State Architects Licensure Board July 11, 2019

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BOARD MEMBERS:

Philip M. Leinbach, RA, Vice President K. Kalonji Johnson, Acting Commissioner, Bureau of Professional and Occupational Affairs

Adam Hough, Office of Attorney General, Bureau of Consumer Protection

12 13 Douglas E. Carney, RA 14

Darryl R. Hamm, Public Member

John R. Hill, RA, President

Mary E. McClenaghan, RA

Jerry K. Roller, RA

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BUREAU PERSONNEL:

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21 C. William Fritz II, Esquire, Board Counsel 22 Peter D. Kovach, Esquire, Senior Counsel 23 Robert B. Armour, Esquire, Board Prosecution Liaison

Cynthia K. Montgomery, Esquire, Deputy Chief Counsel

Ray Michalowski, Esquire, Senior Prosecutor Carolyn A. DeLaurentis, Deputy Chief Counsel, Prosecution Division

Timothy E. Gates, Chief Counsel, Department of State Marc Farrell, Deputy Policy Director, Department of State

Tiffany A. Raker, Esquire, Board Prosecutor Amanda Li, Board Administrator

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ALSO PRESENT:

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Anthony S. Potter, Esquire, Offit Kurman Construction Law Practice Group

Bruce R. Johnson, Architect, American Institute of Architects Pennsylvania

Amal Mahrouki, Director of Legislative Affairs, American Institute of Architects Pennsylvania

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3 * * * 1 State Architects Licensure Board 2 3 July 11, 2019 * * * 4 5 The regularly scheduled meeting of the State Architects Licensure Board was held on Thursday, July 6 7 11, 2019. John R. Hill, RA, President, called the meeting to order at 9:01 a.m. K. Kalonji Johnson, Acting Commissioner, Bureau of Professional and Occupational Affairs, was not present at the 10 11 commencement of the meeting. * * * 12 Roll Call 13 14 [Roll call was taken. A quorum was noted to be 15 present.] * * * 16 Introduction of Audience Members 17 18 [President Hill requested visitors identify 19 themselves.1 20 * * * 21 Pledge of Allegiance 22 [The Pledge of Allegiance was recited.] 2.3 * * * 24 [John R. Hill, RA, President, reviewed the agenda, 25 noting that the Board will be holding an executive

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session to discuss licensing applications and other
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   Board matters.
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   Approval of minutes of the May 9, 2019 meeting
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   PRESIDENT HILL:
                  We will start with approval of the
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                  minutes from the last meeting. Does
                  anybody have any additions, corrections,
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                  or deletions to the minutes from the
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                  last meeting?
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                       Hearing none. Can I get a motion
12
                  to approve?
   MR. CARNEY:
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14
                  So moved.
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   PRESIDENT HILL:
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                  Second?
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   MR. HAMM:
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                  Second.
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   PRESIDENT HILL:
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                  All those in favor of approving the
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                  minutes, say aye. Opposed?
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   [The motion carried. Mr. Leinbach abstained from
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   voting on the motion.]
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   Prosecutorial Division - Case Status Report
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Presentation

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2 [Carolyn A. DeLaurentis, Esquire, Deputy Chief

3 Counsel, Prosecution Division, introduced herself and

4 provided a brief summary of her professional

5 background. She also introduced Ray Michalowski,

6 Esquire, Senior Prosecutor.

Ms. DeLaurentis provided information for the Pennsylvania State Architects Licensure Board for FY 2018-2019, noting that 44 cases were opened with 33 open cases as of July 1, 2019. She also provided information regarding enforcement statistics.

Ms. DeLaurentis noted 69 immediate temporary suspensions, in general, for the prosecution division in FY 2018-2019 with 11,359 open cases as of July 1, 2019. She mentioned for the last fiscal year that 14,030 cases were opened, which is up from 12,604 the year before. She also noted that 13,270 cases were closed the last fiscal year.

Ms. DeLaurentis reviewed the Office of General Counsel Mediation Program, which is free of charge. She stated the consent agreements will reflect whether the case was resolved through mediation.

Ms. DeLaurentis addressed the Pennsylvania

Justice Network (JNET), where the prosecution division receives an alert when licensees from all of the

- Boards and Commissions are charged with a crime. She noted that six administrative assistants review the cases received by the department. Two assistants are dedicated to JNET to identify arrests that are
- Mr. Leinbach commented that adjudications have been more consistent with penalties relevant to the matter over the last couple of years and thanked Ms. DeLaurentis.

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relevant to each Board.

- Mr. Leinbach addressed the request of the
 National Council of Architectural Registration Boards
 for data sharing, especially in the area of
 disciplinary matters with regard to architect
 licensing matters. He noted a letter from Mike
 Armstrong, the CEO of NCARB, stating that NCARB
 members have agreed to share this information.
 - Ms. DeLaurentis commented that aggregate data can absolutely be shared.
 - President Hill discussed the benefits of being able to share information regarding specific violations when reviewing reciprocal licenses.
 - Mr. Michalowski addressed differences between the state of Pennsylvania and other states, including warning letters, different sets of laws, and public discipline. He noted mediation programs wherein the

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point is to remediate a matter rather than bringing it
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   publically at least the first time. He noted prior
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   discussion with the Board concerning how to judge the
   different laws of other states.
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        President Hill agreed that public record
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   violations should be shared.
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   Report of Prosecutorial Division
   [Robert B. Armour, Esquire, Board Prosecution Liaison,
   presented the Consent Agreement for File Nos. 15-41-
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   12150 & 18-41-001743.
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        Anthony S. Potter, Esquire, Counsel for the
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   Respondent, was also present and participated in the
14
   discussion regarding the mediation resolution
15
   agreement.]
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   [K. Kalonji Johnson, Acting Commissioner, Bureau of
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   Professional and Occupational Affairs, entered the
19
   meeting at 9:32 a.m.]
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                              * * *
21
   [John R. Hill, RA, President, noted the review of the
22
   draft regulation changes. He also noted a visitor
23
   later in the meeting who would be discussing the
24
   regulatory process. He noted a reciprocal licensing
25
   application for review in Executive Session. He also
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8 noted an informal conference and the Architect 1 2 Registration Examination (ARE) Testing Accommodations 3 Request. 1 4 5 Report of Acting Commissioner 6 [K. Kalonji Johnson, Acting Commissioner, Bureau of Professional and Occupational Affairs, announced that Governor Wolf signed House Bill 1172, which is now Act 41 of 2019, allowing Boards and Commissions of the 10 Commonwealth to provide provisional licenses and 11 license by endorsement to promote licensure portability for those actively licensed in other 12 13 states. He stated the bill was originally designed to 14 help military spouses. Acting Commissioner Johnson commented that the 15 16 intent of the legislation is to promote workforce 17 development in the Commonwealth. He noted that Act 41 18 of 2019 provides Boards and Commissions to grant a 19 provisional license if an individual is actively 20 licensed in another state or jurisdiction, absent of 21 any discipline or criminal conviction. He stated the 22 bill would provide an immediate grant of a provisional 23 license, so the individual would be allowed to work 24 and obtain additional requirements to essentially

enjoy a full unrestrictive license to practice.

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Acting Commissioner Johnson stated Act 41 of 2019 does not supersede any existing practice acts or regulations but does create somewhat of a presumption that an applicant licensed in another state is suitable for licensure.

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Acting Commissioner Johnson stated the act requires Boards to promulgate regulations within the next 18 months. He noted that the act becomes effective on September 2 or 3, and once the act becomes effective, the Board has the ability to grant the provisional licenses. He noted the possibility of more work required of the Board until the regulations are actually put into effect where there is a consistent set of guidelines for how these provisional licenses will be issued.

President Hill requested a copy of House Bill 1172 for each of the Board members for review and discussion.

Mr. Leinbach questioned whether there had been any movement on the public member seat being filled.

Acting Commissioner Johnson noted his discussions with Steve Latanishen, the Director of Intergovernmental Affairs, who has been putting pressure on the Governor's Office to recruit public members.

Mr. Leinbach suggested incorporating military issues in the partial rewrite of the regulations. He noted a concern with Senate Bill 637 regarding occupational licensure reform with the applicability to professional licensure. He mentioned distinct differences in some of the occupational licenses and the impacts it has there versus professional licensure.

Acting Commissioner Johnson mentioned that the concern had been forwarded through the Legislative Affairs Office to the cosponsors of the bill. He commented that there may be conduct or action that does not directly implicate a profession, but the substantive factual instances surrounding conduct may be whether it is indirectly or directly indicated by the relationship to a profession. He believed the intent is to allow that authority to rest with the Board.

Acting Commissioner Johnson commented that the bill would assure a proper record is created.

Mr. Hamm referred to House Bill 1172 for further information on disciplinary matters that are relevant to the profession.]

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25 Report of Board President

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1 | [John R. Hill, RA, President, reported good Board

2 | member attendance at the NCARB Annual Meeting in

3 | Washington, D.C. He noted there was an annual meeting

4 plus a regional conference. He also noted a

5 centennial celebration, which was well noted.

to be submitted to the Board.

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President Hill noted ARE candidate approvals by NCARB prior to being reviewed by the Board. He mentioned additional information on those candidates

Ms. Li stated, out of the five candidates who received letters from the Board, only one individual submitted an application. She informed the Board that she deactivated their eligibility to test.

President Hill addressed NCARB's Licensing Requirement Survey.

President Hill noted the National Architectural Accrediting Board (NAAB) document that identifies what NAAB is looking for in their schools of architecture.

President Hill addressed the NCARB Memo from Michael Armstrong regarding the importance of sharing information in the database as far as licensees who are disciplined among all jurisdictions.

President Hill noted Senate Bill 637.

President Hill discussed Board initiatives regarding outreach to PA code officials. He noted

- prior discussion and coordinating a meeting with the
 PA Department of Labor & Industry (L&I) and the
 Pennsylvania Association of Building Code Officials
 (PABCO). He also noted that Region 2 was drafting a
 similar initiative and requested Board involvement.
- Mr. Leinbach requested that a Pennsylvania Board member agree to work with Mr. Zaccone of New Jersey, and Mr. Roller volunteered.

- Mr. Leinbach addressed the Accreditation Review
 Forum document. He was appointed to a continuum
 advisory committee with regard to academic experience
 and workplace experience. He discussed students being
 shuffled through the process, where nobody fails any
 longer and everybody is passed. He shared the concern
 of Dave Hoffman, past president of NCARB, who noted
 the importance of education in determining candidate
 eligibility for a license.
- Mr. Leinbach noted concern with protecting the health, safety, and welfare of the public if people are shuffled through the process.
- President Hill mentioned the outreach to PA code officials and questioned whether Mr. Roller would be interested in heading their own outreach, and Mr.
- 24 Roller agreed. He suggested communicating with Ms.
- 25 | Mahrouki at the American Institute of Architects

Pennsylvania (AIA PA) because of her link to L&I and PABCO to commence dialog.

President Hill noted the newsletter was distributed.

President Hill noted a request from an architect to make CE count in the full calendar year prior to the applicant's renewal, rather than the preceding 12 months of the renewal date because of added confusion for people with multiple state licensing requirements.

President Hill noted the AIA Tri-States

Architectural Conference in Albany, NY, October 16-19.

Ms. McClenaghan noted interest in attending.]

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American Institute of Architects Pennsylvania
Presentation

16 [Amal Mahrouki, Director of Legislative Affairs,

17 American Institute of Architects Pennsylvania, stated

18 Executive Director Steve Swarney and President Chip

19 Desmone have been visiting local chapters. She

20 mentioned a recent meeting in Pittsburg to discuss

21 legislative priorities for this session. She noted

22 AIA hosting Architects Action Day in the beginning of

23 June.

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Ms. Mahrouki commented that AIA was an advocate

25 for Act 70, which was formerly Senate Bill 700 and

- modernizes the PlanCon process for anybody who does
 construction in the Commonwealth. She noted a
 reduction in the process from 12 steps to 4 steps and
 the hope that will lead to a more modernized process
 for school districts and appropriations in the
 upcoming year.
 - Ms. Mahrouki noted that House Bill 262 has become Act 13. She stated AIA has been advocating very strongly for the statewide historic preservation tax credit to be extended and expanded, and the sunset date had been extended to 2031. She noted that AIA supports the mobility for military spouses but did not have a formal position on that bill.

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- Ms. Mahrouki stated AIA was tracking Senate Bill 637 and companion House Bill 1477. She noted discussions with the Senate Consumer Protection & Professional Licensure Committee about some of AIA's concerns but had not taken a formal position on that bill yet.
- Ms. Mahrouki mentioned that AIA National was aligning with a couple of other national organizations to look at professional licensure and the differences between different professionals and occupations that are licensed nationally in different states.
- 25 President Hill thanked Ms. Mahrouki for the

school construction bill encouraging legislators to add funds, which would help those who do school construction.

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Mr. Leinbach noted that school construction is important, and the moratorium continues in place until July 1, 2020. He questioned the likelihood of that being rolled back to next July and that the committee is supposed to put forth what PlanCon will look like now being assembled.

Ms. Mahrouki noted support for modernizing the process. She stated there will be online submissions and that it will take time to develop through the Department of Education. She noted that AIA has a subcommittee of their Government Affairs Committee on school construction.

Ms. Mahrouki addressed concerns if Part 1, formerly Part A applications, are not able to be submitted, because of the idea of having a PlanCon project down the line might cause everything to stop as far as school construction. She stated AIA dos not want everything to stop if PlanCon is going to be turned back on or if the moratorium is going to be lifted in 2020.

Mr. Leinbach suggested bringing it back online incrementally, because the Pennsylvania Department of

Education (PDE) is going to get flooded and find
themselves not able to handle it. He mentioned talk
about more funds towards maintenance and improvementtype projects versus just the strict new construction

or intensive overhauling massive renovation.

Ms. Mahrouki mentioned AIA's interest in the prevailing wage. She noted focus on the Separations Act modernization earlier this session. Mr. Carney did not think the Separations Act was not a good idea, but a competent management team can be successful with the Separations Act in place.

Ms. Mahrouki commented that the state government network for AIA National has changed to the State and Local Government Network, and Pittsburgh and Philadelphia are starting local advocacy committees. She stated AIA Pennsylvania and local chapters will be well represented in Providence to discuss state advocacy and local advocacy and is encouraged by the steps that AIA National is taking to talk about advocacy at the local state and national level and how that all works toward the same goal.]

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23 Report of Board President (Continued)

24 [John R. Hill, RA, President, encouraged Board members

25 review NCARB correspondence. He noted the strategic

plan package that NCARB National will be reviewing and 1 2 developing.

Mr. Leinbach encouraged members to complete the survey from NCARB's Annual Business Meeting. mentioned that Pennsylvania has been responsive and does make an impact on topics, issues of discussion, and people we hear from in the future.]

9 Regulations/Statute

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10 [Cynthia K. Montgomery, Esquire, Deputy Chief Counsel, 11 discussed her duty to the counsel division attorneys 12 who provide all of the services to the 29 Boards and Commissions.

Ms. Montgomery provided an overview of the eight basic steps to the regulatory process. She stated the process starts with drafting the regulation, prepublication review of the regulation, publishing it as proposed for public comment, after which the Legislative Committee and or the Independent Regulatory Review Commission (IRRC) review it. She stated the package then goes back to the Board for revision of the final rulemaking and post-publication review and then reviewed by the Legislative Committee and the Independent Regulatory Review Commission again and ultimately gets published.

Ms. Montgomery further explained that IRRC has until its next scheduled public meeting, which occurs no less than 30 days after delivery, to approve or disapprove the regulation. She commented that if there is no action within that period, it is deemed to have been approved. She stated, once IRRC approved the final-form rulemaking, it goes back to the Office of Attorney General for final approval within 30 days.

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Ms. Montgomery discussed the process when IRRC disapproves the final regulation. She stated the Board would have to either withdraw the regulation or within 40 days of receipt of IRRC's disapproval order submit the regulation with revisions or within 40 days submit it unchanged.

Ms. Montgomery noted that along with the regulation, the Board would have to submit a report that explains what was changed or why the Board believes the regulation is in spite of whatever IRRC's concerns are with the regulation. She mentioned that Boards who do not meet every month often have to call a special meeting with the Board because of the 40-day limit.

Ms. Montgomery explained that the rulemaking is delivered to the Legislative Reference Bureau (LRB) for publication in the Pennsylvania Bulletin and

ultimately codification in the Pennsylvania Code after the Attorney General approves it.

Ms. Montgomery addressed omission of proposed rulemaking. She stated it is published as proposed because the Commonwealth Documents Law requires that. She stated under section 204 of the Commonwealth Documents Law, an agency may omit the proposed section and go straight to final in limited circumstances.

Ms. Montgomery discussed Sine Die, which is the final adjournment of a two-year legislative session. She stated Sine Die can impact the regulation because regulations can be delivered to IRRC and LRB during Sine Die adjournment but not to the committees. She noted that regulatory activity is often suspended during that period of time and final-form regulations may not be delivered at all during the Sine Die adjournment.

Ms. Montgomery announced that the New York
University did a study of all 50 states in the
regulatory process and Pennsylvania got one of the
best grades with a B+ because of the robust nature of
our review process.]

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24 Report of Board Counsel

25 [C. William Fritz II, Esquire, Board Counsel, provided

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an update on the electronic seal regulation, stating
that it is still being worked on with regulatory
counsel, but it is difficult to give a timeline. He
commented that it is almost identical to landscape
architects and engineers, and those are being gathered
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Mr. Carney suggested providing a flowchart that would show where the regulation currently stands.

Mr. Roller also suggested placing it on the agenda every month just to be updated.]

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12 Report of Board Administrator

13 [Amanda Li, Board Administrator, addressed renewals
14 for each license types showing architecture firms at

15 76%, registered architects at 85%, and sole proprietor

16 architecture firms at 63%. She informed members that

17 the deadline for renewal was extended to August 15 and

18 another notice will be sent out closer to the

19 deadline.

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together.

President Hill encouraged Board members to renew their licenses.

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[Pursuant to Section 708(a)(5) of the Sunshine Act, at 11:24 a.m. the Board entered into Executive Session with C. William Fritz II, Esquire, Board Counsel, for

21 the purpose of conducting quasi-judicial 1 2 deliberations. The Board returned to open session at 12:23 p.m.] 3 * * * 4 5 [K. Kalonji Johnson, Acting Commissioner, Bureau of 6 Professional and Occupational Affairs, exited the meeting at 12:23 p.m.] 8 9 MOTIONS 10 MR. FRITZ: 11 The Board met in executive session and 12 conducted quasi-judicial deliberations 13 on the following matters: The Board 14 would entertain a motion to deny the 15 Consent Agreement at File Nos. 15-41-12150 & 18-41-001743. 16 17 PRESIDENT HILL: 18 Do I hear a motion? 19 MR. LEINBACH: 20 So moved. 21 MR. HAMM: 22 Second. 2.3 PRESIDENT HILL: 2.4 I have a motion and a second. Is there 25 any further discussion on this matter?

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                  Hearing none. All those in favor, say
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                  aye. Opposed?
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    [The motion carried unanimously.]
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   MR. FRITZ:
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                  The Board would entertain a motion to
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                  delegate this matter to a hearing
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                  examiner for a final Adjudication and
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                  Order at File Nos. 15-41-12150 & 18-41-
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                  001743.
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   PRESIDENT HILL:
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                  Do I hear a motion?
   MR. CARNEY:
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14
                  So moved.
15
   MR. LEINBACH:
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                  Second.
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   PRESIDENT HILL:
18
                  I have a motion and a second. Any
                  further discussion on this item?
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20
                  Hearing none. All those in favor, say
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                  aye. Opposed?
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   [The motion carried unanimously.]
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2.4
   MR. FRITZ:
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                  The Board would entertain a motion to
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23 approve the Reciprocal Licensing 1 2 Application without NCARB Certification 3 for Lawrence Anton Kowalski. PRESIDENT HILL: 4 5 Do I hear a motion? 6 MR. LEINBACH: So moved. MR. CARNEY: Second. 10 PRESIDENT HILL: 11 I have a motion and a second. Any further discussion? 12 13 [Approval amended to note pending completion of the 14 10-year time frame in accordance with § 9.62 of the 15 regulations.] 16 PRESIDENT HILL: The motion as amended, any further 17 18 discussion? Hearing none. All those in 19 favor, say aye. Opposed? 20 [The motion carried unanimously.] * * * 21 22 MR. FRITZ: 2.3 The Board would entertain a motion 2.4 provisionally denying the application of 25 Trina Lea Gribble.

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   MR. CARNEY:
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                  So moved.
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   MR. LEINBACH:
                  Second.
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   PRESIDENT HILL:
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                  I have a motion and a second. Any
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                  further discussion on this item?
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                  Hearing none. All those in favor, say
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                  aye. Opposed?
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   [The motion carried unanimously.]
                               * * *
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   MR. FRITZ:
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                  The Board would entertain a motion
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                  granting the ARE Testing Accommodations
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                  Request for Makella Craelius.
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   MR. CARNEY:
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                  So moved.
   MR. ROLLER:
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                  Second.
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   PRESIDENT HILL:
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                  I have a motion and a second. Any
                  further discussion on this item?
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23
                  Hearing none. All those in favor, say
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                  aye. Opposed?
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   [The motion carried unanimously.]
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- 2 Miscellaneous
- 3 | [Philip M. Leinbach, RA, Vice President, provided
- 4 | information pertaining to § 9.41 regarding general
- 5 requirements.
- 6 Mr. Fritz referred to 9.61(c)(4) regarding
- 7 provisional licensure, stating that the provisional
- 8 licensure regulation process is being handled by
- 9 Ms. Montgomery and Board Counsel, who will draft the
- 10 exact same regulation for 29 Boards.
- 11 President Hill noted prior discussion and
- 12 approval at the last meeting to move this forward,
- 13 noting that Mr. Fritz is currently working on it.
- 14 Mr. Fritz addressed Act 41, stating that it does
- 15 not take away the powers of the Board. He commented
- 16 that those who are not qualified will not be licensed.
- 17 | He explained the process as an easier way as opposed
- 18 to having the Board meet and waiting a few months to
- 19 | get more information.]
- 20 ***
- 21 | [John R. Hill, RA, President, thanked the Board for
- 22 their involvement in today's meeting. He also noted
- 23 that the next scheduled Board meeting is September 5.]
- 24 ***
- 25 | Adjournment

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   PRESIDENT HILL:
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                  Do I hear a motion to adjourn?
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   MR. CARNEY:
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                   So moved.
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   MR. LEINBACH:
                   Second.
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   PRESIDENT HILL:
                   We are adjourned. Thank you very much.
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   [There being no further business, the State Architects
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   Licensure Board Meeting adjourned at 12:33 p.m.]
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I hereby certify that the foregoing summary minutes of the State Architects Licensure Board meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Architects Licensure Board meeting.

CERTIFICATE

Amber Garbinski,

Minute Clerk

Sargent's Court Reporting Service, Inc.

28 STATE ARCHITECTS LICENSURE BOARD 1 2 REFERENCE INDEX 3 4 July 11, 2019 5 6 7 TIME AGENDA 8 9 9:01 Official Call to Order 10 11 9:01 Roll Call 12 13 9:03 Pledge of Allegiance 14 15 9:03 Approval of Minutes 16 17 9:04 Carolyn A. DeLaurentis, Deputy Chief 18 Counsel, Prosecution Division 19 Presentation 20 Report of Prosecutorial Division 21 9:20 22 23 10:06 Report of Acting Commissioner 24 25 10:21 Report of Board President 26 27 10:31 Amal Mahrouki, Director of Legislative 28 10:45 Affairs, American Institute of 29 Architects Pennsylvania 30 31 10:46 Report of Board President (cont.) 32 33 10:47 Cynthia K. Montgomery, Esquire, Deputy 34 Chief Counsel, Regulations/Statute 35 Presentation 36 Report of Board Counsel 37 11:13 38 39 11:17 Report of Board Administrator 40 41 11:24 Executive Session 42 12:23 Return to Open Session 43 44 12:23 Motions 45 46 12:27 Miscellaneous 47 48 12:33 Adjournment 49