

Notes

**Plumbing and Mechanical Systems Board Meeting
June 19, 2012 - 9:00 A.M.
University Hygienic Lab, DMACC,
2220 S. Ankeny Blvd., Rooms 207 & 208, Ankeny IA,
Iowa Lab Facility Rooms 207 & 208**

Call to Order

Jane Hagedorn, Chair, called the meeting to order at 9:00 A.M.

Roll Call:

Members Present:	Members Absent:	Other Attendees:
Blas Hernandez		Cindy Houlson
Brita Van Horne		Susan VanHorn
Charles Thomas		Matt Oetker
Jane Hagedorn		September Lau
Jenny Pitts		Sheri Cord
Jim Cooper		Lisa Kenworthy
Ken Sharp		Ramona Cooper
Mick Gage		Bryant Reynolds
Rod Schultz		Dan Hostetler
Ron Masters		John Kelly
Sue Pleva		Carmily Stone

Minutes

Corrections to the May 15, 2012 minutes were noted as follows:

1. Page 1, fourth line from the bottom “that that”
2. Editorial in Waiver of Administrative Rules – Paragraph that describes motion – “Voting to approve motion” rather than “waiver” starting on page 8 and replicated in each following one.

A motion was made by Ron Masters and seconded by Brita Van Horne to approve the May 15, 2012, Plumbing and Mechanical Systems Board notes with corrections. Motion carried unanimous.

Committee Assignments

Jane Hagedorn

The following IPMSB Committee assignments were made:

ARC Committee:

Brita Van Horne, Chair; Ron Masters; Chuck Thomas; Rodney Schultz; Sue Pleva

Application and Fees Committee:

Jane Hagedorn, Chair; Mick Gage; Ron Masters; Sue Pleva

Chairs Committee:

Jane Hagedorn, Chair; Mick Gage; Ron Masters; Chuck Thomas; Brita Van Horne

Code Committee:

Mick Gage, Chair; Jane Hagedorn; Brita Van Horne; Rodney Schultz; Blas Hernandez; John Kelly

Continuing Education Committee:

Jane Hagedorn, Chair; Jim Cooper; Mick Gage; Brita Van Horne; Rodney Schultz

Chapter 29 Committee:

Ron Masters, Chair; Mick Gage; Jane Hagedorn; Chuck Thomas; Ken Sharp

Disciplinary Committee:

Jane Hagedorn, Chair; Mick Gage; Ron Masters; Sue Pleva; Chuck Thomas

Med Gas Piping Committee:

Chuck Thomas, Chair; Mick Gage; Blas Hernandez; Jenny Pitts

Reciprocity Committee:

Ron Masters, Chair; Jim Cooper; Blas Hernandez; Jenny Pitts; Brita Van Horne

Testing and Exam Committee:

Charles Thomas, Chair; Jim Cooper, Mick Gage; Jane Hagedorn; Ron Masters

Legislative Update: Ken Sharp

Ken shared that the Standings Bill was signed into law by the Governor. The bill's language was shared during last month's Board meeting and was sent out electronically to all Board members. This bill will allow a limited number of expired licensees to obtain their licenses without re-examination.

Internal discussions have been held on how to implement this during the next 6 to 7 months. We're going to make it as straight forward as possible, and not require the Board's guidance. The law is pretty clear on implementation. We will ask applicants who fit these circumstances 1) to provide documentation or evidence of having taken a prior exam 2) and provide documentation verifying they have maintained their CEUs. These applicants will be granted renewal of their licenses with submittal of the appropriate late fees for renewal. The verbiage has not been developed to address the applicants receiving their license under this section. Any correspondence received from the Board will clearly reference the provisions provided in Code 105-20 are applicable. Our current language states a licensee needs to retest if their license lapses. We're trying to determine how this relates to the rule pending. The Code clearly states that a licensee, with a lapsed license needs to comply with the Board's request. We have a small number of licensees we plan on contacting within the next couple months whose circumstances we know match this provision. We will also post a notification on our website when it has been finalized and is available.

A question was asked to clarify the need to fulfill CEU requirements prior to renewing their license. It was clarified that CEU credit hours taken prior to January 1, 2013, can be used to reinstate any expired licenses. CEUs completed, for the renewal of the expired license, cannot be used for the renewal of the newly issued license when it expires in 3 years.

105 Rewrite: Ken Sharp

Ken reported that this group met earlier in May for the first time with approximately 30 to 40 people in attendance. This included a few of the Board members. Out of that discussion there was interest in a couple of tracks. One was about restructuring the licensing structure and format. The other piece that came out of that was a desire to talk about state-wide inspections.

Our next meeting will be held on Tuesday, June 26, 2012, in Des Moines. In the morning our discussion will focus on the licensing restructure. The afternoon discussion will focus on statewide inspections. The key message here is that there is no specific desired outcome, at this point, in terms of the Board's desire. We're really looking for that input from the industry partners in terms of what there is support for, and then once we get some sort of consensus, determine what kind of support there may be for potential legislation in 2013 or beyond.

COMMITTEE REPORTS

Ad Hoc: Brita Van Horne

Met last week. Based on the activity we're had, we're recommending, letting 28 & 29 sit due to public comment and Standings Bill. Considering the public comment we've had, not particularly in favor of it, we should let it sit and not do anything with it. Disband the Committee for now and take up when/if needed.

Jane Hagedorn: Does the Board have any problems with that? No Board Comment.

Administrative Rules: Brita Van Horne

We also met last week. We had quite a few waiver requests that came through, as posted on the next page. Code Committee reviewed any related to code, so we're going to be going down the list in order and switching back and forth between waiver review and administrative rules review.

CEU Committee: Jane Hagedorn

Jane stated that this Committee continues to review courses and instructors for approval. Things have slowed down. This month we looked at a total of eleven applications. We also have been working on rule changes for Chapter 30 and we've got the wording set for what we want to do with ECourses. We also are very close on how we're going to define the code section of continuing education.

Discussion was held, during yesterday's Committee meeting, to increase the number of CEU hours for a single license holder from eight to twelve, since the licensing period has been increased from two to three years. Jane requested the Board discuss and provide guidance to the Committee. Ken cautioned the Committee from making these changes at this time. He feels we need to focus on implementing the changes already mandated and possibly look at this in a couple of years.

Chapter 29 Committee: Ron Masters

We haven't had a meeting. More and more the Chapter 29 discussion goes along with the 105 rewrite, so we're pretty much idle right now.

Code Committee: Mick Gage

We met yesterday. We had two waivers we talked about that will be coming up here in our discussion today. We started talking about going to the 2012 code and we're looking at the changes and we'll see where that takes us next meeting, and we'll go from there.

Discipline Committee: Jane Hagedorn

Jane shared that a meeting was held yesterday. Two new complaints were reviewed by the Committee and will be reviewed by the Board today.

The Discipline Committee also had a few licensees, when approached by the investigator, express the desire not to be licensed anymore. September Lau advised the Board to delegate authority to the Discipline Committee. There may be instances where the Committee doesn't want the licensee to give up their license without further investigation or disciplinary action.

A motion was made by Brita Van Horne seconded by Ron Masters to allow the Discipline Committee authority to review and rule on a case-by-case basis, requested by licensees to relinquish their licenses. Motion carried unanimously.

Med Gas Committee: Charles Thomas

Charles stated there will be changes in Medical Gas licensing. The Assistant Attorney General and Executive Officer will be mailing a letter to our providers requiring them to implement changes implemented by NITC.

Testing and Exam Committee: Charles Thomas

The Testing and Exam Committee met yesterday and continues to move forward with changing the scope of testing. As mandated by the legislature, refrigeration testing questions have been included in the HVAC testing. Prometric has requested \$7,000.00 to make these changes.

The question was asked “Will the Board be involved with the RFI process?” To which Ken responded that it would. The contract negotiations would probably be run through a committee. We will also be working with the Testing and Exam Committee to get some input about what reasonable expectations should be included in the updated contract.

Dates for Next Month’s Committee Meetings: Jane Hagedorn

Administrative Rules Committee – July 19, 2012, 2pm-4pm

CEU Committee - July 23, 2012, 2pm-3pm

Code Committee - July 23, 2012, 11am-12pm

Discipline Committee - July 23, 2012, 12pm-2pm

Med Gas Committee - July 23, 2012, 3pm-4pm

Chairs Committee - July 23, 2012, 4pm-5pm

Chapter 29 Committee does not anticipate a meeting for next month. Apps & Fees will not hold a meeting next month.

Other Business: Ken Sharp

● **Fee Structure for January 1, 2013, 2013 – Ken Sharp**

In looking at the legislative changes from the past two years, we began to realize that the statutory changes implemented last year placed in statute our fee structure through the end of 2012. We will be submitting our 2013 fiscal budget on June 30th and will share that information during the July Board meeting to help us establish our licensing fees. We need to be mindful of the 60 day notification requirement for expiring licensees. Individuals who have their licenses expiring January 1, 2013, and later will be getting their license renewal notifications in November or December.

Ken will be sharing with the Board licensing fee recommendations and will be looking for guidance from the Board during the July or August meeting. It hasn’t be determined if it would be best to look at this at the committee level or to the full Board.

Mick asked what percentage of licenses weren’t being renewed as this would be helpful while reviewing fee structure. Ken or Susan Van Horn will provide this information during the next Board Meeting.

● **Staff Changes – Cindy Houlson**

Cindy Houlson shared the following staff changes:

- Mary Swinehart is moving to the Discipline Clerk position (previously held by Drew Bredholt) and will be working closely with Dan Hostetler.
- Sheri Cord is moving to the Secretary position (previously held by Mary Swinehart).
- Drew Bredholt and Bryant Reynolds, both temporary staff, will be leaving us at the end of the month. We are sorry to see them go. They have done a great job for us.
- Lisa Kenworthy, a new addition to our office, will be filling the CEU Clerk position previously held by Sheri Cord.

Unlicensed Complaint Discussion: September Lau

September shared that there were three cases investigated by Dan Hostetler. After review, it was determined that multiple individuals were working without a license on a site in Keosauqua, IA. For clarification we split them into three cases (2012-0017a, 2012-0017b, and 2012-0017c). The Discipline Committee recommends filing a Notice of Intent with civil penalties.

A motion was made by Chuck Thomas seconded by Mick Gage to take the Committee’s recommendation. Motion carried unanimously.

Public Comments:

Bill Schweitzer – IAPMO: Asked if there were any plans for the Board to adopt a Mechanical Code for the State of Iowa. Ken Sharp responded that per Chapter 105, which gives the Board its authority, there is no language in it that gives the Board the authority to adopt a Mechanical Code. Without that legislative language, we have no authority to do so.

Mike Machula: Asked if Prometric would allow licensees to take a 2012 UPC Code Book into the testing site when taking the test. Stating that he would like to be sure his apprentices have the most up to date code books. Chuck Thomas stated that Prometric feels they might be subject to a lawsuit if someone takes a book into the test that wasn't designed for it and fails the test. Chuck will verify with Prometric.

Mike Machula asked when the Statement of Charges regarding the workers in Keosauqua would be made public. It was stated that this information would be posted on the Web and would be made public at that time.

Jerry Hintz: Was called upon but had no questions.

Don Halligan: was called upon, however his waiver will be discussed later.

A break was taken at 9:51 AM. Reconvening at 10:04 AM.

Waiver of Administrative Rules

Jane Hagedorn stated we would be going directly down the list. With the exception of 2012, Steven Goodman, 641-28(5)c being discussed as part of 2012-107, Standard Heating and Cooling/Jana Bryom, 641-28.1(5)c.

2012-103 MMS Consultants, 641-25(1)

John Kelly reported that this waiver request was received from a small Amish farm in Johnson County requesting a waiver from having a public lavatory and drinking fountain at a new store they are building. They are on a private well and based on the number of people they would serve, would need a public water supply. They are asking for a waiver to use hand sanitizer and bottled water in lieu of a lavatory and a drinking fountain. They have indicated a hardship in providing a public water supply due to the fact that they currently don't have electricity, are on a private well, and the closest connection the local municipal water supply is four miles away. There is another facility closer that currently has a public water supply well, but would require drilling a new well at this supply if they were to receive their water from this source.

John indicated the DNR did not call back to discuss what it would take for MMS Consultants existing well to meet the necessary requirements. Discussion was held and it was established the current 145 foot private well was constructed for private use in 1999 with a PVC casing, run by a windmill, but the shaft is not water tight.

Ken Sharp asked if anyone had reached out to Inspections and Appeals to discuss what the requirements were for the food service side. MMS stated there would be no food service, no deli or food prep. John stated that MMS had previously held discussion with Inspections and Appeals, so did not feel it was necessary to contact them again. Scott Pottorff, MMS Consultants, was recognized by Jane Hagedorn and he indicated they had discussions with both Mark Speltz, DIA and Daryl Enfield, DNR. However, they were not able to come to a conclusion on what to do about a public water supply for this site.

Ken asked John Kelly to contact Johnson County, DIA and DNR to schedule a conference call with the Code prior to the next Board meeting and the Committee would then make a final decision to present to the Board at the next meeting. Ken indicated he has photos from a dairy in southeastern Iowa with a similar issue that would be helpful to the Committee.

No action was taken and a decision will not be made by the Board until more information can be presented.

2012-104 – Eric Johnson, 641-28.1(5)c

Brita Van Horne, chairperson for the Administrative Rules Committee, shared that Mr. Johnson is requesting a waiver from the 60 day rule. The Committee didn't find any extenuating circumstances for why this licensee should be granted a waiver and recommends the waiver be denied.

Eric Johnson spoke on his behalf and indicated that he had been unemployed for 18 months but had completed his continuing education courses. He had gone from a union shop to a non-union shop and wasn't aware he had missed his renewal date until he was employed again.

Ken Sharp verified that Mr. Johnson had previously taken an exam for the level of license held and will be contacting him as soon as the statutory changes are implemented.

A motion was made by Jim Cooper seconded by Ron Masters to deny the petition for waiver. A roll call vote was requested. Voting in favor were Blas Hernandez, Brita Van Horne, Charles Thomas, Jenny Pitts, Jim Cooper, Ken Sharp, Mick Gage, Rod Shultz, Ron Masters, and Sue Pleva. Motion carried unanimously.

Ken Sharp advised Mr. Johnson that he will be provided guidance to renew his license as soon as this has been finalized. He will be required to complete a paper application (paper application fee will be waived), supply documentation supporting he has taken and passed an exam, as well as documentation of his completed CEU classes.

2012-105 James Tobin, 641-28.1(5)c

Brita Van Horne, chairperson for Administrative Rules Committee, stated Mr. Tobin is requesting a waiver from the 60 day rule. Mr. Tobin stated he misunderstood the letter sent to him informing him of the change in licensing from a 2 year to a 3 year period, and believed he didn't have to pay then and send in a renewal application. The Committee recommends the petition be denied.

A motion was made by Jim Cooper seconded by Chuck Thomas to deny the petition for waiver. A roll call vote was asked for. Voting in favor of denial of the motion were Blas Hernandez, Brita Van Horne, Charles Thomas, Jenny Pitts, Jim Cooper, Ken Sharp, Mick Gage, Rod Schultz, Ron Masters, and Sue Pleva. Motion carried unanimously.

2012-106 Don Halligan/Fort Dodge Correctional Facility, 641024 412.1 Table

John Kelly addressed the Board stating that a waiver was requested to return an existing restroom, within the confines of a medium security prison facility into a classroom. The restroom is currently not in use because they cannot provide staff to supervise its use and guarantee the safety of the inmates.

Don Halligan, from the Fort Dodge Correctional Facility, addressed the Board and stated that inmates were required to go back to their cells (the furthest being 300 feet) to use the restroom while in a classroom or the main yard.

The Board asked the following questions:

Would applying the rule result in an undue hardship on petitioner?

Cannot provide adequate security of inmates to allow the existing restroom to be used as such.

Would waiving the rule prejudice or harm the rights on any other person?

Currently inmates have access to a restroom in the town cell and staff has access to restrooms in a secure area.

Equal protection of public health?

Currently inmates have access to a restroom in their own cell and staff has access to restrooms in a secure area.

A motion was made by Jim Cooper seconded by Blas Hernandez to approve this waiver. A roll call vote was called for. Voting in favor of the motion were Blas Hernandez, Brita Van Horne, Charles Thomas, Jenny Pitts, Jim Cooper, Ken Sharp, Mick Gage, Rod Schultz, Ron Masters, and Sue Pleva. Motion carried unanimously.

2012-107a-t, Standard Heating and Cooling/Jana Byrom,641-28.1(5)c

Scott Bush; William (Tom) Cassidy; Jon Cathcart; Eric Chapman; Robert Eckes, Jr.; Scott Engelhardt; Eric Frazier; Juan Garcia; Michael Herbert; Antonio Hernandez, Jr; Dwaine Hummel; Stephen

Goodman; Timothy Kelsey; Mark Ladenburger; Brent Langdale; Kevin Linn; James Nesmith; Nicholas Neumann; Steven O’Flaherty; Phillip McGuire

Brita Van Horne, chairperson for the Administrative Rules Committee, presented a waiver requesting a waiver from the 60 day rule. These individuals were set to be renewed all the same day at the exact same time that the Department was going through an update of their computer system. Standard Heating and Cooling attempted to hand deliver the applications to the May 18th Board meeting. However, they apparently got lost. Therefore, it is the Committee’s recommendation to approve the waiver.

A motion was made by Ron Masters seconded by Blas Hernandez to approve these petitions for waiver. We still have not seen verification of CEUs, so we would need an application from each of these individuals. Jane Hagedorn asked if there were any Board questions. There were none. A motion was made by Ron Masters seconded by Blas Hernandez to approve these petitions for waivers. A roll call vote was called for. Voting in favor of the motion were Blas Hernandez, Brita Van Horne, Charles Thomas, Jenny Pitts, Jim Cooper, Ken Sharp, Mick Gage, Rod Schultz, Ron Masters, and Sue Pleva. Motion carried unanimously. Jana Byrom, representing Standard Heating and Cooling, handed in the new applications.

2012-108 Steven Tremel, 641-28.1(5)c

Brita Van Horne, Chairperson of the Administrative Rules Committee, presented a petition requesting a waiver from the 60 day rule. After discussions with both Ken Sharp and Cindy Houlson, it was discovered that due to an administrative error the licensee was issued an incorrect license. The Committee recommends that the waiver should be granted. Ken Sharp questioned if we would waive late fees. Board stated yes.

A motion was made by Jim Cooper seconded by Jenny Pitts to grant this petition for waiver. A roll call vote was called for. Voting to grant the petition for waiver were Blas Hernandez, Brita Van Horne, Charles Thomas, Jenny Pitts, Jim Cooper, Ken Sharp, Mick Gage, Rod Schultz, Ron Masters, and Sue Pleva. Motion carried unanimously.

This waiver has been granted. Late fees will be waived.

2012-109 – Harvey Schmalfeldt, 641-28.1(5)c

Brita Van Horne, Chairperson of the Administrative Rules Committee, presented a petition requesting Harvey Schmalfeldt’s license be reinstated without penalty and without retesting. The licensee stated his wife was in charge of renewing his license and was confused about the notification letter regarding the legislative changes and thought the license would renew automatically. Licensee has completed his CEUs and had previously passed an examination in August 2001. The Committee didn’t come to a unanimous decision on this, however, they feel it would be appropriate to deny this waiver since the licensee would qualify under the new statutory language.

A motion was made by Jenny Pitts seconded by Jim Cooper to deny this petition for waiver. A roll call vote was called for. Voting to deny this waiver were Blas Hernandez, Brita Van Horne, Charles Thomas, Jenny Pitts, Jim Cooper, Ken Sharp, Mick Gage, Rod Schultz, Ron Masters, and Sue Pleva. Motion carried unanimously.

Although this waiver has been denied, Mr. Schmalfeldt may qualify for an exemption under the new statutory language.

2012-110 – Brad Frisbie, 641-28.1(5)c

Brita Van Horne, Chairperson of the Administrative Rules Committee, presented a petition requesting a waiver of the 60 day rule. The licensee had indicated he had a rough year businesswise and somehow in that process forgot to renew his license. The licensee did not complete his CEUs due to financial issues and submitted his application for renewal in May (his license expired 2/2/12). The Committee did not make a recommendation.

Discussion was held by the Board and it was decided that the licensee failed to mention if he had previously taken an exam and decided that he more than likely did not.

A motion was made by Chuck Thomas seconded by Mick Gage to deny this petition for waiver. A roll call vote was called for. Voting to deny this petition for waiver were Blas Hernandez, Brita Van Horne, Charles Thomas, Jenny Pitts, Jim Cooper, Ken Sharp, Mick Gage, Rod Schultz, Ron Master, and Sue Pleva. Motion carried unanimously.

Discipline and Hearing Process – September Lau

September shared with the Board members information on the judicial code of conduct and advised the Board members of their role as judges and the importance of confidentiality. Only the information presented at the hearing can be considered.

A break was taken at 11:20 AM. Reconvened at 11:25 AM.

Closed Session Discipline Review and Closed Session Deliberation

At 11:27 A.M. a motion was made by Brita Van Horne, seconded by Ken Sharp that the Board go into closed session to discuss complaints according to Iowa Code Section 21.5 (1) (d). In accordance with Iowa Code section 21.5, portions of the meeting when confidential materials are reviewed, are held in closed session. The Board may also hold closed sessions when it discloses whether to initiate disciplinary proceeding. A roll call vote was taken. Ken Sharp, Blas Hernandez, Brita Van Horne, Charles Thomas, Jane Hagedorn, Jenny Pitts, Jim Cooper, Mick Gage, Rod Schultz, Ron Masters, Sue Pleva were present.

Ken Sharp: Nothing said in closed session can be shared outside of this meeting.

At 12:01 PM, a motion was made by Brita Van Horne seconded by Ken Sharp to go out of closed session. Motion carried unanimously.

Open Session

At 12:03 PM, a motion was made by Ken Sharp seconded by Charles Thomas to have Jane Hagedorn, as Chair of Board, to sign and file charges equaling a 3 month suspension and a \$500.00 fine in case number PM2012-0017. Motion carried unanimously.

A motion was made by Ken Sharp seconded by Brita Van Horne to close the case numbers PM2010-0015 and PM2010-0037. Motion carried unanimously.

A motion was made by Ken Sharp seconded by Brita Van Horne to accept settlement agreement of get CEUs/take exam/6 month suspension/\$500.00 Civil penalty in case number PM2011-0062. Motion carried unanimously.

Adjournment

At 12:05 P.M. a motion was made by Charles Thomas and seconded by Ken Sharp to adjourn the meeting. Motion carried unanimously.

The next meeting is scheduled for July 24, 2012, at the University Hygienic Laboratory, DMAcc, 2220 S. Ankeny Boulevard, Rooms 207 and 208, Ankeny, IA.