# Board Minutes Iowa Plumbing and Mechanical Systems Board Meeting September 17th, 2013 – 9:00 a.m. University Hygienic Lab, DMACC Iowa Lab Facility Rooms 207 & 208

**Ankeny, IA 50023** 

#### **Call to Order**

Vice Chair, Mick Gage called meeting to order at 9:00 am

#### Roll Call

**Members Present: Members Absent:** Other Attendees: Blas Hernandez Jim Cooper September Lau Mick Gage Ron Masters Cindy Houlson Robert Kunkel Michele Chalfant Dan Hostetler Rodney Schultz Matt Oetker Sue Pleva Stephanie Belieu Ken Sharp Susan Van Horn Carmily Stone

#### **Minutes**

A motion was made by Rodney Schultz to approve the July 16<sup>th</sup>, 2013 Minutes, seconded by Blas Hernandez. Motion carried.

#### **IDPH Reorganization**

Ken Sharp

Ken shared that his Division is going to be merging with four bureaus from the Acute Disease Prevention and Emergency Response Division effective September 23<sup>rd</sup>, 2013. He informed the Board that he is going to be less involved with the Board on a day to day basis, and a future decision regarding his appointment to the board will be considered.

#### **Committee Reports and Recommendations for Actions**

## Administrative Rules Committee Adopt and File:

Rod Schultz, committee chair

IAC 641 – Chapter 25 State Plumbing Code – The Public Hearing for Chapter 25 there was only one comment and it was in support for Chapter 25. A motion was made by Rodney Schultz to adopt and file Chapter 25 State Plumbing Code, seconded by Sue Pleva. Motion carried.

### Update on August 27<sup>th</sup>, 2013 Public Hearing on Notice of Intended Action:

- IAC 641 Chapter 23 Plumbing and Mechanical Systems Board Licensee Practice
- IAC 641 Chapter 27 Plumbing and Mechanical Systems Board Administrative and Regulatory Authority
- IAC 641 Chapter 28 Plumbing and Mechanical Systems Board Licensure Fees
- IAC 641 Chapter 29 Plumbing and Mechanical Systems Board Application, Licensure, and Examination
- IAC 641 Chapter 30 Plumbing and Mechanical Systems Board Continuing Education
- IAC 641 Chapter 32 Plumbing and Mechanical Systems Board Licensee Discipline
- IAC 641 Chapter 33 Plumbing and Mechanical Systems Board Contested Cases
- IAC 641 Chapter 35 Plumbing and Mechanical Systems Board Licensure of Nonresident Applicant Reciprocity

Ken Sharp gave an overview of the Public Comment from the Public Hearing that was held on August 27<sup>th</sup>, 2013 for the above Notice of Intended Action there were three areas of concern addressed in the public comment. The first part was is Chapter 29 in

regards to the changing of the exam passing score going from 75% to 70%. This rule change will be stricken from the rule making and revert back to the 75%.

The second concern was in Chapter 28 with the fees of the master license being set higher than the contractor license. See below.

The last concern was that all the other chapters include the Master Sheet Metal License. The Master Sheet Metal language is written in our statute. The industry and public comment does not want a Master Sheet Metal license. We have to wait for the statutory change for 2014 legislation to get that change. We are not moving forward with any rules on this language at this point until we have time to meet with the AAGs to determine how best to proceed.

#### **Board of Health: Re-Notice of Intended Action:**

IAC 641 – Chapter 28 Plumbing and Mechanical Systems Board – Licensure Fees Ken shared that the office conducted an analysis that broke down the cost for each licensing type associated with the time staff spent on processing each type. We would like to propose a new Notice of Intended Action with fees adjusted as follows: \$250 for contractor \$240 for the master and \$180 for journey. Another change is a business owner that is a sole proprietor and the master of record will qualify for the 30% discount which will now include the contractor license. This chapter will be going forward by itself and have a new Public Hearing tentatively scheduled on November 5<sup>th</sup>, 2013.

#### **Application and Fees**

Sue Pleva, committee chair

Did meet and reviewed Chapter 28 licensing fees.

#### **CEU Committee**

#### Mick Gage, Acting chair

Continue to meet on CEU's. Look at and review courses and instructors that have been approved and those not approved we are asking for more information.

#### **Chapter 29 Committee**

Mick Gage, sitting in as chair

Bryce Phelps Equivalency -Disconnect/Reconnect Plumbing Technician License Service Technician HVAC Specialty License

A motion was made by Sue Pleva to approve the equivalency of the Disconnect/Reconnect Plumbing Technician License and Service Tech HVAC Specialty License, seconded by Robert Kunkel. Motion carried.

#### **Code Committee**

#### Mick Gage, committee chair

Mick stated the committee reviewed Chapter 25 to move forward for Adopt and File. They are continuing to meet with Public Safety and working to get the Mechanical Code rules ready for notice.

#### **Discipline Committee**

Sue Pleva, committee chair

Sue stated the committee continues to meet and cases will be discussed in closed session month 140 Cases completed.

#### **Other Business**

None

#### **Public Comment**

Jerry Hintz, Local Union 263 - has there been any action taken on the exams, mainly interested in the Sheet Metal exam. Ken informed Jerry that we are working on it because of some of the sensitivity we are not ready to share the information as of yet. Jerry also asked it used to be that we could go to lowa City to take the exams and Prometric closed that down where do they go? Cindy informed Jerry the vendor has opened up a location in Coralville.

Jason Shanks, Local 33 - we have now adopted UPC 2012 when is going to go into effect? Cindy informed him that if ARRC doesn't make any changes then it will go into effect on November 20<sup>th</sup> 2013. So currently we are still on the current UPC. Jason also wants to know if the other two board positions are still vacant and are application still open. Ken informed him that the Board is not involved in that process, however the positions do remain vacant. Jason was referred to the Governor's website for appointment application information.

#### **Waiver of Administrative Rules**

**James Weeks 2013-2**: Rodney stated the committee reviewed the waiver of administrative rules for Mr. Weeks. The committee recommended denying the waiver. Mr. Weeks has the right to speak at the Board meeting to represent why he believes it should be approved.

At 9:39 am James Weeks stated "I'm not sure if I completed the correct paperwork. My license expired and I wasn't aware of it. My boss lined up all the continuing education courses and did all the paperwork. And I thought we submitted it all to the proper authorities and it was on me to do that and I thought he did it. It wasn't brought to my attention that I had expired for over 365 days and after being expired that long I was required to take a continuing education course again, and that comes with a fee of course and I'm sure I will have to buy a code book again for that. I'm kind of hoping that I can get renewed so I can get back into the schedule with my coworkers, back into the easier flow I guess. I mean we took all the prerequisite things that needed to be done, update, continuing education was done. It just wasn't filed. I know it was a dropped ball kind of thing. That was the other issue fee for applying late but there was no fee to apply on time. I thought that was kind of odd & it seemed kind of taking advantage of kind of feeling. That's all I got."

Mick - as far as the fee for having free licensing before free renewal is we didn't set that, the legislature set that.

Rodney – Do you still work for the same employer?

James – yes I do.

Mick - am I right in assuming what you're asking for you got your CEU's in 2011 but you don't want to do the CEU's for now.

James - "If I had done the filing I would have my license and I would be on pass to need more continuing education & renew in the next cycle & now it seems like I have to do more continuing education then I will be on a different cycle, if that makes more sense.

The Board discussed the current process and the steps that need to be taken for licensees that are 365 days past due. The Board came to the conclusion because there are currently two options to renew a license that is greater than 365 days expired to deny the waiver.

A motion was made by Ken Sharp to deny the requested waiver for Mr. Weeks for CEU requirements, seconded by Sue Pleva. Motion carried.

#### **Unlicensed Complaint Discussion**

**PMUL20100041, Tylor Evans:** The Discipline Committee recommendation is to issue a Notice of Intent to impose a \$250 civil penalty for performing plumbing work without a license. A motion was made by Sue Pleva to Notice of Intent to impose a \$250 civil penalty for performing plumbing work without a license, seconded by Rodney Schultz. Motion carried.

**PMUL20120029 & 20120066, Stacy Newman:** The Discipline Committee recommendation is to impose a \$1000 civil penalty for performing plumbing work without a license and for being a repeat offender. A motion was made by Sue Pleva to impose a \$1000 civil penalty for performing plumbing work without a license and for being a repeat offender, seconded by Rodney Schultz. Motion carried.

**PMUL20130037, Timothy Shanahan:** The Discipline Committee recommendation is to impose a \$500 civil penalty for performing HVAC and plumbing work without a license. A motion was made by Sue Pleva to impose a \$500 civil penalty for performing HVAC and plumbing work without a license, seconded by Robert Kunkel. Motion carried.

**PMUL20130038, Jason Marchant:** The Discipline Committee recommendation is to impose a \$750 civil penalty for broad ranging concerns including performing 2 HVAC jobs in

lowa, announcing to the public that he performs HVAC and plumbing work, and representing himself as licensed on at least one occasion. A motion was made by Sue Pleva to issue a Notice of Intent to impose a civil penalty of \$750 for installing and repair HVAC systems without a license and fraudulently claiming to be licensed through verbal communications, seconded by Ken Sharp. Motion carried.

**PM20110005**, **Jacobs Engineering**: The discipline committee recommendation is to close. A motion was made by Sue Pleva to close, seconded by Ken Sharp. Motion carried.

#### **Application Review**

**Joseph L. Burch:** Mr. Burch's application contains confidential information. Therefore, it is appropriate to go into closed session under this agenda item pursuant to Iowa Code section 21.5(1)(a) to review confidential information.

#### **Closed Session Discipline Review and Closed Session Deliberation**

At 10:06 am Ken Sharp made a motion to go into closed session for two separate issues. The first issue is being an application review for Joseph L Burch under Iowa Code 21.5(1) (a) to review an application that contains confidential information. The second issue to be reviewed under closed session is to review discipline actions by the Board under Iowa Code 21.5(1)(a)(d)(f), seconded by Sue Pleva. A roll call vote was taken with Mick Gage, Robert Kunkel, Sue Pleva, Rodney Schultz, Ken Sharp, and Blas Hernandez voting "aye". Motion carries.

Break 10:08 Resume 10:16

At 11:17 am a motion was made by Rodney Schultz to back into open session seconded by Sue Pleva. Motion carried.

#### **Open Session**

A motion was made by Ken Sharp to approve the Closed Session minutes from the July 16<sup>th</sup>, 2013 Closed Session Meeting, seconded by Sue Pleva. Motion carried.

A motion was made by Ken Sharp to close the following case numbers: PM20120013 and PM20120085, seconded by Sue Pleva. Motion carried.

A motion was made by Ken Sharp to adopt the Statement of Charges with an amendment in paragraph one to correct the word "fired" to the word "hired" under factual circumstances and to adopt the Statement of Charges as amended in case number PM20120067 seconded by Robert Kunkel. Motion carried.

A motion was made by Ken Sharp to adopt a Statement of Charges as drafted in the following in case numbers: PM20110029B, PM20130047, and PM20130051 seconded by Robert Kunkel. Motion carried.

A motion was made by Ken Sharp to adopt the Settlement Agreements as drafted in the following case number PM20100049A, Richard Farrell, seconded by Robert Kunkel. Motion carried. Please note Sue Pleva recused herself from this case.

A motion was made by Ken Sharp to adopt the Settlement Agreements as drafted in the following case numbers: PM20110057 – Fred LaDeaux, PM20110057A – Michael Hinrichsen, and PM20120033 – David Wolf, seconded by Robert Kunkel. Motion carried.

A motion was made by Ken Sharp to deny the application for licensure for Mr. Joseph L Burch, seconded by Robert Kunkel. Motion carried.

#### **Adjournment**

At 11:22 am a motion was made by Mick Gage to adjourn the meeting, seconded by Ken Sharp. Motion carried.

Next Board Meeting is scheduled for November 19<sup>th</sup>, 2013: Grimes State Office Building 400 E 14<sup>th</sup> St – Basement Room B50 Des Moines, IA 50319