with the knowledge of such professional.

- Design professionals shall give credit for technical work to those to whom credit is due, and will recognize the proprietary interests of others.
- Design professionals shall name the person or persons who are individually responsible for designs, writings, or other accomplishments.
- Design professionals, before undertaking work for which the professional may make improvements in the plans, designs, or other records that may justify copyrights, should enter into a positive agreement with the owner of said copyrights.

Author's Non-legal Unofficial Opinion: The reuse by the successor design professional, of adopted instruments of service, absent any specific legal transfer of ownership, or without the express permission of the originating design professional, could be interpreted as copyright infringement. The reader is invited to view or download PDHcenter.com course number G133, *Intellectual Property Issues for Architects, Engineers, and Surveyors,* to learn more on this subject.

Seal Forms

Professional seal forms have undergone quite an evolutionary development. The first professional seals were devices which deformed the paper of the document through impression of the seal by embossing. The positive tactile response generated by the raised embossment provided the indisputable verification of certification authenticity. Unfortunately, they were not highly visible and were difficult to reproduce photostatically. The very construction of the embosser limited the placement of the seal near the edges of a given document. Embossed seals are still used and available today, although their use was significantly diminished by the rise in popularity of the rubber stamp and ink pad in the 1960s. The stamp afforded ease of use, portability, and placement of the seal anywhere on the document. For a period, nationally at least, the use of appliqué ("stick-on" or "sticky-back") seals became popular. Because in many States regulations required seals to become a *permanent* and *archival* addition to the technical document, application of superficial media such as a pressure sensitive or adhesive seal was considered unacceptable.

Today, of course, seals graphically generated and printed via computer software are the norm. Any and all seal forms are acceptable in the State of New York.

Exemption from Sealing

Exemptions are specific situations which are granted relief from established law. The sometimes exemption from the requirement for sealing of standardized documents known as Submittals has already been mentioned. In this section we will deal with the more or less straightforward, well defined, State exemptions from sealing and certification. Bear in mind that the State laws regarding the building code and the design professions is not preemptive. That is to say, counties, cities, towns, and villages may adopt or otherwise enact local laws regarding sealing which are more stringent. The *Residential Code of New York State* and the *Building Code of New York State* (both 2000 IBC based), state that construction documents must be prepared by a registered design professional when required by the local jurisdiction and building official.[18]

The Common Exemptions to the Practice of Architecture and Engineering

The following construction activities and associated documents are usually exempt from both the Architecture and Engineering practice Articles and therefore sealing of these technical documents is optional:

1. Farm buildings and other buildings used directly and solely for agricultural purposes.
2. Single residence buildings of gross inhabitable floor area of 1,500 square feet or less.
3. Alterations, costing $20,000 or less ($10,000 or less within NYC), which do not involve changes affecting the structural safety or public safety.
4. Single modular residence buildings of 1,500 square feet or less. [multiple dwelling modular residence buildings are not exempt].
5. County, city, town, or village public works projects whose contemplated expenditure for the completed project does not exceed $5,000.

The Industrial Exemption – Reality or Myth?

Nationally, technical employees of private manufacturing concerns who conduct their own internal engineering activities have enjoyed an exemption from the Architectural, Engineering, and Surveying laws since the very inception of their enactments. This exemption was granted based on the proposition of limited exposure and risk to the general public generated by the private activities. On first reading, the Engineering practice Article would lead one to believe that an industrial exemption for private industrial design professionals was not applicable in New York without the supervisory guidance of a licensed individual [underscored emphasis added]:

> Nothing in this article shall be construed to apply to the preparation or execution of designs, drawings, plans or specifications for the construction or installation of machinery, or apparatus constructed or installed by the corporation preparing such designs, drawings, plans or specifications if the supervision of the preparation of any such designs, drawings, plans or specifications, construction or installation is done under the general direction of a professional engineer or land surveyor licensed under this article. [7]

The exemption is alive and well however when the Article states:

> [This article] shall not be construed to affect or prevent [the] the practice of engineering by a manufacturing corporation or by employees of such corporation, or use of the title "engineer" by such employees, in connection with or incidental to goods produced by, or sold by, or non-engineering services rendered by, such corporation or its manufacturing affiliates.[7]

The stance of limited external impact by private operations changed with heightened emphasis and interest in environmental issues in the early 1970s. It is obvious now that emissions and discharges of pollutants to air, surface and ground water, can potentially impact the life, health, safety, and property of the public. Since these emissions are not limited to the boundaries of the industrial property, industrial facilities are no longer exempt solely on the basis of the entity's involvement in *non-engineering services in conjunction with goods produced or sold.* The internal activities of private industry which may potentially impact the public are regulated by the present laws.

Currently, the New York State Department of Environmental Conservation (the DEC) requires that the design, permitting, and construction of private industry wastewater treatment facilities and air pollution control measures be carried out under the responsible charge of a Professional Engineer. Federally mandated oil spill control and countermeasure plans for private industrial facilities must be sealed by a Professional Engineer.

Summary

1. The use of seals to indicate authenticity dates back to antiquity B.C. in the Old World and back to the colonial period in the United States.
2. The use of technical professional seals in New York for document certification began in the first quarter of the twentieth century.
3. Document sealing and certification in New York is strictly controlled through Law Chapters, Articles, and Rules and Regulations which are dynamic. It is incumbent upon licensed professionals to be knowledgeable of State laws as well as locally enacted amendments.
4. Practice overlap exists among the licensed technical professions; this fact can contribute to sealing improprieties. Registered Architects generally should not seal electrical, mechanical, and structural drawing sheets; Engineers generally should not seal floor plan, wall section, and elevation view sheets.
5. All final documents should receive certification consisting of sealing and signing.
6. Any and all seal forms (embossments, rubber stamps, appliqués, electronic, and preprinted) are acceptable.
7. Exemptions to the Articles and Rules currently exist; they are also dynamic. For this reason, licensed technical professionals must stay abreast of changes to the numerous governing regulations.

Design professionals play a critical role in the public building process. The quality of their service is certainly one of the most important factors in insuring the safety, health, and protection to the natural and built environment. As the first step in the construction process, a design, and the authenticity of the resulting technical submissions and engineering documents, is intuitively obvious. It is believed that most New York licensed design professionals intend to conduct their practice in compliance with the applicable laws of their respective professions and that they are respectful of the laws of professions who may have overlapping, common practice. Infractions or violations of seal use among the regulated professions often occur simply because the licensee is not aware of a Board's Rules and the New York State Consolidated Laws.

Additional Resources

The list that follows contains the names, addresses, telephone numbers, and e-mail addresses of organizations and agencies which play an important role in regulatory affairs of New York licensed technical professionals. They can be contacted directly regarding any additional information or for clarifications needed on acceptable sealing and certification practices.

1. New York State Education Department, Office of the Professions, State Education Building – 2nd Floor, 89 Washington Avenue, Albany, New York, 12234, Telephone: (518) 474-3817, e-mail: op4info@mail.nysed.gov.
2. New York State Education Department, Division of Professional Licensing Services, Architecture Unit, 89 Washington Avenue, Albany, New York, 12234-1000.
3. Office of the State Board for Professional Engineers and Land Surveying, New York State Education Department, Office of the Professions, State Education Building – 2nd Floor Mezzaine East Wing, 89 Washington Avenue, Albany, New York, 12234, Telephone: (518) 474-3817, extension 140, Facsimile: (518) 473-4055, e-mail: enginbd@mail.nysed.gov or lsurvbd@mail.nysed.gov.
4. New York State Education Department, Division of Professional Licensing Services, Landscape Architecture Unit, 89 Washington Avenue, Albany, New York, 12234-1000.
5. National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100-K, Washington, DC 20006, (202) 783-6500, Facsimile (202) 783-0290, e-mail: customerservice@ncarb.org.
6. National Society of Professional Engineers, 1420 King Street, Alexandria, Virginia 22314-2794, (703) 684-2800, Facsimile (703) 836-4875, website: www.nspe.org.
7. American Institute of Architects, 1735 New York Avenue NW, Washington, D.C. 20006-5292, (800) 242-3837, Facsimile (202) 626-7547, e-mail: infocentral@aia.org.

References

1. Nostalgic Impressions Incorporated, Post Office Box 1309, Selden, New York 11784, ©2003, www.nostalgicimpressions.com.
2. Weinfeld, Michelle, *Is the Engineer in the Position of Overturning Authorship of Architecture?,* Owlnet Computing, Rice University, Houston, Texas, December 2002.

3. North Carolina Office of Administrative Hearing, Rules Division, Administrative Code, Title 21, Chapter 2, Architecture.
4. *Architecture As It Differs From Engineering,* National Council of Architectural Registration Boards, Washington, D.C., April 1995.
5. New York State Consolidated Laws, Chapter 16, Education Law, Title VIII, The Professions, Article 147, Architecture.
6. New York City Department of Buildings, Title 27, Construction and Maintenance, Chapter 1, Building Code, Subchapter 1, Administration and Enforcement, Article 11, Applications for New Building Permits, §[C26-110.2] 27-157, Plans required.
7. New York State Consolidated Laws, Chapter 16, Education Law, Title VIII, The Professions, Article 145, Engineering and Land Surveying.
8. New York State Consolidated Laws, Chapter 16, Education Law, Title VIII, The Professions, Article 148, Landscape Architecture.
9. *Practice Guidelines-January 1, 2002,* New York State Education Department, Office of the Professions website, Architecture, http://www.op.nysed.gov/arch.htm.
10. Rules of the Board of Regents, The University of the State of New York, Official Compilation, Codes, Rules and Regulations of the State of New York, Title 8, The State Education Department, Part 29, Unprofessional Conduct.
11. Official New York seal designs displayed in this course content are public domain. The facsimile of the hypothetical (example) New York professional seal shown in this figure is ©2000 A-Plus Rubber Stamp & Engraving, Duncanville, Texas, 75116.
12. Official New York seal designs displayed in this course content are public domain. The facsimiles of the hypothetical (example) New York professional seals shown in this figure are ©1997 Anderson Graphics Division, Salem, Oregon, 97308.
13. *NSPE Code of Ethics for Engineers,* National Society of Professional Engineers, Alexandria, Virginia.
14. *Code of Ethics,* American Society of Civil Engineers, Reston, Virginia.
15. National Council of Examiners for Engineering and Surveying, Model Rules of Practice, Section 240.20.C.5.b, Seal on Documents, Clemson, South Carolina, August 2003.
16. *Ibid,* Section 240.20.C.7.
17. Regulations of the Commissioner of Education, Official Compilation, Codes, Rules and Regulations of the State of New York, Title 8, The State Education Department, Part 69, Architecture.
18. The International Code Council, International Building Code 2000 Edition (Building Code of New York State), Chapter 1, Administration, Section 106, Construction Documents.