

Background Information

JLARC Report Summary Information

Joint Legislative Audit and Review Commission Report

In 2018, the Joint Legislative Audit and Review Commission (JLARC) submitted a report to the Governor and General Assembly of Virginia addressing the operations and performance of the Department of Professional and Occupational Regulation (DPOR). That report intitled *Report to the Governor and the General Assembly of Virginia, Operations and Performance of the Department of Professional and Occupational Regulation, Joint Legislative Audit and Review Commission (JLARC), 2018*, included a recommendation that the Board of Professional and Occupational Regulation (BPOR)—the board that oversees DPOR—conduct a study addressing the continued need for regulating landscape architects.

Link to report including a summary, full report, and an outline of recommendations: <http://jlarc.virginia.gov/2018-dpor.asp>

Following below is the JLARC report recommendation addressing landscape architects:

RECOMMENDATION 2

*The Board for Professional Occupational Regulation (BPOR) should review the need for continued regulation of soil scientists, waste management facility operators, and **landscape architects** [emphasis added]. In carrying out these reviews, BPOR should follow the guidelines set in § 54.1-311 of the Code of Virginia for determining the need for regulation and the appropriate degree of regulation for an occupation. BPOR should begin reporting its evaluation findings to the General Assembly by December 31, 2019 and complete these evaluations by December 31, 2020. (Chapter 2)*

Following is the section of the JLARC report concerning the justification for studying the regulatory status of landscape architects:

Landscape Architects

Landscape architects pose some risk to the public, but regulation does not effectively address risks. Landscape architects design outdoor spaces for business and residential developments, campuses, recreational facilities, parks, traffic corridors, and other open areas. They develop plans for grading and drainage, retaining walls, and locating buildings, roads, walkways, and plants (trees, shrubs, and flowers). A poorly designed feature, such as a hill with an overly steep grade, could create as safety hazard. Other design flaws, such as improper drainage, could lead to property or environmental damage. However, individuals in other unregulated occupations, such as landscape designers, are allowed to perform largely the same work and present the same risks. The existence of unregulated occupations performing the same work suggests state regulation of landscape architects does not fully address risks.

There is little evidence that landscape architects are improperly practicing their occupation in Virginia. Over the past 10 years, there were four complaints resulting in a DPOR investigation, and DPOR found only one violation of rules and one case of unlicensed activity. The occupation is regulated to some extent in all 50 states, but seven states assessed the need for regulation and concluded that landscape architects should either be voluntarily certified or not regulated at all. A 1999 DPOR study concluded that “a licensure program for landscape architects is not warranted” because an existing voluntary certification was sufficient to protect the public.

Licensing provides consumers and prospective employers with assurance that a landscape architect meets qualification standards. However, the same assurance could be gained through a less restrictive voluntary certification program, similar to what Virginia had in place until 2010.

Board of Professional and Occupational Regulation Study Summary

The BPOR study team commenced work in 2019. In late 2019, the ASLA Virginia Government Affairs Committee monitored the work of the BPOR study team and communicated with the executive director of BPOR. ASLA Virginia formed a Study Response Team and that team is responsible for leading the Chapter's response to the BPOR study.

BPOR will undertake the study utilizing section § 54.1-311 of the Code of Virginia for determining the need for regulation and the appropriate degree of regulation for an occupation.

Link to section § 54.1-311 of the Code of Virginia:

<https://law.lis.virginia.gov/vacode/title54.1/chapter3/section54.1-311/>

In early 2020, the BPOR study team submitted an *Interim Report to the General Assembly, Evaluation for the Need for Continued Regulation of Certain Professions and Occupations as Recommended by the Joint Legislative and Audit Review Commission, Board for Professional and Occupational Regulations (BPOR)*, December 31, 2019. This report addressed the scope of the BPOR study and provided limited information on the scope of practice and related information concerning landscape architects. That report did not include any recommendations concerning changes to the regulatory status of landscape architects.

The BPOR study period will conclude in late 2020 with a final report submitted to the Governor and General Assembly prior to 2021.

The BPOR study team continues to collect information with scheduled public hearings planned across Virginia that will provide opportunities for information gathering including public testimonies.

Note the General Assembly has the sole power and authority to regulate or deregulate a profession or occupation and to revise the regulatory status of a profession or occupation.