

# **Plumbing and Mechanical Systems Board Meeting**

## **Tuesday, June 21, 2011**

Iowa Department of Public Safety Building, Conference Room 125  
215 East 7<sup>th</sup> Street, Des Moines, IA 50319.

**Call to Order** – Chair, Jane Hagedorn called the meeting to order at 9:00 a.m.

**Present:** Jim Cooper, Mick Gage, Jane Hagedorn, Blas Hernandez, Ron Masters, Dennis Molden, Jenny Pitts, Chuck Thomas, Brita Van Horn, Ken Sharp, Blas Hernandez, Cindy Houlson, Matt Oetker, September Lau and Mary Swinehart

**Absent:** Susan Salsman

### **Minutes dated May 17, 2011**

Ron Masters made a motion to approve the May 17, 2011 minutes.

Brita Van Horne seconded

No further discussion was held

Vote: All ayes

### **Waiver of Administrative Rules Jeff Lanser 2011-14**

September Lau took the lead on presenting this waiver. Mr. Lanser is requesting a waiver for leniency on continuing education requirements 641 30.2 This board can only grant a waiver from administrative rules, they cannot grant a waiver from statute. Under section 425.20(6) the board shall require each licensee to complete at least eight hours of continuing education a year. I do not believe this Board has authority to grant this waiver.

### **Ted Salz Sr. & Ted Salz Jr. Additional Complaint – Dan Hostetler**

The board has received additional complaints on Ted Salz Sr., and Ted Salz Jr., despite actions by this board. Dan brought this today to obtain some direction from the board on how the board would like me to direct my efforts. The complaint was the result of the Salz' accepting and working at a school as a subcontractor despite the fact they do not carry licenses.

September Lau stated the court allows the board to seek an injunction for practice without a license and there is also a way of enforcing civil penalties that this board issues. That would be the next step to try to get the civil penalties enforced. I believe when it comes to an injunction we would need better evidence than we presently have. That might be some obtaining documents about billing of his clients that would have to be looked into before taking that step.

Suggestions made were:

- a. officially contact the school and the contractor informing them that these individuals are working without licensing.
- b. could provide additional fines, however this has not been effective.
- c. visit the school actually viewing them doing the work, however we have no authority to stop them from working.
- d. these type of actions should be addressed at the architect and engineer bidding document stage. Placing a statement in these documents that the bidder must present licensing information could prevent this from happening.
- e. placing an advertisement in architectural magazine in Iowa stressing the importance of hiring licensed individuals.
- f. The board is in the process of adopting the rules of day to day practice, the practice chapter, that will provide provisions for contractors that are licensed with this board to only use licensed professionals in the four trades. Once these rules are in place there will be an enforcement mechanism in place.

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The board agreed Dan and September will get together to discuss needed documentation for either of the two paths. What type of documentation to contact the school and the contractor and at some point go to the school to verify what work has been done.

A discussion about expediting the adoption of the Practice Chapter followed. Jane Hagedorn will speak with the chair of the Administrative Rules committee.

### **Pre-fabrication piping licensing requirements – Mike Machula**

Mike would like to know where the board stood on out-of-state contractors being awarded contracts in Iowa and pre-fabricating all of those components outside the state of Iowa (without state licenses) and being shipped here. This is going on in quite a few places in the state and has been asked by a bunch of contractors where the board stands on that. Because they are required to follow all the rules but these contractors being awarded these contracts out of state, all fabricated in that state and trucked in. Where does that fall under state licensing?

The issue is with the prefabrication components being installed by licensed individuals. I don't know that this board has any authority over the work that is done in another state when it is being prefabricated. When that piece or unit is brought in and installed in Iowa as part of one of the systems we require licensing for, then that would certainly require licensing.

The exemption is in Iowa Code 105.11 (10): Apply to the employees of manufacturers, manufacturer representatives, or wholesale suppliers who provide consultation or develop plans concerning plumbing, HVAC, refrigeration, or hydronic work, or who assist a person licensed under this chapter in the installation of mechanical or plumbing systems.

### **Transition Planning from 2011 Session – Ken Sharp**

#### **FYI 2012 Budget**

#### **Overview of activities to date**

Ken distributed budgeting documents for FY12 and looking at establishing some predictions for FY13 and FY14. This document is a year by year breakdown of revenues and expenses for FY09 and FY10 then estimated and year to date actual for FY11.

For state fiscal year 2011 (FY11) which runs from July 1, 2010 through June 30, 2011, we started with a \$3.5 million dollar balance, and based on projected expenses for FY11 we anticipate starting FY12 with a combined balance and new revenues of approximately \$2.7 million. With cost of living expenses, and other increases in expenses, we are estimating that the FY12 expenses will total approximately \$1.1 million. This will leave approximately \$1.6 million heading into FY13. Applying approximately \$1.1 million expenses again will leave an approximately \$600,000 balance heading into FY14. This means that the PMB account could be zeroed out around January 2014, or half-way through the FY14 period.

It should be noted that January 2014 is when the board will be back on track for generating regular revenue streams. The new 3-year license terms means that the licenses that are being renewed in calendar year 2011 will expire in calendar year 2014. At that time, the board will need to have established fees that will support the board expenses for another three year operational period.

It should also be noted that there are two license types (specialty and contractor) that have not been rolled out yet that will increase the revenue at some point in the future. That exact time frame cannot be established yet, but it will be an improvement in the budget concerns.

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We will keep you posted as we go through the summer. We have no say in what to charge for fees so I suspect the report to the legislature will be pretty slim. We are going to have to watch very closely over the next couple of years and figure it out.

*Denny Molden: I noted there were no funds allocated for advertising and publicity. There are new people coming into the state and individuals graduating from trade school. I feel there is a need for advertising to keep everyone in the state informed.*

Ken Sharp: I'm not opposed to that. In FY10 was the only time we truly spent any advertising dollars. We can certainly look at doing something like that again, but I don't think it will be at the level we talked about.

This is the place to start; we can certainly move budget items around to accommodate our needs as we look at the line items. If there are ideas the board may have in the form of promotional or educational things we can certainly look at that.

*Jane Hagedorn: The three temps are those the ones you have on staff now? And what are the chances of full time hires instead?*

Ken Sharp: Until we get passed this legislative session and get a finalized budget I have no projection on that. We are pulling teeth right now to get positions approved that are critical infrastructure positions.

*Jane Hagedorn: Are we handling the work load plus temps?*

Ken Sharp: We seem to be right now. We have had a policy of 4-6 weeks turnaround time for processing licenses; we are just under three weeks. So we seem to be in pretty good shape in that respect.

### Refunds

At the last board meeting we spoke about three categories of refunds to deal with. One is fee paid by credit card; licensees that submitted a paper application and submitted a check or money order and the check had been cashed. The third was licensees that submitted a paper application, along with a check and/or money order in late April that we did not cash; instead those checks have been voided and returned to the sender. Refunds have been issued to those that owned the check and/or money order and those that were cashed. We are also wrapping up the refunds to the credit cards that have been a bit more of a tenuous process as the state is not in the business of giving refunds. We are to our knowledge the first board that have had to do refunds to credit cards due to this legislative session, so a new process had to be created to work within the policy the state has with credit card companies and those agencies that handle those agreements with the state of Iowa. There were some requests made that the owner of the credit card to get a refund via check versus a credit back to their card. The response from the state of Iowa was no they cannot do that. We are nearly finished issuing credit card refunds to the credit card of payment for all those renewal applications that we have received. We expect to have the process completed by the end of this month. We have received inquiries from individuals who have closed their credit card or the credit card company has taken action against the card holder. Bottom line our requirements with the credit card companies and the payment vendor we can only issue the refund to the owner of the credit card. We have no other options available to us. If that is a credit card that has been closed out the responsibility falls back to that credit card owner to get back with that credit card company to get that refund. We spent many hours looking at those policies

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but the agreement we have with the payment vendors is very clear that we have no other options but to do that.

*Jane Hagedorn: How quickly do you think we will be rollout out specialty and contractor licensing?*

Ken Sharp: I have been dealing with flood response and haven't had the time to look at it. I do know Iowa Interactive is aware of it but don't know where we are in the process.

Cindy Houlson: I know that they came forward with some questions in regards to the specialty and contractor licensing to clarify some items in putting together the software.

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

### Administrative Rules Committee

Chuck Thomas reported in Susan Salsman's absence. We have three rules to be motioned on for Adoption and File Emergency as well as Notice of Intended Action. These rules have gone through the Governor's office with no reported changes. These are the same documents reviewed two meetings ago by the board.

### Chapter 28 Licensure Fees

Ron Masters made a motion to Adopt and File Emergency for 641 IAC Chapter 28 Plumbing and Mechanical Systems Board-Licensure Fee

Dennis Molden seconded

No further discussion was held

Vote: All ayes

Brita Van Horn made a motion to file Notice of Intended Action for 641 IAC Chapter 28 Plumbing and Mechanical Systems Board-Licensure Fee

Ron Masters seconded

No further discussion was held

Vote: All ayes

### Chapter 29 Application, Licensure and Examination

Ron Masters made a motion Adopt and File Emergency for 641 IAC Chapter 29 Plumbing and Mechanical Systems Board-Application, Licensure and Examination

Dennis Molden seconded

No further discussion was held

Vote: All ayes

Chuck a motion to file Notice of Intended Action for 641 IAC Chapter 29 Plumbing and Mechanical Systems Board-Application, Licensure and Examination

Brita Van Horne seconded

No further discussion was held

Vote: All ayes

### Chapter 30 Continuing Education

Ron Masters made a motion Adopt and File Emergency for 641 IAC Chapter 30 Continuing Education for Plumbing and Mechanical Systems Professionals

Dennis Molden seconded

No further discussion was held

Vote: All ayes

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Chuck a motion to file Notice of Intended Action for 641 IAC Chapter 30 Continuing Education for Plumbing and Mechanical Systems Professionals

Brita Van Horne seconded

No further discussion was held

Vote: All ayes

Chuck reported that along with the Notice of Intended Action public hearings have been scheduled for August 10, 2010. Those notices will be posted in the bulletin.

These rules will take affect when we file them and we will try to get them filed by tomorrow.

Jane Hagedorn reported that this Committee may be able to meet later on this afternoon.

## CEU Committee

Jane Hagedorn reported this committee met just once this month as the number of courses and instructors have decreased so one meeting filled the need. We continue to approve courses and instructors. We have started to receive and deal with requests for CEU exemptions. Folks wanting to be exempt from the CEU requirements. I would like for the board to weigh in on one for today.

We had six requests on our agenda. One of the six was a gentleman not wanting to complete the application form for the instructor and course. We will inform him that in order to gain board approval he will need to complete the application as required. Four others on that list we have instructed staff to gather additional information and details for committee review. All of those will come from the CEU Committee to the full board for final decisions and/or actions.

The last one on the list we have had full board discussion on before. Ski Baski a licensee and contractor out of St. Louis Missouri had applied originally for a waiver of administrative rules, which we were unable to rule on. Since then he has come back to us asking for a permissive exemption due to the hardship of being in St. Louis and unable to get Iowa CEUs to renew his license, which I believe renews in the latter part of August. The CEU Committee has worked on this a couple of times. Our latest endeavor was after our last CEU Committee we instructed Matt to send Mr. Baski a letter (dated May 20<sup>th</sup>). He had requested a phone conference with the board and I chose to have him speak to the CEU Committee first rather than bringing to the full board. The letter Matt sent included when we would do that conference call as well as admonishing him to get busy working on his CEUs. We met with him yesterday via phone conference. The Committee's recommendation is for the full board to support the CEU rule and tell him he needs to follow the same rules as every other licensee.

Matt Oetker further commented that the specific rule he is moving under is: **30.6(2) Permissive exemptions**. The board may, in cases involving exceptional hardship or extenuating circumstances, grant an exemption from some or all of the continuing education requirements. Subpart h to this rule further states: Permissive exemptions shall only be granted in the most exceptional and extraordinary of circumstances.

The Committee met yesterday, applying this standard and reached the recommendation that they did not believe the evidence Mr. Baski submitted established this high level of exemption required for permissive.

One of the points Mr. Baski tried to make yesterday was that it would be a hardship for him to travel to Iowa. Matt Oetker informed him he need not travel to Iowa to obtain continuing education, instructor and course approval can be obtained. There is no requirement that the CEUs actually

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occur within the borders of the state of Iowa. Mr. Baski mentioned that he is working with groups in this area to obtain CEU instructor and course approval and that will go through the normal process so it appears that if moved expeditiously enough he could even obtain some of the CEUs in his local. Additionally, our rules provide that some of the CEUs could be taken online. He has means by which he could obtain the required CEUs.

Matt Oetker did send Ski Baski a letter on May 20, 2011. His recommendation was that Ski take some action to obtain some CEUs, not to put all of his eggs in one permissive exemption basket, to start planning and moving forward. Mick Gage asked Mr. Baski during the conference call yesterday, whether or not he had taken any Iowa approved classes and his response was in the negative. Despite this one month of warning it doesn't appear he took any action. Notwithstanding the board action taken in April.

Ken Sharp moved to deny the permissive exemption for Ski Baski on the grounds that he has not provided evidence to establish a high level of exemption required for permissive exemption.

Ron Masters seconded

No further discussion was held

Vote: All ayes

Matt will prepare a letter to Ski Baski for Jane Hagedorn's signature to let him know the board's decision that the matter has been conclusively determined at this point.

### Testing & Exam Committee:

Chuck Thomas reported that this committee met yesterday. We will be reviewing the contract with Prometric due to the legislative changes. Changes include updating the exams to reflect the definition changes submitted by the legislature and candidate information bulletins. We developed a plan to get started, obtaining some information from Prometric. We had some issues with exam facts the last time. I understood they were letting us know what reference material was required for the exam; unfortunately they were asking us about references. This time we will know a bit more about what questions to ask them so we can avoid those issues.

We have an issue with English as a second language (ESL) for an individual that applied to take an exam. Prometric had no provisions to accommodate that individual when he presented to take his exam and wanted to take in a translation dictionary, as only references listed can be taken into the exam. We will be meeting with Prometric to ascertain what is done in other places and with other boards. The key thing from our perspective is that option or service through Prometric will not impact the cost of licensing for other exam applicants. The provisions established with Prometric with translation or dictionary or whatever accommodations would be at the cost of the exam candidate and will not be barred by the other exam candidates.

Speaking and reading English are two separate issues when getting into more technical aspects so we will be reviewing. Unless able to understand the language itself as well as the code books perhaps having the exams translated may not be advantageous.

### Chapter 29 Committee

Ron Masters reported this committee has met, however he was unable to attend. The Committee is recommending approval of Kirkwood Community College as a benchmark for equivalency for the disconnect/reconnect specialty plumbing license. We will be reaching out to Western Iowa Tech to bring forward some of their classes for equivalency as well and to Black Hills Energy to ascertain progress on their pre-test. This committee reviewed a thank you letter from RSES in regards to equivalency approvals.

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John Williams from Kirkwood has requested time to speak to the committee about their plumbing training program to gain equivalency status for a specialty license. Mr. Williams will be invited to the June 20<sup>th</sup> meeting.

Ron Masters made a motion that Kirkwood Community College Plumbing Training Program be approved as a benchmark for equivalency for the disconnect/reconnect specialty plumbing technician specialty license.

Mick Gage: seconded

No further discussion was held

Vote: All ayes

### Discipline Committee

Jane Hagedorn reported this committee meet this month and continue to review cases in both open and closed sessions. The next Discipline Committee Meeting will be held July 11<sup>th</sup> at 11:00 a.m.

### **Other Business:**

John Williams (instructor of the plumbing program) requested an opportunity to speak with the Board about Kirkwood Community College internship program:

Mr. Williams reported that the Federal Department of Education earlier this year with communications with the state Department of Education and the Community College agency indicated that changes to student federal funding would take place for any student involved in a one year diploma program. For students to be eligible for federal student funding a one year diploma program would need to have 900 contact hours. Kirkwood Community College Program has 780 contact hours. In consultation with administration and advisory committee it was put forward that Kirkwood introduce an internship into the program. The class would place that internship student into a contractor's place of business (hopefully at the job site) to primarily observe the work that is progressing. The total hours for that internship would be approximately four hours a week. Since receiving approval to move forward with this internship, I have been in discussions with the City of Cedar Rapids, City of Iowa City and plumbing contractors in the state. Concern was raised with the term "intern" for example yesterday I had a conversation with the Heating, Cooling and Ventilation instructor at Hawkeye Community College in Waterloo. He holds a 40 week Heating, Cooling and Ventilation program including an internship that has been in place for nine years. Earlier this week a city mechanical inspector questioned the status of a student on site, asked the contractor and student to leave the job site. Following discussions between the contractor and Hawkeye Community College I am here to ask the board to give some consideration to endorsing the internship program. First should the board endorse the concept, of a person learning the regulated trades while in that trade school the opportunity to be on the job site, primarily to observe and if the board feels that is advantageous is there a mechanism to create a method that that student has the right to be on the job site without being asked to leave by a municipal official.

Matt Oetker quoted Iowa Code 105.2(7) "*Helper*" means a person engaged in general manual labor activities who provides assistance to an apprentice, journeyman, or master while under the supervision of a journeyman or master.

*What steps should be taken to assist the students not to get thrown off the job site when a municipal official visits the site?*

The term "intern" is not a term recognized by the trades and may be the problem. Helpers are recognized on a job site. Helper also implies there is a professional on-site at all times working with, beside or in charge of an individual. They are not out there on their own.

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The intent is not to have a student, who is learning the industry, to be on their own at anytime. The intent is that that student is under constant supervision by either a journeyman or master and they do not do any work on their own at all.

Ken: That is an important distinction to make and I would be interested if you have more information about yesterday's incident why the local official took the action to ask that student to leave. If the student was doing something beyond "helper" and was working independently, that does throw him into a different status in terms of whether or not licensure is required. Making sure the contractor and the student clearly understand what that student is there to do, what their limitations are as observer. When we bring interns in, they are given a specific project and they are doing like work very closely supervised, I believe that is the different in what we are talking about here in this application.

Ken: my personal recommendation is that that finite description of what that student is allowed to do as a helper is going to be critically important and that would be beneficial to be articulated in agreement with that contractor and that the contractor clearly understands he has an obligation to make sure that that student is not working in the capacity of a licensee that would get them in trouble at that jobsite. I think the other thing since you have only seven counties that you work in, it might behoove you to have a sit down with those local jurisdictions to discuss the type of agreement you have, making sure they understand that scope of work, so that when they are on the job site and they see a student helper they will not automatically make the assumption that they should be a licensed individual. It also gives them an understanding that if they see that individual doing an activity that should be a licensed activity it is appropriate for them to take appropriate action.

## **Public Comment:**

### Email from Bob Reisdorf, Giese Companies

One comment: A HVAC licensee is able to connect/disconnect without a special license. Changing wire sizing and changing breakers would need an electrical license.

### Mike Macula, Local 125

Mike asked about a mechanical code booklet similar to the plumbing code amendment booklet.

This board does not have any jurisdiction over the mechanical code.

Mike presented the Green Plumbing Supplement code book. He felt a supplement to cover green plumbing should be investigated.

Jane Hagedorn asked the Code Committee to review this publication. As a new code is presented the state will continue to update plumbing code requirements.

Mike also commented that he believes that plans and specifications from architectural firms do contain language that licensed professionals must be hired, whether it is adhered to or not is another story.

Kevin Kruse commented he continues to get calls on when will the software be capable of accepting license renewals.

Cindy Houlson will include an update on the licensing software on the list serve.

Chuck Thomas made a motion that the Board go into closed session for the purpose of reviewing and discussing records required or authorized by state or federal law to be kept confidential and discussing whether to initiate licensee disciplinary proceedings, pursuant to Iowa Code section 21.5(1)(a) and 21.5(1)(d)."

Ken Sharp seconded

Motion carried

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The Board reconvened in open session at 11:19 a.m.

Chuck Thomas made a motion to close Case Number PM20090019, Case Number PM2010001, Case Number PM2010002, Case Number PM2010003 and Case Number PM2010004.

Brita Van Horne seconded

No further discussion was held

Vote: All ayes

Chuck Thomas made a motion for the board to accept the settlement agreement for Case Number PM20090014.

Mick Gage seconded

No further discussion was held

Vote: All ayes

September Lau reminded the board action on Mr. John Clasen of denying his application for licensure. A formal notice to the applicant with the opportunity to appeal will be going out soon.

Chuck Thomas made a motion to impose civil penalty of \$250 to Darrell Callahan for practicing without a license.

Mick Gage seconded

No further discussion was held

Vote: All ayes

Chuck Thomas made a motion to impose civil penalty of \$500 to Mike Huffman for advertising HVAC and plumbing services without a license.

Brita Van Horne seconded

No further discussion was held

Vote: All ayes

This board has already noticed action against Gary Billings and he has requested a hearing. This is the first one so September wanted to make the board aware of this action. There is some weird stuff about this case. He signed for and accepted service for notice of intent that was incorrectly addressed to Greg Billings. When the error was detected, another notice was forwarded to Mr. Billings with the correct first name of Gary. He requested a hearing under the name of Greg Billings. September asked for Board approval to accept the written request for a hearing under the name of Greg Billings understanding that the hearing is requested for Gary Billings. He has called to speak with Cindy Houlson about what is involved with a hearing, etc.

The board approved acceptance of the written request for a hearing under the name of Greg Billings understanding that the hearing is requested for Gary Billings.

Denny Molden made a motion to resent Thomas Lindley's licensee on the grounds that he did not have the required experience as listed on his application and as the result of an investigation conducted by

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Dan Hostetler. This notice allows for him to request a hearing within 30 days should he choose to contest this action.

Chuck Thomas seconded

No further discussion

Vote: All Ayes

Ron Masters brought up that the Linley and Huffman orders contain the same number. September will correct.

Mick Gage made a motion to adjourn

Ken Sharp seconded

No further discussion

Vote: All ayes

**Adjournment** at 11:59 a.m.