

Plumbing and Mechanical Systems Board Minutes
February 21, 2012 - 9:00 A.M.
Wallace State Office Building
Conference Rooms 4 East & 4 West
502 E. 9th Street, Des Moines, IA

Call to Order

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

Roll Call:

Members Present:	Members Absent:	Other Attendees:
Brita Van Horne	Dennis Molden	Cindy Houlson
Blas Hernandez	Jenny Pitts	Drew Bredholt
Charles Thomas		Matt Oetker
Jane Hagedorn		Ramona Cooper
Jim Cooper		September Lau
Ken Sharp		
Ken Sharp		
Mick Gage		
Ron Masters		
Susan Salsman		

Minutes

A motion was made by Ron Masters and seconded by Charles Thomas to approve the January 10, 2012, Plumbing and Mechanical Systems Board notes as submitted. Motion carried unanimous.

CSST Gas Pipe Briefing – Ken Sharp

Ken shared with the board a meeting he attended on February 2 with the State Fire Marshall's Office. There have been a number of fire departments in the state that have indicated a number of concerns around corrugated stainless steel tubing (CSST) arching during lightning strikes resulting in home fires. There has been enough of a pattern that they have raised concerns to the CSST industry.

In this meeting they discussed how to increase and improve the safety of those systems. The industry estimates there has been about one billion feet of this tubing sold to-date. About two thirds of this tubing was installed since 2007; with the industry's recommendation for bonding. However, they don't have actual numbers on what the installations look like. They also estimate that the remaining one-third, was installed prior to 2007 without the recommendation for bonding. Those non-bonded systems are the systems they are particularly interested in and wish to address.

An estimated 50,000 homes in Iowa would be impacted and need to be addressed. The industry recommendation is to install a bonding clamp on the black steel piping prior to the transition to the CSST and running a number six copper wire from the clamp to the grounding bar in the electrical panel.

Our interest in attending was to see what impact it would have on the plumbing and mechanical trades although this is predominantly an electrical fix. They are having problems that electricians don't want to repair it because they didn't install it. So there are some educational benefits they continue to work on. The interest in having someone from this board attend this meeting was purely for educational purposes. They are requesting that as licensees notice CSST gas pipes without the bonding clamp in place that they share this information with the homeowner and direct them to someone who can repair that.

Their plans haven't been decided upon but they are beginning to lay out what message needs to get out and what guidance needs to get out to the industry and the home owners. They have discussed putting out a public

service announcement. They also want to focus education to electricians on the proper way to bond these systems and how to reach out to the various professional organizations as well as the inspection agencies.

Hydronics Legislation – Ken Sharp

November was the last meeting that we sponsored with the various industries to clarify the definition of hydronics. At that meeting there was a proposed definition change that would focus on those systems whose primary purpose was to focus on comfort heating or cooling. The response was mixed to that proposed action. However, the industry continued to meet after November without our involvement at our recommendation.

We did share with industry in November that if they are going to try to come up with this “primary purpose use” we wanted “primary purpose” defined. HF2285 now includes an amendment, and was adopted at the committee level, which states “For purposes of this definition, primary purpose to provide comfort is defined as systems where fifty-one percent of the system’s capacity generated by its operation, on an annual average, dedicated to a comfort heating or cooling system.” That was their attempt to try and address the concerns of the heating and cooling system industry while recognizing that on many of the large industrial sites there is minimal use of the comfort heating and cooling systems and there may be chemicals involved as well as national standards. They wanted to honor those that had concerns about the duplication of licensing and certification requirements. The committee supported this and it has met the first funnel and it currently is on the House calendar for floor debate at their earliest convenience.

Ken also shared information about SF27, which was introduced last year and it was designed for licensure of solar thermal systems. One sub-committee meeting was held last year but was quickly adjourned due to lack of information and lack of understanding of the implications. Ken was made aware this morning that there would be another sub-committee meeting today at noon, which he plans to attend and listen in on the conversation and share a few comments. We are trying to understand what the implications are. His understanding of it would imply the creation of another stand-alone license, which would further complicate the licensing program. It would mostly impact specialty licenses and it would change them from a sub-discipline of one of the four trades to a stand-alone individual license. It appears that whoever is behind this bill wants to have solar thermal as a stand-alone license. He feels that it may get out of sub-committee or Senate; but he doesn’t feel it would go very far in the House.

Specialty Licenses Software – Ken Sharp

Specialty Licensing has currently been live for a week. A couple of bugs have been identified and we are ready to start receiving applications. It is available both through our licensure page on our website and also electronically through www.licensediniowa.gov.

Committee Report and Recommendations for Actions:

Administrative Rules Committee – Sue Salsman, Committee Chair

- **Approval for Preclearance/Notice of Intended Action/Consideration for Emergency Adoption: [Chapter 28](#), “Plumbing and Mechanical Systems Licensure Fees” and [Chapter 29](#), “Plumbing and Mechanical Systems Board – Application, Licensure, and Examination”**

Changes to Chapter 28 would rescind paragraph 28.1(5)(c) and adopt a new paragraph in lieu of:
A licensee who allows a license to lapse for more than 60 days but 365 days or less may reinstate and renew the license without examination upon payment of a \$100 late fee and appropriate renewal of license fee.

Sue Salsman shared that the reason the committee would like the proposed amendment was because they felt the intent of the law was not to take a license away from licensees trying to renew their licenses due to lateness and looked at opportunities to assist licensees in the renewal process. The committee talked to attorneys who sit on other boards and asked for a generalization of what they are doing and what penalties are being imposed for late renewal. The committee felt that our language was too demanding and needed to be more lenient. Since the licensee was being required to complete the CEU’s requirement we are still going to maintain an educated workforce.

The Committee felt that majority of licensees being denied *Waiver of Administrative Rules* were licensees from small town (Mom and Pop) businesses.

Concerns were raised about lowering our industry standards across the board, individuals grandfathered into their license, and sooner-than-later licensees will need to comply with the ruling passed by the legislature, whether it's within 60 days or 365 days.

Ken clarified that even with this change the licensee would be working without a license after 60 days and there are severe penalties associated with that as well as revoking their license. They did receive preclearance from the Governor's office to consider these rules. Ken shared these revisions with some of the industry folks and did request feedback. He did receive concerns about the timing of this proposal and clarification on what we were requiring after 365 days, other comments were in opposition to this proposal, and that they would be more comfortable supporting this if it was after one full renewal cycle. Today the board has three options: 1) Do a notice of intended action, go through the public comment period (110 – 120 day process) and make any revisions necessary. If the revisions are significant we would need to put the rule back out for public comment prior to taking any formal action. 2) Full emergency adoption. 3) Double barrel the rules with emergency adoption and file as Notice of Intended Action. We have the option after notice to do an emergency adoption at that point if the Board is in agreement. This would give an opportunity for public comment, an opportunity for an official response back to the board by the general public, and an opportunity for the board to reconsider emergency adoption.

Changes to Chapter 29 would rescind paragraph 29.7(2)(c) and adopt a new paragraph in lieu of: A licensee who allows a license to lapse for more than 60 days but 365 days or less may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee as defined in 641 – subrule 28.1(3). And changes to subrule 29.7(2) would allow a licensee to lapse for more than one year may reinstate and renew the license by either of the following means: 1) by successfully passing the application license examination and paying the appropriate renewal fee or by 2) retaking and successfully completing all continuing education requirements and paying the appropriate renewal fee.

Jane Hagedorn, Chair called for public comment. The following comments were received:

Nick Cirrao(Surando), Local 33, stated that the licensee should go through a couple cycling of the license prior to this rule being applicable to them. The portion about licensees being capable of receiving their lapsed license by only taking the continuing education requirements should be removed. He feels the licensees should be required to test. If they aren't able to pass the test the licensee should look at taking additional CEU's specifically to help them pass the test.

Mike Machula, Local 125, feels that the Chapter 28 and Chapter 29 should stay the same as they stand today.

Andy Roberts, Local 33, asked the committee to review practices of other boards. If the licensee allows their license to lapse they should also be required to re-take the city license test. The portion about licensees being capable of receiving their lapsed license by only taking the continuing education requirements should be removed. Larger corporations aren't given preferential treatment.

Jerry Hintz, Local 263, would support what the others have stated. He feels that the 120 day notice period is sufficient for the renewal period. If the licensee allows their license to lapse they should also be required to re-take the test. The portion about licensees being capable of receiving their lapsed license by only taking the continuing education requirements should be removed.

Evan Petersen, BHE, stated that he feel individuals who got initially grandfathered into the system will not let their licenses lapse and having been grandfathered into their license have a capable working knowledge of the trade.

Ron Welch, spoke in favor of mandatory testing to renew your license.

Kevin Kruse, PHCC of Iowa, would like to request more time for input from their board. He would like clarification on how the committee arrived at the 365 day time frame. Is this the correct amount of time or should it be changed to reflect a different length of time? He also would like the committee to verify that the \$100 penalty was the appropriate severity for penalty for 365 days. By allowing this change he feels that it would open our renewal system for possible abuse.

Janet Shae, business owner, spoke in favor of relaxing the renewal requirements.

Jane Hagedorn, Chair called for comments from the Board. The following comments were received:
Charles Thomas would like to table it and allow for public comment.

Jim Cooper is in favor of changing the rules or softening the 60 day expiration date.

Ken Sharp would like to see us move forward as Noticed to allow for public comment in an official capacity. And then re-visit it after the public comment to review what the next steps should be. He also feels that since other trades don't require re-testing for expired licenses we shouldn't either.

Blas Hernandez stated he felt this is an important issue and we need input from the industry leaders.

Brita VanHorne stated that she feels the public comment is critical. We also need more input from other licensing boards to compare what they are doing.

Ron Masters stated that he's in favor of moving it forward as Notice of Intended Action.

Charles Thomas also stated that he would like to move it forward as Notice of Intended Action.

Mick Gage, no comment.

Jane Hagedorn stated that she is not in favor of the changes presented today and feels the board is moving in the wrong direction considering them.

Ken Sharp made a motion to file as Notice of Intended Action, the language presented for Chapters 28 and Chapters 29, seconded by Susan Salsman. Motion carried.

- **Administrative Rules Committee, Sue Salsman, Committee Chair**

Sue Salsman shared that the committee continues to meet to review waiver requests. They met on February 9, 2012 and have a meeting scheduled for March 8, 2012.

- **CEU Committee, Jane Hagedorn, Committee Chair**

Jane Hagedorn shared that the committee continues to review CEU's on a weekly basis expediting the process of renewing courses and instructors. The committee met yesterday and has another meeting scheduled for March 19, 2012. She also shared statistics on the application process of both courses and instructors.

- **Discipline Committee, Jane Hagedorn, Committee Chair**
Jane Hagedorn shared that this committee also met yesterday and they will be bringing items to the board today.
- **Test and Examination Committee, Chuck Thomas, Committee Chair**
Chuck Thomas reported that this committee met yesterday. They are continuing to work with Prometric to update our testing. They need to add gas into the Refrigeration licensing and add Refrigeration into the HVAC licensing. In the process of revising the testing they have asked Prometric for information around the appropriate number of questions they should consider during testing.

The committee has scheduled a teleconference on Monday, February 27, to discuss questions on the exam and to verify we're asking the correct questions. The committee would like to request the Board delegate responsibility to the committee to move forward with communication with Prometric.

A motion was made by Sue Salsman, seconded by Jim Cooper to delegate the Board's authority to the committee to revise the Prometric exams. Motion carried.

Charles Thomas let the board know that the on-line test scheduling is now available. Applicants no longer need to call Prometrics to schedule a test.

- **Med Gas Piping Committee , Chuck Thomas, Committee Chair**
Chuck Thomas shared changes have occurred in the NFDA99C which covers Medgas and has been adopted. Chuck will find out when the NITC will be changing the testing and arrange to meet with them. Chuck will then report back to the Board when this is occurring as well as the organizations that they have deemed equivalent to NITC.
- **Committee Meetings**
Jane asked the committee chairs to set next committee meetings:
 - CEU Committee, Jane Hagedorn, Chair – March 19,
 - Discipline Committee, Jane Hagedorn, Chair – March 19
 - Testing and Examination Committee, Chuck Thomas, Chair – February 27 & March 19
 - ARC, Sue Salsman, Chair – March 8
 - Medgas, Chuck Thomas, Chair – TBD - Chuck will send an email to committee members to make them aware of the date it is scheduled as well as provide this information to be placed on the calendar

Other Business

www.idph.state.ia.us/PMSB New Discipline Tab - Cindy Houlson

Cindy shared that there is a new "green tab" on our website for *Discipline*. All of the notices that were previously in our office are currently available on-line.

Mick Gage asked the question if cities can adopt a different code from the state. Ken Sharp answered that as long as there is "a code", either UPC or IPC, this board will not take action.

Unlicensed Complaint Discussion

No new business.

Public comment

- **Nick Bates Contact Us**

Jane Hagedorn asked that Board members to read his email and provide comments. No comments were received.

- **Travis Young Contact Us**
Board members also read this email. Brita Van Horne asked why the “draft” minutes cannot be posted. The board agreed that the “draft” minutes should be posted as long as they are posted as *Draft*. The Board requested that they be posted as “draft” within 2 weeks of the meeting date.
- **Roger Church Contact Us**
No comments received.
- **Bill Schweitzer, IAPMO**
There are about 4 different manufacturers of CSST gas piping. He feels that the manufactures cannot agree amongst themselves what the correct solution is. These manufactures should all be at the meeting for discussion. Ken Sharp assured him that they were.

Mr. Schweitzer also asked Chuck Thomas about including natural gas with the Refrigeration testing. Chuck Thomas responded that our HVAC exam currently includes gas. The information is currently coming from NAVA54. Chuck Thomas also stated that the UPC book also includes the gas chapters but when it comes to the mechanical people they don’t have plumbing code in their book. Nor do they need it. We actually follow along the International Mechanical Code recommendations.

- **David Arnold, West Central Valley**
State he signed in error
- **Jerry Hintz, Local #263**
Stated his questions have been answered.
- **Nick Cirrao, Local #33**
Stated his questions have been answered
- **Mike Mackula, Local #125**
Stated that when CSST came available in Canada and in Europe they stated that it had to be installed with bonding. However, in America we didn’t do that so that hasn’t been done. The Cedar Rapids Board of Appeals is in the same process as we are to decide what direction to take. He would like the committee to review what action other building trades have decided upon and review.

Mike Mackula also restated that he feels it would be wise if the Board would review what the other building trades are doing with their testing and review prior to making a decision.

- A question was asked about our plans on reciprocation with other states. Ron Masters stated that currently South Dakota, Texas and Hawaii have stated that they will work with us. However, we don’t have any reciprocation.
- **Gary Shae**
Currently Minnesota electrical licensing does require a licensee to re-test after 365 days.
- A question was asked if the Board felt that Solar should be added to the Plumbing license. Ken Sharp responded that the Board’s concern was that this would create a separate license. The Board would probably make special restricted licensing provisions below either Plumbing or Mechanical licensing specifically for this discipline.
- A question was asked how long it took to get the Specialty License on our website? And why isn’t the Contractor’s licensing up? Ken Sharp responded that the software took 16 weeks and the reasoning for delaying the Contractor’s licensing is because of resources and availability of staff.

Reconsideration of Waiver

West Central Valley School District 2011-12

Ken Sharp shared that we had received an inquiry from Dr. Arnold, Superintendent and Elementary Principle, from the West Central Valley School District raising some concerns on the waiver denial based on the information that we had. Dr. Arnold has since had conversation with Ken stating that the information submitted by the architect, who submitted the variance request, was not accurate. This conversation today may result in a request for resubmission of a new waiver, separating the high school issues from the elementary school issues.

Dr. Arnold addressed the board stating that funding was received through a FEMA grant for the purpose of building a “safe room with toilets” at the high school. The safe room was built with the intent that it would only be used during a tornado and during wrestling practice. FEMA had approved the design and building of the safe room with the chemical toilets (2 hour maximum use).

The “safe room” being built at the elementary school will have flush toilets and will have access by the public.

The architect wasn’t hired by the school district and didn’t communicate with them about the submission of the Petition for Waiver until after the fact.

Discussion was held and it was decided that there are sufficient restrooms for the high school and it was verified that the “safe room” would only be used during a tornado or during wrestling practice. It was determined that it would place an undue burden on the applicant to replace these fixtures with flush fixtures at this time.

September Lau informed the Board that the initial waiver was denied based on occupant load and the number of fixtures. It didn’t specifically reference the chemical toilet issue. It’s a separate issue and a second variance would need to be filed for that. A Petition for Waiver would need to be presented in writing. This petition does ask variance regarding chemical toilets and it references both schools. So we could rule on that specific issue. You have already ruled on another part of this request but the occupancy of the elementary school has not been addressed.

The Board agreed that FEMA should be made aware of our concerns on the use of chemical toilets in this setting due to the potential use that it may create.

Brita Van Horne made a motion to approve the waiver to allow chemical toilets for use in the safe room at the high school seconded by Jim Cooper.

Discussion was held on points of hardship.

The Board asked the following questions:

Is there undue hardship in imposing the rule in this case?

Yes. Drain systems more prone to maintenance, and more costly. These toilets will not typically be used. In addition, the project was approved at the state level previously, indicating to the petitioner that use of chemical toilets was approved.

The potential legal rights of other persons are not being prejudiced of any person allowing for barriers?

No. Because there will be limited access to these toilets, they will be locked and not used, there will be access to other toilets. Petitioner’s circumstances are unique due to the previous official approval of the plans.

Substantially equal protection of the public health, safety, and welfare is being provided?

Yes. Other toilets are available and the chemical toilets will not be used unless there is an emergency.

Ken departed at 11:45 A.M.

Note: The approval of this waiver is set to expire when the use of the room changes.

A roll call vote was asked called for. Voting to approve the waiver were Blas Hernandez, Charles Thomas, Jim Cooper and Brita Van Horne. Voting not to approve the motion were Mick Gage, Ron Masters, Susan Salsman, and Jane Hagedorn. Motion tabled until Ken Sharp returns.

Note: Upon Ken Sharp rejoining the meeting he voted in favor of the use chemical toilets for this particular waiver.

Brita Van Horne made a motion to approve the fixture count as constructed in the building and rescind the previous waiver denial based on fixture count seconded by Susan Salsman. Motion carried.

The Board asked the following questions:

The application of the rule would impose an undue hardship on the person for whom the waiver is requested?

Yes, the building already has excessive amount of fixtures for its actual occupancy and taking into account its expected/realistic occupancy going into the future.

The potential legal rights of other persons are not being prejudiced of any person allowing for barriers?

No. There are more than adequate fixtures or facilities.

Equal protection of health, welfare and safety provided?

Yes. There are an adequate number of fixtures for this facility.

A roll call vote was asked called for to rescind the previous waiver. Voting to rescind the previous waiver were Blas Hernandez, Mick Gage, Charles Thomas, Jim Cooper, Ron Masters, Susan Salsman, Brita Van Horne, and Jane Hagedorn.

The Board agreed to break for lunch at 11:57 A.M.

The Board re-adjourned at 12:30 P.M.

Waiver of Administrative Rules

Jane Hagedorn asked who was in attendance and announced that they would be heard first and then the board would consider the Waiver of Administrative Rules for licensees not in attendance. Those in attendance were Ken Borate (2012-48), Kent Bestell (2012-48), Kirk Butcher (2012-54), Doug Holcomb (2012-55), Randy Theisen (2012-56) Tim Masi (2012-57), William Rath (2012-58), Steve W. Cassady (2012-60), David R. Lansing (2012-61), Ronald W. Welch, Jr (2012-62A), William C. Kramer, Jr. (2012-62B) and Gary Shea (2012-65).

2012-48, Kent Borota, 641.28.1(5)c

Susan Salsman chairperson for Administrative Rules Committee reported this waiver fits the general format that we have received in the past where someone had forgotten to renew his license. It was a unanimous committee recommendation to deny this waiver as there was no extenuating circumstances that would differ from previous decisions.

Sue Salsman chairperson for Administrative Rules Committee stated that the request for wavier read similar to requests made due to natural disasters. However, Marshall County impact was relatively small compared to other counties and there was no information received on how this individual was impacted. Therefore this committee voted to deny this waiver.

Kent Borota spoke stating that he was there representing himself as well as two of his employees. His main man had substantial damage from the storm and even though he had the packets ready he missed the mailing date. He closed shop for a week to help with clean-up from the storm.

The Board asked the following questions:

Why would applying the rule result in an undue hardship on petitioner?

No. There is sufficient opportunity for licensee to retest. And the evidence presented does not show reasonable justification for missing the deadline.

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

The individual circumstances do not justify the deviation from the overall goal or uniform treatment of others.

A motion was made by Ron Masters seconded by Brita Van Horne to deny Kent Borota's waiver. Motion carried unanimously.

September Lau shared her information with Kent Borota if he wants to continue with his objection to the Board's ruling.

The board advised Kent Borota that each of his employees should submit a separate Waiver of Administration Rules for each of their licenses.

2012-54, Kirk Butcher, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee stated that during the committee's review information received from Dawn Pettengill, Legislator had been misunderstood. Mr. Butcher understood the email to state that the renewal period had been changed to 3 years from 2 years and therefore his license wasn't up for renewal. The committee voted to deny this waiver.

Kirk Butcher stated the after receiving Dawn Pettengill's email he felt he had an additional year to renew his license.

The board asked the following questions:

Why would applying the rule result in an undue hardship on petitioner?

Licensee is sufficiently unique from other persons and for that reason it wasn't unreasonable for him to miss the deadline. Thus, application of the rule to him would result in undue hardship.

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

Licensee is sufficiently unique from other persons and for that reason it wasn't unreasonable for him to miss the deadline. Treating him differently is justified.

How will the public health, safety and welfare be protected if the waiver request is granted?

Yes. The licensee has adequate CEUs.

Ken Sharp returned to the meeting at 12:53 PM.

A motion was made by Charles Thomas seconded by Ron Masters to grant the waiver. A roll call vote was taken. Voting to grant the waiver were Blas Hernandez, Mick Gage, Charles Thomas, Jim Cooper, and Ron Masters. Voting not to grant the waiver were Susan Salsman and Brita Van Horne. Ken Sharp abstained from the vote due to not being part of the entire discussion.

2012-55, Doug Holcomb, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee stated that the committee found there wasn't an attempt to apply for a license and the CEU's were not taken prior to the renewal date. Therefore the committee voted to deny this waiver.

Doug Holcomb shared that he fell behind in a lot of things during this time as well as failing to get his application submitted in time. There were confusion on Iowa's requirements because currently Nebraska requires 4 CEU hours and Iowa requires 8 CEU hours. They did receive 4 CEU hours and were short CEU hours for Iowa. And they were under the assumption that the courses they had taken would be submitted automatically to the state.

The board asked the following questions:

Does this special individual's circumstance of the petitioner justify treating him differently than anyone else?

It does not. Ample opportunity is provided to take the test. Because his circumstances weren't unique there wasn't any reasonable reason licensee should have missed the deadline. The burden of retesting is therefore not undue, and waiver from the rule would be unfair to similarly situated individuals.

A motion was made by Ron Masters seconded by Brita Van Horne to deny the waiver. Motion carried unanimously.

2012-56, Randy Theisen (Holcomb), 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee stated that the committee voted to deny this waiver.

Mr. Theisen stated that he did receive all of his CEU's however failed to submit the last class for credit. The board asked the following questions:

Does this special individual's circumstance of the petitioner justify treating him differently than anyone else?

It does not. For this reason, the hardship of having to retest is not undue. And for this reason, treating petitioner differently would prejudice other similarly situated individuals.

A motion was made by Brita Van Horne seconded by Susan Salsman to deny this to waiver. Motion carried unanimously.

2012-57, Tim Masi (Holcomb), 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee stated that the committee decided to deny this waiver.

Tim Masi stated that he had trusted his employer to renew his license.

The board asked the following questions:

Does this special individual's circumstance of the petitioner justify treating him differently than anyone else?

It does not. The hardship of having to retest is not undue. And for this reason, treating petitioner differently would prejudice other similarly situated individuals.

A motion was made by Ron Masters seconded by Sue Salsman to deny this waiver. Motion carried.

2012-58, William Rath (Holcomb), 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee stated Mr. Rath was not in attendance to speak and the committee found the same set of circumstances and recommended not granting this waiver.

The board asked the following questions:

Does this special individual's circumstance of the petitioner justify treating him differently than anyone else?

It does not. For this reason, the hardship of having to retest is not undue. And for this reason, treating petitioner differently would prejudice other similarly situated individuals.

A motion was made by Brita Van Horne seconded by Mick Gage to deny this waiver. Motion carried unanimously.

2012-61, David R. Lansing, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee stated in review of the waiver the licensee had stated that he had been unable to renew his license because of computer problems. However, the committee failed to see where he had tried to get on line to do so. The committee's recommendation was to deny the waiver.

Licensee stated that he had called on April 29 and May 9 requesting a paper application, which is not reflected in our phone log. He wasn't able to obtain a paper application through his union on August 25. Licensee feels that the Year-Month-Day (military) format on the license is confusing. He would like it changed to Month-Day-Year format.

The board asked the following questions:

Does this special individual's circumstance of the petitioner justify treating him differently than anyone else?

No. Because his circumstances weren't unique there wasn't any reasonable reason licensee should have missed the deadline. Therefore, requiring petitioner to retest is not an undue hardship. Also, the circumstances do not justify treating this petitioner differently than other licensees who have to retest.

A motion was made by Susan Salsman seconded by Brita Van Horne to deny the waiver. Motion carried.

Licensee shared that he plans to appeal. September Lau shared contact information with Mr. Lansing.

2012-62, Ronald W. Welch, Jr. and William C. Kramer, Jr., 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee stated that both of these were for waiver of apprenticeship. This is a state law and as a committee they are not in a position to waiver state law. And therefore need to deny both waivers.

Ronald Welch, Jr. spoke and asked for the committee to reconsider making revisions to our wording. However, the board has no authority to do what he's requesting.

William C. Kramer, Jr. spoke and expressed concern that after going to school at Northeast Iowa Community College (NICC) he has had little or no opportunity to get into an apprenticeship program.

Ken Sharp advised applicants to look at Specialty Licenses, which the applicants indicate they already have. The law directs this Board to establish minimum standards that are ultimately established by the 150 elected state legislators. The requirements for the apprentices come directly from the legislature and this board has no authority to modify any of this language. We have had previous conversations with community colleges on who are working to set up an apprentice program with local business.

Mr. Kramer stated that the community colleges are receiving resistance from the businesses who are reluctant to take on additional liability in case an injury occurs.

Ken Sharp advised them that they should contact their legislators to discuss the need for changing the apprenticeship program.

Charles Thomas advised them to get in touch with employees in their area. Ken Sharp suggested that they get in contact with the Greer Sisson at the Department of Labor. We have learned working with Greer that a lot of employers have misunderstanding about the apprentice system. Cindy Houlson will forward the contact information for Greer to each licensee.

September Lau asked to eliminate confusion we assign 2012-62A to Ronald W. Welch, Jr. and 2012-62B to William C. Kramer, Jr.

The board asked the following question of Ronald W. Welch, Jr.(2012-62A):

Is it allowable by law?

No. The petition needs to be denied because the rule in question is mandated by law.

A motion was made by Susan Salsman seconded by Brita Van Horne to deny Ronald W. Welch, Jr. (2012-62A) Motion carried unanimously.

The board asked the following question of William C. Kramer, Jr.(2012-62B):

Is it allowable by law?

No. The petition needs to be denied because the rule in question is mandated by law.

A motion was made by Brita Van Horne seconded by Ken Sharp, to deny a waiver to William C. Kramer, Jr.(2012-62B). Motion carried unanimously.

2012-65, Gary Shea, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that the committee was not able to establish that the licensee had attempted to apply a renewal application. And therefore the committee recommends denying the waiver.

Larry McLellan, an attorney spoke on behalf of Gary Shea and presented additional information to the board. Mr. McLellan shared that Mr. Shea has provided a service to Primhgar for 36 year. If he is not granted this waiver the citizens of that community will not have a plumber or a heating and cooling contractor in that area. Extenuating circumstances on why a waiver is being requested is 1) he didn't receive the Notice of Renewal and 2) health conditions (irregular heartbeat, atrial fibrillation, high blood pressure, and hypertension). The doctor has indicated that the stress of having to re-test would be too much for Gary Shea to withstand at this time. The CEU's were completed but the renewal notification was not received.

Janet Shea stated that they have been having issues of not receiving their mail when the postal service changed in early 2011, as stated in the previous postmaster's note.

Ken Sharp shared that because of health conditions and we have compelling issues with the post office that he feels this is a waiver that deserves more consideration. Mr. Shea did complete the CEU hours ahead of the due date.

The board asked the following questions:

Does this special individual's circumstance of the petitioner justify treating him differently than anyone else?

Yes. The Board rejected the idea that Petitioner's failure to receive his renewal notification had any bearing on hardship. The Board identified Petitioner's health condition to create an undue hardship should Petitioner be required to retest. Because of Petitioner's unique circumstances, granting the waiver does not prejudice or harm the rights of others—his circumstances justify treating him differently.

Equal protection of public health?

So long as Petitioner has completed all his CEUs public safety is equally protected.

A motion was made by Charles Thomas seconded by Blas Hernandez to grant the waiver. A roll call vote was taken. Those in favor were Ken Sharp, Blas Hernandez, Mike Gage, Charles Thomas, Jim Cooper, and Ron Masters. Motion carried. Those voting no were Susan Salsman and Brita Van Horne. Motion carried.

A Board took a break at 2:30 P.M.

Solar Thermal

Ken addressed the Board concerning the Solar Thermal committee meeting he attended earlier today. It was shared that the Board has the authority to adopt a special restricted Solar Thermal license. Senator Yochum clarified that it was her desire to create a separate stand alone license that carves out, if you will, the Solar Thermal industry. The requirement for obtaining the solar thermal license would be the completion of North American Board of Energy Practitioners for certification or completion of an Iowa Community College 40 hour solar thermal course work and two training installations. Ken shared with Senator Yochum the Board's concern with the four year apprenticeship program for the four main trades and the solar thermal license would be more in line with the special restricted licenses. Senator Yochum is working on language that adds the solar thermal license as a fifth discipline and removes the language regarding the special restricted licenses. Ken feels based on comments from the industry if this does make it out of the Senate it will not make it out of the House this year.

2012-49, Jody Bestell, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that the committee did not find any extenuating circumstances to justify why the renewal application wasn't made. The committee's recommendation was to deny the petition.

The board asked the following:

Why would applying the rule result in an undue hardship on petitioner?

The licensee has not demonstrated unique circumstances that would result in undue hardship as there were ample opportunities to complete the requirements.

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

The petitioner has not demonstrated that waiving this rule would not harm the rights of any other person, as all licensees are subject to the same rules.

Whether or not this has been set by statute?

Not mandated by law.

How will the public health, safety and welfare be protected if the waiver request is granted?

Requiring a licensee to demonstrate competence in their respective discipline is the means by which the Board can assure protection of public health, safety and welfare.

A motion was made by Chuck Thomas seconded by Ron Masters to deny the petition for waiver. Motion carried unanimously.

A. 2012-51, Tony Colby, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that the committee did not find any extenuating circumstances to justify why the renewal application was not made. The committee's recommendation was to deny the petition.

Why would applying the rule result in an undue hardship on petitioner?

The licensee has not demonstrated unique circumstances' that would result in undue hardship as there were ample opportunities to complete the requirements.

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

The petitioner has not demonstrated that waiving this rule would not harm the rights of any other person, as all licensees are subject to the same rules.

Whether or not this has been set by statute?

Not mandated by law.

How will the public health, safety and welfare be protected if the waiver request is granted?

Requiring a licensee to demonstrate competence in their respective discipline is the means by which the Board can assure protection of public health, safety and welfare.

A motion was made by Brita Van Horne seconded by Susan Salsman to deny the petition for waiver. Motion carried unanimously.

2012-52, Gary Moberg, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that the applicant stated that he misunderstood the one year addition to the license and took that to mean his licenses expired in 2012 not as stated on his current licenses. The committee's recommendation was to deny the petition.

The board asked the following:

Why would applying the rule result in an undue hardship on petitioner?

The licensee has not demonstrated unique circumstances' that would result in undue hardship as there were ample opportunities to complete the requirements.

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

The petitioner has not demonstrated that waiving this rule would not harm the rights of any other person, as all licensees are subject to the same rules.

Whether or not this has been set by statute?

Not mandated by law.

How will the public health, safety and welfare be protected if the waiver request is granted?

Requiring a licensee to demonstrate competence in their respective discipline is the means by which the Board can assure protection of public health, safety and welfare.

A motion was made by Brita Van Horne seconded by Ron Masters to deny the petition for waiver. Motion carried unanimously.

2012-53, Jed Freiburg, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that the applicant stated that he misunderstood the one year addition to the license and took that to mean his licenses expired in 2012 not as stated on his current licenses. The committee's recommendation was to deny the petition.

The board asked the following:

Why would applying the rule result in an undue hardship on petitioner?

The licensee has not demonstrated unique circumstances' that would result in undue hardship as there were ample opportunities to complete the requirements.

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

The petitioner has not demonstrated that waiving this rule would not harm the rights of any other person, as all licensees are subject to the same rules.

Whether or not this has been set by statute?

Not mandated by law.

How will the public health, safety and welfare be protected if the waiver request is granted?

Requiring a licensee to demonstrate competence in their respective discipline is the means by which the Board can assure protection of public health, safety and welfare.

A motion was made by Ron Masters seconded by Charles Thomas to deny the petition for waiver. Motion carried unanimously.

2012-59, Steve Ludwig, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that the committee had agreed to approve this waiver based on medical issues occurring throughout and after the licensing period.

The board asked the following:

Why would applying the rule result in an undue hardship on petitioner?

This petition of waiver has demonstrated unique circumstances that would result in undue hardship.

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

This petitioner has demonstrated that waiving this rule would not harm the rights of any other person because his circumstances are sufficiently unique to justify treating him differently.

Whether or not this has been set by statute?

Not mandated by law.

How will the public health, safety and welfare be protected if the waiver request is granted?

The public health, safety and welfare have been protected in that the petitioner has 23 years of experience and has completed all of the CEU requirements.

A motion was made by Brita Van Horne seconded by Jim Cooper to approve the petition for waiver. Motion carried unanimously.

2012-60, Steve W. Cassady, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that the committee hadn't come to agreement on this due to additional information being needed. Cindy Houlson shared that this information was received. After discussion the Board decided that since he was incapacitated from 12/21/2011 through 2/1/2012 the waiver will be allowed.

The board asked the following:

Why would applying the rule result in an undue hardship on petitioner?

This petition of waiver has demonstrated unique circumstances that would result in undue hardship.

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

This petitioner has demonstrated that waiving this rule would harm the rights of any other person.

Petitioner's circumstances are sufficiently unique to justify treating him differently.

Whether or not this has been set by statute?

Not mandated by law.

How will the public health, safety and welfare be protected if the waiver request is granted?

The public health, safety and welfare have been protected in that the petitioner has 23 years of experience and has completed all of the CEU requirements.

A motion was made by Ron Masters seconded by Ken Sharp to approve the petition for waiver. Motion carried.

2012-63, Gene Newsome, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that the committee did not find any extenuating circumstances to justify why a renewal application was not made. The committee's recommendation was to deny the petition.

The board asked the following:

Why would applying the rule result in an undue hardship on petitioner?

The licensee has not demonstrated unique circumstances that would result in undue hardship as there were ample opportunities to complete the requirements.

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

The petitioner has not demonstrated that waiving this rule would not harm the rights of any other person, as all licensees are subject to the same rules and there are no unique circumstances justifying variance.

A motion was made by Charles Thomas seconded by Jim Cooper to deny the petition for waiver. Motion carried unanimously.

2012-64, Brian Kramer, 641.28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that the committee did not find any extenuating circumstances to justify why the renewal application wasn't made. The committee's recommendation was to deny the petition.

The board asked the following:

Why would applying the rule result in an undue hardship on petitioner?

The licensee has not demonstrated unique circumstances' that would result in undue hardship as there were ample opportunities to complete the requirements.

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

The petitioner has not demonstrated that waiving this rule would not harm the rights of any other person, as all licensees are subject to the same rules and there are no unique circumstances justifying waiver.

A motion was made by Jim Cooper seconded by Charles Thomas to deny the petition for waiver. Motion carried unanimously.

2011-41, Jeffrey Lindell tabled January 10, 2012, 261-28.1(5)c

Sue Salsman chairperson for Administrative Rules Committee shared that this Waiver of Administrative Rules was tabled during the January meeting. Cindy Houlson shared that on Saturday, March 19, 2011 he sent a question to the department through "Contact Us" telling us that he was unsuccessful in renewing his license through our system. On Monday, March 21, 2011 Cindy Houlson asked licensee to contact the department for further assistance. No response was received. The committee's recommendation is to deny this petition.

Licensee missed his first renewal date of 3/6/11 and did not complete the required CEU's for the second renewal date of 6/30/11.

Ken Sharp left the meeting at 3:15 PM.

The board asked the following:

Why would applying the rule result in an undue hardship on petitioner?

The licensee has not demonstrated unique circumstances' that would result in undue hardship as there were ample opportunities to complete the requirements.

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

The petitioner has not demonstrated that waiving this rule would not harm the rights of any other person, as all licensees are subject to the same rules and there are not unique circumstances justifying waiver.

A motion was made by Ron Masters seconded by Jim Cooper to deny the petition for waiver. Motion carried.

2012-50, Dallas Center-Grimes Community School District, 641.25

Sue Salsman chairperson for Administrative Rules Committee shared that additional information was requested and received. The petitioner is requesting to install a reducing valve after the water heater rather than install multiple valves. After discussion the Board decided to grant the waiver.

The board asked the following:

Why would applying the rule result in an undue hardship on petitioner?

It would be difficult to put a control valve at each and every lavatory. This petition of waiver has demonstrated unique circumstances that would result in an unreasonable amount of valves needing to be installed.

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

This petitioner has demonstrated that waiving this rule would not harm the rights of any other person.

Whether or not this has been set by statute?

Not mandated by statute.

How will the public health, safety and welfare be protected if the waiver request is granted?

No harm would be done to the public health, safety and welfare. Equal protection afforded by installation of a master valve.

A motion was made by Brita Van Horne seconded by Ron Masters to approve this waiver. Motion approved unanimously.

Closed Session Discipline Review and Closed Session Deliberation

At 3:45 P.M. a motion was made by Brita Van Horne seconded by Ron Masters 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 discusses whether to initiate disciplinary proceeding. A roll call vote was taken. Blas Hernandez, Mick Gage, Charles Thomas, Jim Cooper, Ron Master, Susan Salsman, Brita Van Horne, and Jane Hagedorn present.

At 4:05 P.M. a motion was made by Chuck Thomas seconded by Brita Van Horne to go out of closed session. Motion carried unanimously.

Open Session

At 4:06 P.M. a motion was made by Ron Masters seconded by Susan Salsman to return to open session. Motion carried unanimously.

A motion was made by Chuck Thomas seconded by Brita Van Horn to accept the settlement of charges as drafted in case number PM20110062. Motion carried unanimously.

A motion was made by Chuck Thomas seconded by Blas Hernandez to accept as drafted the settlement agreement and final order for PM20090009. Motion carried unanimously.

A motion was made by Sue Salsman seconded by Chuck Thomas to close PM20100013. Motion carried unanimously.

Adjournment

At 4:08 P.M. a motion was made by Brita Van Horne and seconded by Chuck Thomas to adjourn the meeting. Motion carried unanimously.

The next meeting is scheduled for March 20, 2012 at the State Hygienic Laboratory, DMACC, 2220 S. Ankeny Blvd., Ankeny, IA, Lab Facility Rooms 207 & 208.