



Stamp It: Requirements When Sealing and Altering Documents Which Have Been Previously Sealed

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After what seemed like months of drafting, far too many project meetings to remember and numerous last minute changes due to your client's eleventh hour modifications, you finally finish your drawings, seal them and prepare to file the sealed drawings with the Department of Buildings right before the client's deadline. You have created yet another remarkable design which is well received by your client. The details in the drawings provide the contractor with all of the necessary information. The Department of Buildings quickly reviews and approves the drawings. Despite all the obstacles you faced, everything seems to have worked out in the end. Unfortunately, in your haste, you failed to place the required warning stamp on your sealed documents and/or forgot to provide the necessary information concerning the alterations you made to a previously sealed document. Several months later, following an unrelated issue at the project, you receive a letter from the Office of Professional Discipline advising that they are investigating your alleged failure to comply with the New York Education Law. Despite all of your hard work and good intentions, you now may face disciplinary issues simply because you failed to place a simple stamp on a sealed document.

New York has long had rules and regulations that: (a) require design professionals to stamp all sealed documents with a warning indicating that it is a violation to alter the document unless acting under the direction of a design professional; and (b) require that a design professional specifically identify that he/she has altered a previously sealed documents. The reality, however, is faced with deadlines and overly demanding clients, design professionals often fail to include such required stamps and information on their sealed documents. To avoid such unnecessary angst, design professionals must ensure that all required stamping is included on their sealed documents and that all necessary information is included on previously sealed documents that have been altered.

REQUIRED WARNING STAMP ON ALL SEALED DOCUMENTS

Pursuant to Section 69.5(b) of the New York State Education Department, Regulations of the Commissioner ("Regulations"), 8 NYCRR 69.5, entitled "Seals", an architect who seals "plans, specifications and reports" must place a stamped warning on the sealed document indicating that:

- [I]t is a violation of the law for any person, unless acting under the direction of a licensed architect, to alter an item in any way.

Similarly, Section 7209(2) of the New York Education Law ("Education Law") requires that engineers include an identical stamped warning on all plans, specifications, plats and reports, advising that it is a violation of the law for any person, unless acting under the direction of a licensed engineer or land surveyor, to alter an item in any way.

To avoid any potential disciplinary issues and comply with the applicable rules, a design professional can purchase a stamp which includes the following and ensure that all sealed documents are stamped before they are filed:

- **Warning: It is a violation of the NYS Education Law Article 145 for any person, unless he is acting under the direction of a licensed Professional Engineer, to alter this item in any way.**

REQUIRED INFORMATION WHEN ALTERING SEALED DOCUMENTS

Both Section 69.5(b) of the Regulations and Section 7209(2) of the Education Law require that, in the event an item bearing the seal of an architect or engineer is altered, the altering architect or engineer must affix his/her own seal to the document. In addition, the architect or engineer who has altered the document is required to (a) include a notation that the document has been "altered by" the architect or engineer; (b) sign and date the altered document; and (c) provide a specific description of the alteration. To ensure compliance with both Section 69.5(b) and Section 7209(2), the design professional must include the following on all altered documents which had been

previously sealed:

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Given the increased scrutiny of design professionals, as well as recent New York State legislation which seeks to deprive design professionals of their substantive rights, design professionals must be ever vigilant to ensure that their work complies with the relevant rules and regulations. Placing the appropriate stamp on all sealed documents and sufficiently identifying the alteration of a previously sealed document are not very time consuming tasks and will ensure that a design professional does not run afoul of Section 69.5(b) of the Regulations and Section 7209(2) of the Education Law.

The above article is an overview only, should not be considered legal advice and application of any laws regarding the aforementioned will be dependent upon specific facts and circumstances. For more information, please contact Raymond T. Mellon or James H. Rowland at 212-682-6800, rmellon@zdlaw.com or jrowland@zdlaw.com.

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