

Minutes

Plumbing and Mechanical Systems Board Meeting
January 15, 2013 – 9:00 A.M.
University Hygienic Lab, DMACC
2220 S. Ankeny Blvd.,
Iowa Lab Facility Rooms 207 & 208
Ankeny, IA

Call to order

Jane Hagedorn, Chair called the meeting to order at 9:01 AM.

Roll Call

Members Present:

Blas Hernandez
Brita Van Horne
Chuck Thomas
Jane Hagedorn
Jim Cooper
Mick Gage
Ron Masters
Rod Schultz
Sue Pleva
Ken Sharp

Members Absent:

Jenny Pitts

Other Attendees:

Cindy Houlson
Dan Hostetler
John Kelly
Matt Oetker
Susan Van Horn
September Lau
Ramona Cooper

Minutes

A motion was made by Brita Van Horne and seconded by Mick Gage to approve the December 4, 2012 minutes. Motion carried unanimous.

2013 Board Meeting Schedule

Jane Hagedorn

Jane stated that the February and March meetings will be discussed later during this meeting.

Contractor Licensing Update

Cindy Houlson

Cindy provided an overview of the Contractor licensing to-date. She shared a report, with the Board, that was compiled by staff. We have posted the contractors that have been approved to-date on our website on the “Announcements” page.

Staff has been calling applicants to discuss problems with their applications. This seems to be working well, however it is very time consuming. There are 2 common identified issues associated with the Certificate of Liability: 1) The certificate must provide a 15-day (or more) written cancellation notice to the Iowa Plumbing and Mechanical Systems Board. This can be documented in the certificate or through cancellation provisions already provide in their policy. 2) The Iowa Plumbing and Mechanical Systems Board needs to be listed as the certificate holder.

The common error on the Surety Bond is that the licensees Iowa customers must be listed as the obligee. The obligee cannot be identified as the State of Iowa or the Board.

As these issues are resolved we anticipate that the application processing will speed up. Currently, the calls on deficiencies can take a number of hours to resolve. We are currently looking at reassigning the tasks to the clerks to realigning work and to allow more time for processing these applications.

Cindy shared with the Board several new questions identified while processing applications:

- **Can a Master of Record be listed on multiple Contractor applications?** Discussion was held by the board. After discussion it was decided that staff would call each of these individuals and discuss other options; such as the main company subcontracting the secondary company to assist them with the work. After the rules have been finalized, and there is a legitimate business need to allow the licensing as applied for we will, at that time, allow them to request a waiver in applying for those licenses. After more information has been gathered this will be given to the Administrative Rules Committee to determine the course of action.
- **We also had an instance of where a single company applied for multiple licenses indicating a different master of record.** It was discussed by the Board and decided that only one Master of Record is needed.
- **Will a parent company, based in Wisconsin, but having a store in Iowa have issues if they request the parent company be recorded on the contractor license?** The Board agreed that they didn't see any issues.

Stakeholder Group Update

Chapter 105

Ken Sharp

Ken reported on the work that started almost a year ago to streamline the requirements listed in Chapter 105 for licensing. Ken shared information, put together by industry groups, summarizing the key changes they will be seeking. After the November elections, the Board worked with the industry groups and agreed that the industry groups should take the lead in drafting legislation or making any modifications in Legislation. Ken reported that he has been part of phone conversations and emails from this group. He shared that he has seen some draft language and it is anticipated that it will be submitted either this week or next week for drafting within the State House.

There are efforts to better align the trade licenses with the trade codes and to get to the point that a Master would only hold at most two licenses instead of the four that they currently hold. And those Master Licenses would align with the new trade codes; the Plumbing Code and the Mechanical Code.

There also were some options for Specialization within the trades. And the biggest discussion point was with Sheet Metal licensing and looking at creating a standalone Sheet Metal Journeyman license. This would address the concerns of the Sheet Metal trades regarding examination requirements and scope of work.

They are hearing from some of the larger contractors that take care of the licensing and CEU requirements for their employees that they are wanting to move toward a single expiration date for everyone. This would be very difficult to support within the department if all licenses expired on a single date. There have been discussions on how to best transition from the licensing structure we currently have to the new licensing structure.

There is also an effort to minimize the duplication on the Contractor licensing between Iowa Workforce Development (IWD) Contractor registration program and the Boards Contractor licensing program. They are discussing only having one application process with similar requirements.

There has been discussion and support for adoption of a state-wide mechanical code statutorily. Based on email discussion the code of choice is the International Mechanical Code (IMC). Upon finalization the Board would be given the flexibility to make amendments to the IMC. There hasn't been any discussion about adopting a state-wide Plumbing Code.

Upon the completion of the draft bill language, we will share this information with the Board.

Executive Order 80

Sue Pleva

Sue shared that her committee has only met once. That meeting was held on January 7 and a conference call is scheduled for Monday, January 21. The focuses of the Executive Order 80

Stakeholder Committee is Chapters 28 and 29 and are looking at how they might solidify those rules. The Governor's office has requested a report to be received from the Committee six weeks after the Committee's initial meeting. This report would also be made available to the Department Director. We could anticipate a report from the Committee in March or April.

CEU Compliance Report Follow-up

Ramona Cooper

Ramona shared the CEU Compliance letter drafted in response to the request made by the Board. Discussion was held and it was agreed that this letter will be sent to all licensees to make them aware that the Compliance Review was conducted.

Felony/Misdemeanor Guidelines Review

Cindy Houlson

Cindy shared with the Board the Guidelines previously developed by the Administrative Rules Committee in 2009. These guidelines were developed and were utilized when there was a "yes" response to the screening questions. When a "yes" response was received to any of the screening questions the Legal Committee utilizes these guidelines.

According to the original document OWI's would be automatically approved. However, if there is repeated offenses/problem behavior should we add additional language to these guidelines? We are starting to review Contractor applications and have had "yes" answers to the screening questions and would like input/guidance from the Board in reviewing these answers.

Discussion was held and it was recommended the following change to the **Felony/Misdemeanor Guidelines**. If there were multiple occurrences of OWI or controlled substance convictions, felonies, or misdemeanors, plus a single occurrence during the last licensing period, the application would not be automatically approved but would need to be reviewed by the committee for approval.

Cindy asked the Board for guidance in developing guidelines for the Contractors Application. (I.e. On-going law suits of contractors trying to recover money from 2007, 2008, 2009, etc.) Asking if it was the number of law suits, outcome of the law suits, or the type of law suits (fraud) that we are interested in? Discussion was held and it was decided that if a "yes" answer was received for either the 1st screening question or the 2nd screening questions the application would go to the Legal Committee for review. It was also stated that "or any previous firms" be added to the 2nd question so it would read: ***Have your firm or any previous firms ever been sued in connection with your functions in this or any other state? If yes, include date, location, reason, current status etc.***

Inactive License Compliance Review

Cindy Houlson

Cindy shared that the Board requested at the December meeting that this be placed on our agenda. Discussion was held and it was decided that the Board was happy with the 5% audit review (based upon the CEU requirements only) and wished to continue this in the future.

Discussion was held to determine if the Board wanted to re-examine licensees that received their license through the grandfathering clause. Discussion was held and it was determined that we did not want to re-examine these.

Committee Reports and Recommendations for Actions:

CEU Committee

Jane Hagedorn, Committee Chair

Jane reported that this committee met yesterday and reviewed around 65 courses and instructors. The committee continues to move these forward through a weekly electronic review process and a monthly meeting.

Code Committee

Mick Gage, Committee Chair

Mick shared that this committee discussed adopting the UPC code and hope to present this with revisions to the Board at the March meeting. During the last meeting one waiver was reviewed and will be presented later at today.

Discipline Committee

Jane Hagedorn, Committee Chair

Jane stated that this committee meet yesterday and will be presenting these later. This committee continues to meet on a monthly basis.

Testing and Exam Committee

Chuck Thomas, Committee Chair

Chuck reported that the Committee is looking at RFP. The committee identified changes that need to be made in the language of the RFP and what they would like the exam to cover.

Initially the committee felt our best option for the RFP was to request a nationally recognized test provider. However, no interest was shown. Currently the committee is exploring changing the RFP to allow Community Colleges to apply to administer the exam or even a national organization in cooperation with a community college. The committee is currently trying to determine who might be interested and what would our best option would be. The committee is looking at the pros and cons of having a nationally recognized provider vs. a Community College monitor the test.

The Board requested that Cindy and Susan follow up with Prometric to discuss licensees having problems scheduling an exam.

The committee verified that they are working with Prometric to insure that the correct test is downloaded for the test exam candidate. If the wrong exam is downloaded by Prometric the candidate doesn't receive a refund because the exam wasn't cancelled 24 hours prior to scheduled exam.

Future Meeting Dates

Discussion was held with the Board concerning the dates subcommittees plan to meet in February and March. The following was decided:

- January 28 2 PM Testing and Exam Committee (teleconference, Cindy to schedule conference room). Finalize RFP changes.
- February 14 2 PM ARC
- February 14 3 PM Chapter 29
- February 18 11 AM Code Committee
- February 18 12 PM Discipline Committee
- February 18 2 PM CEU Committee
- March 14 2 PM ARC *(only if needed)*
- March 14 3 PM Chapter 29 *(only if needed)*
- March 18 11 AM Code Committee
- March 18 12 PM Discipline Committee
- March 18 2 PM CEU Committee

Other Business

Cindy Houlson

Cindy reminded Board members that elections are will be held during the May 2013 meeting. New appointees will be joining us during this meeting. If members are interested in holding an office please let Cindy know.

Meeting Break: 10:45 AM

Reconvened: 10:55 AM

Unlicensed Complaint Discussion

PM2012001, US Mechanical This was a complaint against two individuals working for US Mechanical and performing work without license at a Costco site in Coralville. The case was brought to the board by Tom Kay and fully investigated. The committee recommended that we file charges against the two individuals (Bill Bredheim and Ted Shyta) for working without a license and issue a proposed fine of \$250.00). Brita Van Horn made a motion seconded by Ron Masters to accept the Statement of Charges as drafted for PM2012001A and PM20122001B. Approve unanimous.

September Lau addressed the Board and stated that the following were for the Boards information and the Legal Committee recommended to “order imposing civil penalty”. These will be signed off by Jane if a request is not received within 30 days:

PM20120017C	Michael Snyder
PM20100030, PM20110032	Stacy Newman
PM20120017B	Ray Kolhoff
PM20100021, PM20100033, PM20110031	Dan Kunel

September also stated that David Beeken (**PM20120005**) did request a hearing. The civil penalty was for \$3,500. The board identified fourteen separate instances where he performed either HVAC or plumbing work without a license. However, seven of these instances were performed prior to when the Board had authority to impose Civil Penalty. Agreement was reached that the Civil Penalty would be \$1,750. Jim Cooper made a motion seconded by Sue Pleva to accept the charges as drafted for PM10120005.

Public Comment

Public comment was received by **Greg Ploeger**, thanking the committee for the work they are doing. He has a concern about the Board assessing an applicant’s arrest history and he feels the Board should focus their efforts on working with Prometric to ensure applicants receive refunds when warranted.

Bill Schweiter IAPMO, commented that he has concerns in adopting the International Mechanical Code as the state’s mechanical code.

Waiver of Administrative Rules

Waiver 122, Daniel Beachy Ken stated that because this affects three state agencies he has requested that the following representatives attend: Mark Speltz, DIA, Anne Pham, DNR (Public Water Supply Section Supervisor), and Anne Lynam, DNR (Environmental Specialist).

John Kelly stated that after an October inspection completed by DIA in relation to a new operating license for Danny’s Bulk Foods, DIA forwarded photos of the plumbing installation to the Department of Public Health questioning if it was compliant with the State Plumbing Code. An initial review of the pictures by the Department identified multiple deficiencies related to the installation of the toilet. The Department discussed with the owner that if equal health and safety can be provided through other means than that prescribed by the code that there is a waiver process. The department provided the owner with information on the waiver process and in November Mr. Beachy submitted a petition for waiver relating to the deficiencies identified relative to the toilet installation. His petition was discussed at the December board meeting. The Board had continued concerns regarding the petition for waiver for the toilet installation including the clean ability of the toilet, back-flow prevention, and venting of the toilet. The board delayed a final ruling at the December meeting to allow for staff to follow up with the owner regarding the remaining concerns and to discuss the additional code deficiencies relating to the installation identified by the board members through the photos provided by DIA.

In December John and Merri Cross of DIA, and Mick Gage, representing the Board, met with Danny Beachy and Joe Beachy at the facility to review the plumbing installation relative to the deficiencies noted in the photos and to discuss the specific health and safety issues noted. We looked first at the

plumbing installation and some of the other issues that had been identified through the pictures. Those were issues related to the type of backflow prevention provided, the lack of a thermostatic mixing valve at the public - improper trapping and the venting of the fixtures. In general, the use of unlisted or altered fixtures and appliances as that related to the provisions for combustive air and proper venting of the combustion products. In addition the lack of temperature controls created additional safety issues on an altered water heater. They also noted that a public drinking source was not present or addressed. They discussed some of the specific health and safety concerns with each of the deficiencies identified such as the possibility of contaminating the water supply with improper backflow prevention, or scalding without the required mixing valve. Talked about improper trapping and venting and how a loss of a trap could lead to the introduction of sewer gases to the building. With respect to the water heater, the lack of temperature controls could lead to growth of bacteria if temperatures are too low or conversely increased risk of scalding, development of steam or potentially catastrophic failure if excessive temperature were experienced. Finally there was a discussion of the venting of the camp stove and potential for the accumulation of the products of combustion including carbon monoxide. They touched on the licensing requirement for plumbers and that with limited exceptions plumbing within the state must be installed by licensed plumbers. They discussed the boards question regarding the source of the water supply and encouraged the owner to begin reviewing with DNR to determine if it was appropriate to serve a public restroom. They also shared with them that there are federal requirements like ADA that the department does not have authority that should be aware of and will need to be addressed by the owner.

They discussed that there may be alternative solutions through waivers through the plumbing board or other agencies that could include for example potentially waiving the requirement for hot water at the lavatories if water could be heated stovetop for washing the wares but that would require some coordination across multiple agencies. In previous discussion with DIA they shared that they did regulate the temperature of water for washing hands but it was more about the comfort of the person washing their hands to ensure they were washing their hands long enough. DIA does require that when washing wares that this be done with hotter water.

They did discuss the possibility of the use of a porta-potty, chemical toilet or composting toilet and that those options would still require a waiver.

Mark Speltz, DIA, addressed the board stating that this was referred to John because DIA recognized that this would not meet our Plumbing code; however, Iowa food code only requires toilets and lavatories for employees but does not have the requirement that they be provided for the public within the food code itself. The requirements for public restrooms come from the state plumbing code and DIA cannot waive the requirements of the state plumbing code. DIA would consider a variance related to the mean that the hot water is supplied. There is new information provided during a conference this year that it is not the temperature of the water but the length of time (comfort level) the hands are washed that kills germs. While the food code does set limits on the temperature of the water required for hand washing that is something that DIA would consider a variance based on this newer information. Based on the limited ware washing required in the 3 compartment sink DIA would also consider a variance allowing stovetop heating of the water for washing wares. Since DIA knows this facility doesn't meet the Plumbing code they cannot issue a license based on that knowledge. This facility only repackages bulk foods for resale and doesn't require refrigeration.

Anne Pham and Anne Lynam, DNR, addressed the board stating they based their decisions off of Iowa Administrative Code 567, Chapters 40, 41, 42, and 43 and if the water supply serves over 25 people or 15 service connections over 60 days a year they require a public water supply therefore if the state plumbing code requires public restroom a public water supply would be required. The well was

originally allowed under a county permit and currently doesn't meet DNR's standards for a public water supply. It is a drilled well 120 feet deep.

The board asked the owner for additional information on the number of customers the store is intended to serve. As the store is not open it was difficult to determine but the old store served an average day 5-10 customers and the new store is about twice the size. They anticipate the adjacent store will also help them attract some additional customers. They indicated that an expected sales volume may be three skids a month.

Issues identified by the Board were the lavatory sink, hot water sanitation/sink for cleaning utensils, no thermostatic controlled mixing valve/scalding, water closet, back flow prevention, thermostatically controlled water heater, plumbing traps and vent and not being done to code or by a licensed individual, and no public drinking fountain, and no drinking public water supply .

A motion was made by Ron Masters seconded by Chuck Thomas to grant a variance to allow the toilet shown in the pictures, approve the limited flow of 1.6 gallons per flush, approve that fixtures do not need to be listed, waive the need for proper trapping and venting. Discussion was held. Ron Masters and Chuck Thomas withdrew their motion.

Motion was made by Rod Schultz seconded by Sue Pleva to deny the waiver. Discussion was held. Rod Schultz and Sue Pleva withdrew their motion.

The petitioners requested to orally amend their petition from the State Plumbing Code to allow the conditions set forth: A porta-potty with a Culligan hand washing station (temperature storage tank), and a Culligan hand washing station to be located prior to the work area/food production area. A motion was made by Jim Cooper seconded by Rod Schultz to accept the modified waiver to accept a porta-potty as a restroom facility, a (room temperature) water storage tank to serve the hand washing for the public restroom, for a licensed plumber to resolve plumbing issues for drain waste, venting and back flow prevention, the existing water heater will be used removed along with the existing toilet, for a Culligan water tank be provided to provide a public drinking source, and a Culligan hand washing station to be located prior to the work area/food production area. Motion carried unanimously.

Meeting Break: 12:50 AM

Reconvened: 1:00 PM

Application Review

September Lau

September provided a follow up from the last meeting to discuss letters she drafted to be sent to apprentice applicants who have a criminal history. The board reviewed and approved the letters.

Closed Session Discipline Review and Closed Session Deliberation

At 1:02 PM a motion was made by Brita Van Horne seconded by Jim Cooper to 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 discusses whether to initiate disciplinary proceeding. A roll call vote was taken with Blas Hernandez, Brita Van Horne, Chuck Thomas, Jane Hagedorn, Jim Cooper, Mick Gage, Ron Masters, Rod Schultz, Sue Pleva and Ken Sharp present.

At 1:14 PM a motion was made by Brita Van Horne seconded by Chuck Thomas to go out of closed session. Motion carried unanimously.

Open Session

A motion was made by Brita Van Horne seconded by Chuck Thomas to close cases PM20120018 and PM20120061. Motion carried unanimously.

A motion was made by Brita Van Horne seconded by Chuck Thomas to accept the settlement agreement discussed in case PM20120032. Motion carried unanimously.

A motion was made by Brita Van Horne seconded by Jim Cooper to file statement of charges in case PM20120076. Motion carried unanimously.

A motion was made by Ken Sharp seconded by Chuck Thomas to close PM20120032 (B, C & D). Motion carried unanimously.

Adjournment

At 1:18 PM, a motion was made by Jim Cooper and seconded by Mick Gage to adjourn the meeting. Motion carried unanimously.

The next meeting is scheduled for March 19, 2013, University Hygienic Laboratory, DMACC, 2220 S. Ankeny Blvd., Ankeny, IA, Iowa lab Facility Rooms 207 & 208.

DRAFT