

# **Plumbing and Mechanical Systems Board Meeting Tuesday, May 17, 2011**

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

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

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

## **Minutes dated April 19, 2011**

Mick Gage made a motion to approve the April 19, 2011 minutes.

Dennis Molden seconded

No further discussion was held

Vote: All ayes

## **Board Member Introductions:**

New Board members, Jim Cooper, Blas Hernandez and Jenny Pitts, were welcomed and each Board member introduced themselves.

## **Election of Officers:**

To be in compliance with Iowa Code 105.3 5. "The board shall organize annually and shall select officers from its membership. A quorum shall consist of a majority of the members of the board."

Board members unanimously re-elected Jane Hagedorn as chairperson; Mick Gage as vice chairperson and Chuck Thomas re-elected as secretary.

## **Committee Assignments:**

Committee chairs explained the purpose of their committee and the possible time commitment for the new members. The following changes/additions were made:

Administrative Rules Committee has one vacancy that will not be filled at this time.

Application and Fees Committee has no vacancy.

Testing and Exam Committee: Jim Cooper and Ron Masters volunteered to fill the two vacancies.

Reciprocity Committee: Blas Hernandez, Dennis Molden and Jenny Pitts volunteered to fill the three vacancies.

Continuing Education Committee: Jim Cooper volunteered to fill one of the vacancies.

Medical Gas Piping Committee: Blas Hernandez volunteered to fill one of the vacancies.

Chairs Committee: Mick Gage will join this committee.

Code Committee: Mick Gage volunteered to chair this committee and Jenny Pitts will fill the vacancy.

Chapter 29 Committee: Dennis Molden volunteered to fill the vacancy.

Discipline Committee: Jenny Pitts volunteered to fill the vacancy.

There was a discussion regarding scheduling meetings for the following month at the board meeting. The calendar can then be distributed to the membership.

## **Waiver of Administrative Rules**

Andrew Schropp

This is a waiver request dealing with CEUs. This individual is not seeking a waiver from the requirement of CEUs, but rather he has had some classes during the two year period but those classes did not go through the Board preapproval process. He is requesting a waiver from Rule 30.3, Continuing education programs/activities.

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Discussion of the four elements the applicant would demonstrate by clear and convincing evidence they would be met follows:

- 1. The application of the rule as written would impose an undue hardship for Andrew Schropp for whom the waiver is requested.*  
The board feels there has been ample opportunity to gain post approval. There were opportunities both before and after those classes were held. Mr. Schropp has not demonstrated by clear and convincing evidence that denial of this waiver would cause undue hardship.
- 2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any other person;*  
Mr. Schropp did not adequately address this term. One of the purposes of the rule is that CEUs are meant to protect the health, safety and welfare for the citizens of the state of Iowa.
- 3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law;*  
While CEUs are in statute, Iowa law would require the preapproval process.
- 4. Substantially equal protection of public health, safety and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.*

Brita Van Horne made a motion to deny this waiver request on the grounds that Mr. Schropp did not demonstrate by clear and convincing evidence that each of these four elements have been met.

Mick Gage seconded the motion

No further discussion was held

Vote: All ayes

Motion carries

## **John Clasen License Application**

September Lau reported that at the last board meeting the board considered Mr. Clasen's application for licensure. According to Code 105.22 the board has the authority to deny application for licensure if a licensee has

"been convicted of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence of such conviction." This board agreed that Mr. Clasen's felony conviction for sexual assault of a minor related to the practice of the profession and they had grounds to deny his application, but chose to enter into an agreement with him, such that he could receive a license if he agreed to follow certain requirements. Mainly he had to notify all of his employers of his conviction, that he was on the sexual offender registry and that he could not go certain places. His employer then had to notify the board that he had been informed of this. These stipulations were presented to Mr. Clasen as a condition of his licensure application. He did not want to agree. In return, Mr. Clasen asked whether the board would consider approval of an inactive license with the understanding that he could not practice. He felt there is no way he would be able to work if he agreed with the proposed restrictions.

Since there was no application for an inactive license at that time, the board felt it was inappropriate to take any formal action regarding an inactive license. However, they did discuss that they did not feel granting such a license (without restrictions) would be appropriate.

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## Transition Planning from 2011 Session

### Overview of Activities to Date

Ken Sharp presented legislative changes to Iowa Code 105, known as House File 392. These changes have been posted to the Plumbing and Mechanical System Board's website:

Sections 1 & 2 definitions for HVAC, refrigeration and hydronics were changed in this bill.

Definitions for HVAC and refrigeration allow one individual that holds either of those licenses to work in both trades. The definition for hydronics removes comfort cooling and applies to any heating and cooling systems using hydronics.

Section 3 reduces the application to a maximum of two pages. We are working through consolidating those applications, most of our applications were already there.

Section 5 requires the board to submit annual budget reports to the legislature. In that report the revenue projections cannot exceed ten percent of expense projections over a three year trend. Fee schedules will need to be adjusted accordingly.

Challenges include reduction in number of renewals for eligible licenses. Our fiscal books close out 90 days after the close of the fiscal year, while this report is due to the legislature 60 days following the close of the fiscal year. Three year trending will be difficult for revenues due to so many unknowns.

Section 6 impacts our fees and our budget. For calendar year 2011 and 2012 the fee for an active journeyman license is \$50 and \$125 for an active master license. This will impact anyone who purchased a new license since the first of the year. Those individuals will be issued a refund. Renewal fee for licenses that expire January 1, 2011 through December 31, 2012 will be waived. Starting January 1, 2013 the board will be allowed to reestablish a fee structure.

Section 14 provides exemption for persons holding a journey or master HVAC or refrigeration license from having to obtain a special electrician's license pursuant to Chapter 103 to perform disconnect and reconnect of existing air conditioning and refrigeration systems.

Section 10 provides for the board to waive the written examination requirements and prior experience requirements for a journeyman or master license if the person is on active duty during any portion of the time period July 1, 2008 through December 31, 2009.

Section 11 changes the licensing period from two to three years. Anyone purchasing a license January 1, 2011 or later will be issued a three year license; anyone who has purchased a license prior to that time will remain a two year license. That will be reflected in the rules as we update them.

The CEU requirements will be extended to a three year period. This board does have the discretion to increase the CEU requirements if they wish.

There are two sections that apply to counties and cities charging certain fees. That has very little impact on this board.

We have had meetings with the industry partners, CEU providers, IAPMO and IABO to communicate these changes. Every licensee will receive some form of paper communication in the mail. Late last week a post card was sent out to highlight the changes and direct people to visit the website for additional information. Notifications will be sent to individuals who have already purchased or renewed their license and will be receiving a refund and a new license for a three year term. The person making the payment will receive the refund.

Licensing software is our biggest challenge at this point. Since the state does not normally give refunds, it will take about a month to get this software in place and working. The Fiscal Office hopes to close this refund process sometime in August. If it goes past August we will have to go through an appeals process which would further delay the refund process. Individuals who paid with a credit card will receive a credit on that card. Those that paid with a check (January 1<sup>st</sup>-April 16) will be receiving a

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refund and that process has already begun. Individuals who paid with a check April 17 and after, the check will be marked void and mailed back to the individual who wrote the check.

Changes are being posted on the website. Should there be questions about the changes licensees are being encouraging to view the website first before calling for clarification.

We do have two temporary employees for the next six to nine months helping to get us through this transition period.

Paper applications are continuing to be accepted from those impacted by this legislation. Data entry is being done manually. There is no paper application fee as the computer system will not accept online renewals at this time.

## Proposed Rule Changes

We have a number of rules impacted by this legislation along with other pending changes that were placed on hold due to legislative actions. The rule changes presented to you today contain rule changes that have to be made due to legislative changes as well as those pending changes.

A new process implemented by the new administration, is a pre-clearance step where the Governor's Office reviews all rule changes as well as a statement of impact on economic recovery and job creation.

Today's review of the rules is to seek general consensus from the board. Once we get that achieved, we will submit those rule changes to the governor's office. When we receive a response we can begin the formal rule making process. I would propose that we do a double barrel process where we adopt by emergency and start the normal rule making process at the same time. What that leads to is an adoption of those rules, allows those rules to become effective the day the board takes that action. We then have the normal 110 day process of the formal rule making process. Once the formal rule making process is completed, the emergency rules will rescind at that time. We are at least a month away from doing an emergency adoption. Should we receive a quicker response from the Governor's Office we can call an emergency board meeting prior to our June meeting. If not, we will propose an emergency adoption of the rules at our June board meeting.

There was a discussion about contractor and specialty license implementation. We do not have the ability to issue these licenses due to the software delays as the result of the 2011 legislative changes.

## Proposed Rule Changes Chapters 28, 29 and 30

Matt Oetker presented the key changes to the board to gain a general consensus.

Chapter 28:

- 28.1(1) Initial journeyman and master license fees were changed to conform to the legislative changes. The contractor license fee will reflect the same fee as the master license (\$125).
- 28.1(2) Those same changes are presented for reciprocal license fees.
- 28.1(3) f. should be \$150
  - h. includes waiving of renewal fee for all licenses renewed from January 1, 2011 through December 31, 2012.
- 28.1(5) a. allows licensee to lapse for thirty days or less to renew the license with payment of the appropriate renewal fee.
  - b. allows licensee to lapse for more than thirty days but less than sixty days to reinstate and renew the license without examination upon payment of a \$60 late fee and appropriate renewal fee.
  - c. requires licensee who lapse for more than sixty days to retake and pass the applicable licensing exam and pay the appropriate renewal fee.

A technical correction was made from Iowa Code section 147.83 to Chapter 105

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An extensive discussion followed regarding the 30% discount for more than one active journeyman or master license renewed at the same time. This does not include specialty or contractor licenses as outline in our rules.

- 28.2 Annual review of fee schedule. Within sixty days following the end of each fiscal year, the board shall submit a report to the general assembly that includes a balance sheet projection extending no less than three years. If revenue projection exceeds expense projections by more than ten percent, the board shall adjust the fee schedules. Revised fees shall be implemented no later than January 1, 2013 and January 1 of each subsequent year.

### Chapter 29

- 29.1 amends definitions of HVAC, Hydronics and Refrigeration to mirror those contained within House File 392.
- 29.2 changes the licensing period from two years to three years for all licenses issued January 1, 2011 Licenses issued prior to January 1, 2011 will be for a two year period.
- 29.2(4)(g) contains language that a contractor employs an active master for each discipline in which the applicant performs 105 covered work.
- 29.6(4) An applicant who successfully passes an examination must apply for licensure in the applicable discipline at the applicable discipline level within two years of notification that the applicant successfully passed the examination.
- 29.6(3)(1) A journeyman examination applicant may apply to sit for the examination up to six months prior to completion of the 48 months required apprentice credit.
- 29.7(1) reflects the licensure period moving from two to three years.
- 29.7(2)(b)(1) reflects the lapsed license provisions for zero to thirty days
- 29.7(2)(b)(2) reflects the lapsed license provisions for more than thirty days but less than sixty days
- 29.7(2)(b)(3) reflects the lapsed license provision for more than sixty days
- 29.9 waiver from examination for military service

### Chapter 30

- 30.2(1) reflects a licensing period of three years
- 30.2(2) refers to continuing education compliance period striking the word "biennium" indicates continuing education requirements are for all inactive and active licensees. Includes some language changes due to confusion by some licensees on the requirements. There was a discussion about the opportunity to change the CEU requirements as the duration of the licensing period has expanded to three years. Consensus of the board was to leave as is and revisit at a later date.
- 30.2(2)(c) reflects requirements for the specialty licensee as the same number of CEUs as the licenses of which that license is a subset.
- 30.2(3) language change due to licensing period expanding.
- 30.2(5) stylistic change to reflect the change from biennium to continuing education compliance period
- 30.3(2) addresses the approval period to be valid for three years for the instructor and the course
- 30.3(3) requires an unaltered application form to be submitted
- 30.3(4) allows board members to attend a board-approved CEU course for determining that the class or activity complies with the rules
- 30.4(1) provides a "roadmap" to follow when reviewing instructors and courses indicating what types of documentation to be submitted for obtaining board approval
- 30.6(1) e. provides an automatic exemption for the first renewal of an apprentice that test and moves up to a journeyman

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There was general consensus of the board to make the modifications presented, add documents for economic impact and job creation and forward to the Governor's Office.

A lengthy discussion on inspections followed. Request for inspections has to come from the licensees and the industry. A unified message from industry partners (trade organizations and rural area representatives) to the legislature stating the need for state-wide inspections.

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

Jane requested reports from committees as well as meetings scheduled for June.

### Administrative Rules Committee

Susan Salsman reported the meeting scheduled for last month was cancelled, another is scheduled for today following the board meeting. The next meeting will be scheduled June 21<sup>st</sup> following the board meeting and reduced to one and a half hours to accommodate other committee meetings.

### CEU Committee

Jane Hagedorn reported statistics from the approval of instructors and courses.

Total applications received	1406	
Instructor applications approved		410
Course applications approved		797
E courses approved		45
Applications waiting for approval or more information	27	
Applications returned due to inadequate information and no response within 30 days		127

A meeting will be scheduled for June 20<sup>th</sup> 1-3 p.m., reduced time to accommodate additional committee meetings.

### Testing & Exam Committee:

Chuck Thomas reported that a meeting will be scheduled for June. Prometric review will occur in July and discussion of the impact of the legislative definition changes on the exams. This committee will meet June 20<sup>th</sup> following the CEU committee 3-4 p.m.

### Chapter 29 Committee

Ron Masters reported this committee has not met. John Williams from Kirkwood has requested time to speak to the committee about their plumbing training program to gain alternative status for a specialty license. This committee will meet June 20<sup>th</sup> at 10 a.m.

### Discipline Committee

Jane Hagedorn reported this committee continues to review cases in both open and closed sessions. The Discipline committee will meet June 6<sup>th</sup> at 3 p.m.

As a reminder a hearing will be held on May 18<sup>th</sup> at 11:00 a.m.

## **Other Business**

Ken Sharp reported that the conferences that were planned to take place in Ottumwa and Spencer have been cancelled due to lack of registration.

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## Public Comments

Emails from Mathew Smith and Lorrie Cozart were reviewed.

*Jerry Hintz Can individuals that have received a connect/disconnect license receive a refund?*

Ken Sharp referred him to the electrical board.

*Why is there a charge of \$35 to process an exam application, when a paper application fee for a license is \$25?*

There is a \$35 sponsorship fee for an exam application whether done online or on paper. That is a sponsorship fee not a paper application fee.

*Jerry raised additional concerns about the process to schedule an exam with Prometric.*

Cindy Houlson has communicated with Jerry about this process and the issues with the secure file transfer of information.

Chuck Thomas further suggested that when individuals experience difficulty scheduling an exam that the individual request to speak to a supervisor. Prometric has a system that has to be reset to allow individuals to schedule an additional exam after having failing an exam.

*Jerry asked if scheduling of an exam can be set up with Prometric on-line. On Prometric's website it appears to have that capability.*

Cindy will follow up with this request.

*Jerry feels the pass/fail rate is unacceptable suggesting the board do something to improve this rate. He stated individuals are given one minute and thirty-eight seconds to answer each question.*

Jane Hagedorn commented that each July the exam contents are reviewed by board members. This board has reviewed each question that appears on the exams.

Chuck further commented that a request was presented to Prometric to ascertain the percentage of pass/fail rate. At that time the numbers of exams taken were not high enough to indicate that information.

*Mike Macula commented that he is not allowed to ask about criminal background to participate in his DOL approved apprentice program. Mike is working on changing standards now to add that language.*

Ken Sharp responded the way we handle criminal background is consistent with 21 other licensing boards.

*Would this board have more stroke if it fell under the Department of Public Safety?*

Ken Sharp responded that question was raised when this board was created and the industry wanted it with this department because this department had responsibility for the plumbing code.

*We are doing a huge project at Fort Madison all documents clearly state that you must have required state licensing to be on that job.*

Ken Sharp responded that he pulled all the minutes from the geothermal meetings (of which Mike was present) to discuss this issue. Copies of minutes from the geothermal meetings were offered to Mike. In those meetings DNR confirmed they perform licensing for individuals who install loops deeper than 25'. There is a group of individuals doing loop installations and header work that are shallower than the 25' depth and then there is a group that is doing the entire system to the mechanical portion of the system. This board agreed that for those doing loop work shallower than 25' outside the foundation wall and were not connecting to the mechanical system were not going to be licensed by this board and would fall to the DNR for either adoption of licensing rules or adoption of minimum construction standards for shallow loop installation. When a person connects the loop to the mechanical system is when they would need a license from this board.

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*Is solar going to be handled the same way?*

Ken Sharp said we have had no conversations in regard to solar.

Break at 12:10 p.m. for lunch for thirty minutes.

**Closed Session Discipline Review**

Chuck 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)."

Susan Salsman seconded

Motion carried

Return to open session at 2:40 p.m.

Chuck Thomas made a motion to close Case Number PM 20110016 and to open  
Case Number PM20110030

Ken Sharp seconded

Vote: All ayes

Motion: Carried

Chuck Thomas made a motion to charge Case Number PM2010005 based on these three parameters

- 1) the company the licensee claims he works for never did work in this trade.
- 2) the amount of work that the licensee portrayed is not enough to meet the five years of experience required for licensure
- 3) looking at the experience that the licensee listed doesn't support that he would possess 75% of the knowledge base needed to pass the exam.

Ken Sharp seconded

Vote: All ayes

Motion: Carried

Chuck Thomas made a motion to adopt the statement of charges for Rodney Meyer Case  
Number PM20110005.

Ken Sharp seconded

Vote: All ayes

Motion: Carried

Motion was made to adopt the statement of charges as drafted in Case Number PM20090009, David Schieffer.

Chuck Thomas made a motion to adopt settlement agreement with Case Number PM20110059  
Todd Carstons

Ken Sharp seconded

Vote: All ayes

Motion was made to adopt settlement agreement in Case Number PM20100062 Robert Wriedt.

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**New Board Member Training** September Lau  
September reviewed general hearing processes.

**Next meeting:** June 21, 2011 at Department of Public Safety

**Adjournment** 3:50 p.m.