

## Personal Supervision and Direction Related to Production of Construction Documents

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### Regulatory Framework

The [Architects Act](#) (the Act), Ontario [Regulation 27](#) (the regulations), and the OAA Bylaws exist to regulate the practice of architecture in service and protection of the public interest. OAA members<sup>1</sup> must uphold their professional obligations to clients, to the public, and to the profession.

To comply with legislative requirements, an OAA practice must maintain personal supervision, direction, and control over the delivery of its services.

Specific provisions of the Act include, but are not limited to, the following:

- 11.** 1) *No person shall engage in the practice of architecture or hold himself, herself or itself out as engaging in the practice of architecture unless,*
- (a) the person is the holder of a licence or limited licence under this Act;*
  - (b) the person is the holder of a certificate of practice or the person is doing so as a member of a partnership that holds a certificate of practice; or*
  - (c) the person is the holder of a temporary licence under this Act.*
- 2) *No person shall provide to a member of the public a service that is part of the practice of architecture except under and in accordance with a certificate of practice or a temporary licence.*
- 3) *Subsections (1) and (2) do not apply to,*
- (d) the preparation or provision, under the personal supervision and direction of a member of the Association or the holder of a temporary licence, of a design for the construction, enlargement or alteration of a building;*
- 22.** 1) *It is a condition of every certificate of practice held by a corporation or a partnership that the holder of the certificate of practice shall provide services that are within the practice of architecture only under the personal supervision and direction, on a full-time basis, of a member of the Association who is,*
- (a) in the case of a corporation, an officer, director or employee of the corporation; or*
  - (b) in the case of a partnership, a member or employee of the partnership or an officer,*
  - (c) director or employee of a member of the partnership.*
- 2) *A member of the Association who personally supervises and directs the practice of architecture by a holder of a certificate of practice is subject to the same standards of professional conduct and competence in respect of such practice of architecture as if the member personally engaged in the practice of architecture*

Specific provisions of the regulations include, but are not limited to, the following:

- 42.** *For the purpose of the Act, “professional misconduct” means,*
- 1) Contravention of any provision of the Act, or the regulations.*
  - 5) Permitting, counselling, assisting, aiding, or abetting any person who is not a member or a holder of a certificate of practice, a certificate of practice issued under Section 23 of the Act or a temporary licence to engage or hold himself, herself or itself out as engaging in the practice of architecture.*

*6) Authorizing, permitting, counselling, assisting, aiding, abetting, or acquiescing in any contravention of the Act or the regulations by any person.*

*7) Authorizing, permitting, counselling, assisting, aiding, abetting, or acquiescing in any act that constitutes professional misconduct.*

*9) Failing to maintain the standards of practice of the profession.*

*19) Affixing a seal or permitting a seal to be affixed to a design that was not prepared in its entirety under the personal supervision and direction of a member or a holder of a temporary licence.*

*31) Misrepresenting the practice of architecture carried on by the member or holder, or the qualifications, experience or capabilities of the member or holder or an officer, director, partner, or employee of the member or holder.*

*39) Failing to perform architectural services with reasonable skill and judgment.*

Maintaining supervision and direction is the responsibility for exercising the ultimate authority over, and possessing the knowledge and ability to oversee, delegate, and integrate the design and technical decisions related to the preparation of the project's instruments of service and the project's implementation in accordance with the standard of care and professional practice expected of OAA members.

## **Background and Considerations**

The purpose of this commentary is to identify considerations and responsibilities that the OAA considers imperative for an OAA member/practice to undertake and provide in order to fulfil their professional obligations.

Pursuant to the regulations, it is not acceptable for a member to seal and sign documents unless they were prepared under a member's personal supervision and direction throughout all phases of the project. The act of affixing an OAA seal to a design that was prepared in its entirety under the personal supervision and direction of an OAA member or holder of a temporary licence has the same significance whether the preparation of the design was carried out by employees of the OAA practice or by third parties providing services to the practice. For further details, see Regulatory Notice.RN.01—OAA Professional Seal.

Every OAA certificate of practice (CoP) must employ at least one member of the OAA who will personally supervise and direct, on a full-time basis, the practice of architecture. An OAA member providing direct supervision of non-members is accountable and responsible for all architectural services provided. The regulations under the Act reinforce that only OAA members are entitled to engage in the practice of architecture. OAA members practising outside the protected scope of practice (e.g. on a single-family dwelling, where non-member can provide service) are still held to all professional obligations, including supervision expectations. Smaller buildings do not imply lesser standards of professional conduct.

While the delegation of certain aspects of work to non-members within the practice of the architectural profession is not unusual, non-members are only permitted to undertake work in the protected scope of practice under direct supervision of an OAA member. Direct supervision expectations vary with the nature of the service. However, the ability to delegate work under direct supervision does not diminish other obligations and professional standards, such as allowing members to practise in areas where they are not qualified.

OAA members are expected to have knowledge of and involvement with all stages of their projects. Delegation of certain work on a project neither permits "absentee architecture" nor allows non-members to make crucial decisions and act or be seen as the face of a project.

Direct supervision does not necessarily require physical presence. However, OAA members must exercise professional judgment in determining the level of review, oversight, direction, correction, and communication with non-members when providing direct supervision. Personal supervision and direction means the continual instruction, guidance, inspection, and examination of the design in progress at intervals appropriate to the stage of development that the member considers necessary to determine if the design meets the client's program of requirements and the requirements of the authorities having jurisdiction and reflects reasonable skill and judgment in its preparation.

It is the OAA's strong recommendation that the preparation of a design should, whenever possible, be either by members and/or other staff within the practice's office to effect an appropriate degree of personal supervision and direction. "Office" means one that complies with the standards of practice prescribed under the regulations and is identified in accordance with the requirements for filing an application for a certificate of practice. For further details, see Regulatory Notice RN.12—Certificates of Practice—Registered Offices.

When the preparation of a design is carried out in a location other than the office of an OAA practice, then a higher degree of personal supervision and direction by a member is required due to the issues related to immediate access and control. There is also greater risk to the practice in relation to conflicting documentation, copyright, control of the issuance and use of documents, coordination of the design and related services, procedures for affixing an OAA seal and signature, disclosure of (and access to) clients' confidential information and permitting, counselling, assisting, aiding, abetting, or acquiescing in contraventions of applicable legislation, including the *Architects Act*.

OAA members must practise only in those fields where training and ability make them professionally competent. This is a mandatory component of the regulations. For example, an Architect is authorized to undertake architectural services for any project but must recognize personal and professional limitations and must refrain from rendering service (or agreeing to render service) in those areas until such limitations are overcome. Architects are reminded that it is permissible to engage others, including staff and consultants, in any architectural practice area, as long as such services are provided under the Architect's competent personal supervision, management and coordination. Other professionals must be engaged (whether by client or the Architect) to provide complementary services (such as Professional Engineering) where required by law. These requirements apply equally to limited licence holders with respect to their scope of practice.

## Procedure

Supervision and direction refers to the professional expertise that must continually be provided throughout a project to ensure the work will comply not only with the client's intent, but also any relevant legislation. OAA members have the education and experience required to guide a project and resolve complex design issues. The realization of the clients' objectives in built form can only be responsibly achieved by a professional who remains engaged and active in a project from inception to completion. This may be achieved through continuous involvement of both client and professional throughout the project, including:

- regular project meetings involving client and all consultants;
- accurate recording and filing of information pertaining to and arising from all meetings;
- developing and/or periodically instructing, guiding, inspecting, and examining the development of documents to determine whether the design meets the client's program of requirements and the requirements of the authorities having jurisdiction and reflects reasonable skill and judgment;
- examining all documents prior to issuance to the client, any authority having jurisdiction, or contractor involved in the construction or bidding and negotiation for a contract;
- special reports and investigations required to resolve specific issues and problems arising on a project;
- recording and filing of all communications with regulatory agencies, authorities having jurisdiction, and other stakeholders; and
- maintaining proof of the required involvement in each project by way of minutes, memos, copies of marked-up documents, time sheets, etc., all of which should be sufficient to justify to the OAA that the full intent of the regulations have been met and to confirm compliance with other legal obligations.

In all cases, OAA members must make sure that evidence of supervision is recorded in their files. Members' input on drafts, iterative design work, review, email, meeting, and phone consultation are all examples of documented supervision.

For reference, the regulations set out the following:

- 47.** (1) *A holder of a certificate of practice shall maintain the standards of practice for the practice of architecture in the performance of architectural services.*
- (2) *It is part of the standards of practice that every holder of a certificate of practice must,*
- a. maintain at least one office from which the practice of architecture is carried on;*
  - b. maintain chronological books, records, accounts and files for each architectural project including,*
    - i. a record showing all fees and disbursements charged for services,*
    - ii. files containing all letters, memoranda, notices and correspondence,*
    - iii. files containing all evaluations, advice and reports,*
    - iv. files containing all certificates, statements, notices and other documents with respect to contract administration or general review carried out, and*
    - v. all designs issued, exhibited or used for the construction, enlargement or alteration of a building.*

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*The OAA does not provide legal, insurance, or accounting advice. Readers should consult their own legal, insurance, or accounting advisors to obtain appropriate professional advice. OAA members are responsible for ensuring that they comply with all applicable laws, regulations, policies, and bylaws. Regulatory Notices do not comprehensively address all laws, regulations, policies, and bylaws that may apply in a particular scenario.*

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<sup>i</sup> **OAA member:** Every person that holds a licence or limited licence issued by the Ontario Association of Architects is a member of the Association, subject to any term, condition, or limitation to which the licence is subject.