

**Plumbing and Mechanical Systems Board Meeting  
Tuesday, January 25, 2011**

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

**Board Members Present:** Thomas Day, Mick Gage, Jane Hagedorn, Ron Masters, Dennis Molden, Susan Salsman, Ken Sharp, Chuck Thomas and Brita Van Horne

**Absent:** Stuart Crine

**Staff Attending:** Cindy Houlson, Matt Oetker, September Lau, Dan Hostetler John Kelly and Mary Swinehart

Chair Jane Hagedorn called the meeting to order.

**Minutes dated December 21, 2011** were reviewed and will be approved with corrected change.

Ken Sharp made a motion to approve amended minutes

Tom Day seconded

No further discussion was held

Vote: All ayes

Motion: Carried

**Introduction John Kelly, Environmental Engineer**

Ken introduced John, Mike Magnant's replacement to the Board. John then reviewed his experience before he joined us.

**Variance/waiver to the Plumbing Code:**

The process, which was in place, for variance/waivers to the Plumbing Code was reviewed with the Board Members. The Chairs Committee would like to recommend that the Plumbing Code Committee review and present their recommendations to the Board for approval/disapprove.

John will join this committee as a staff member. Fewer variance/waivers are anticipated since the Plumbing Code has been updated, as the majority of the variances were for fixture requirements that have been covered in the Plumbing Code Amendments.

The Board agreed variances/waivers will be presented to the Plumbing Code Committee for review and recommendation to the Board.

**License Exemption Request - Lee Smith**

Mr. Smith distributed copies of his military orders and papers to Board Members.

"This is the situation in January 09, I found out I was being deployed to Iran. I know that we were supposed to get our state licenses by December 31<sup>st</sup> of 09. Come January I was worried about getting everything switched over to somebody to run my shop. In April we got our orders and from then on I was either state side being mobilized or in Irac for a year. Got back January 1<sup>st</sup> or 2<sup>nd</sup> of this last year. Actually got orders the end of July. Since then I have been trying to get my life back in order and shop back in order and it just dawned on me a week or so ago that I never did get my license. So, what I'm askin due to the military, I don't know if you can do this here or not, due to the military and absence of mind if I could get grandfathered in without having to retest, so I don't have to take up time to get the license back. I do have licensed people in my shop at this time."

*Ken asked: What is the current level of licensees in your shop right now? Master or journey level.*

Mr. Smith: Master, he is actually the only full timer I have right now besides myself.

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Jane asked Matt to address Mr. Smith.

Matt: This board has the authority to create rules. During the rule creation process it also has the authority to grant waivers or variances from those rules. Unfortunately, you are asking for a waiver or variance from Iowa Code Chapter 105, which is the legislative statute that requires examination prior to licensure. This board derives all of its power through that statute. This board has no authority whatsoever to grant a waiver or modification to the statutory requirements. Your situation is unique as there may be some sort of federal statute that may impact your situation. I am not familiar when it comes to applying to state licensure examination situation. I have not done the research on it. Bottom line is absent a legislative change that would allow such a situation, I do not believe this board has the authority to grant the request you are asking. What I would like to do is take some time to examine the federal authority to see if there is any interaction available that we could provide some sort of exception.

I think there are options available to you to acquire the license through testing that I know that is not perhaps what you are looking for. I think your prior working experience; your prior licensure may give you grounds to sit for an examination. Licensing is still an option out there, it is a matter of whether or not you can be grandfathered in or excluded from the examination prior to getting a license. I will have to see what the federal statute states on this.

Matt will provide guidance to the Board for the Board to make a final decision on the waiver request.

## **Waiver of Administrative Rule - Stanley Sasstamoinen**

The new waiver is in board member packets. Cindy Houlson and Mary Swinehart met with Mr. Sasstamoinen and led him through the questions, providing the information that was requested at the last board meeting. Mr. Sasstamoinen was invited to this meeting, but was not present.

Matt quoted 31.4 "the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;  
If Petitioner's waiver request is not granted, he would be unable to obtain a master level license even if he successfully passes the master level examination. The Board finds Petitioner has demonstrated sufficient undue hardship.
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;  
Because the circumstances which support granting this waiver request are individualized in nature, the board's decision to grant the waiver in this case will not prejudice the substantial legal rights of any other person.
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and  
Pursuant to this discretion, the Board promulgated rules and standards for licensure. The rule from which Petitioner seeks a waiver is not specifically mandated by statute or any other provision of law and may be waived by the Board.
4. Substantially equal protection of public health, safety and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.  
Petitioner has demonstrated the required prerequisites under 2010 Iowa Acts, Chapter 1193, section 100 to sit for a master level examination in the refrigeration and HVAC disciplines. Allowing Petitioner the opportunity to sit for a master level examination in these disciplines will

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provide a means by which Petitioner can demonstrate the necessary knowledge in the subject matters to ensure the protection of the public health, safety and welfare. This waiver simply extends the period in which Petitioner will be allowed to demonstrate such knowledge.

*Matt commented that regardless how the board rules on this today, a written ruling must be issued. That written ruling will be composed by September and myself and signed by the board chair after the decision has been made. The board's decision on this is not final until the petition is issued. When September and I compose documents we need justifications for granting the waiver.*

Mr. Sasstamoinen presented relevant facts that he believes would justify a waiver under each of the four criteria described above.

Ken believes the criteria has been met, however he does not feel the waiver contains specific timelines, and overall the documentation provided by Mr. Sasstamoinen was inadequate for the board to make a decision and defend that decision in the future when other similar waiver requests are made.

Ken will meet with staff to create a better process for IDPH to provide guidance to waiver applicants in an attempt to get better detailed information resulting in better waiver decisions for the board in the future.

**Committee Reports and Recommendations for Actions:**

Jane requested reports from committees that have met during the last month.

CEU Committee Jane Hagedorn, committee chair

Jane reported this committee continues to meet twice a month to review both courses and instructors.

To date:

|  |                          |
|--|--------------------------|
| 1126 total applications received                   | 356 instructors approved |
| 626 courses approved                               | 20 E courses approved    |
| 73 applications in an incomplete status            |                          |
| 108 no further information received within 30 days |                          |

This committee would like to present to the board updates for Chapter 30. Jane reviewed the updates for the board.

Ken suggested some parameters around when board members can audit a course. He felt it was too loose without the committee or board making a decision about when or what courses would be audited.

Tom responded that the committee has been doing this. At times red flags are raised and it is suggested that someone should attend to verify the information we have received.

The phrase "with board approval" will be added to the start of the first sentence in New Section 30.3(4) *Board Member Attendance*.

**Motion:** Ken Sharp made a motion to file Chapter 30 updates, with change, as notice of intended action.

**Seconded:** Denny Molden

**Discussion:** No further discussion was held.

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**Vote:** All ayes

**Motion:** Carried

Medical Gas Committee: Chuck reported this Committee met on January 20<sup>th</sup>. MGM, one of our med gas providers is now Airgas. A letter will be sent to Airgas requesting a completed application, to assure the same services are provided.

Discipline Committee Jane Hagedorn, committee chair

Jane reported that this committee continues to meet with open and closed sessions.

**Disciplinary Process Review – September Lau**

September put together a flow sheet that shows the process to follow for discipline. There are three phases of discipline – investigative stage; charging stage and the hearing/settlement stage.

*Tom asked if it is possible that Dan could be out interviewing someone, can he go on a construction site and request to see a license?*

Dan takes direction from the board on what cases/complaints warrant investigation.

**Other Business**

Legislation Update: Ken reported information on two bills introduced so far this session. House file 42 is a bill that repeals this board and requires this board to issue refunds to all licensees, prorated from June 30, 2011 date. There are several representatives that have signed on to this bill, they are from rural Iowa. Ken has communicated with some of the industry members who are monitoring this bill; the general census is that this bill will not go very far, it may not come out of committee. It may be used as a bartering initiative to get some other things accomplished around licensing. I have not had any direct conversation with the representatives. Most of the issues around licensing stem from the desire to exempt farms from electrical inspections

Lynn Patterson has resigned her position as Legislative Liaison for IDPH. Beth Jones has been appointed interim liaison. She is also a full time employee with other responsibilities.

*Mick asked if we need to earmark money?*

The budget for this board accounts for all of the revenue raised to date. For those funds that have not been identified for a specific expense, they have been placed in the “other” line item until a specific need is identified.

*Jane asked would it help to set up another category that had specific projects or places.*

The state accounting system does not have the flexibility to line item out a new project. It is within general categories such as contractual. There is a list of about twenty line items that we have to fit our budget into. That is what we are tied to in terms of the budget process.

Each time a bill like this comes out we complete a legislative assessment, an internal document we use to educate our legislative liaison about where we stand on a bill. We also conduct a fiscal note that looks at what are the costs of implementing the legislation. I put together some very rough guesstimates in terms of the cost of closing this board down and issuing those refunds. Given that we do not know what the full revenue would be after July of this year it is nearly impossible to predict what that cost would be.

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The other bill that was introduced the first week was Senate File 27. This is requesting a new specific license for solar thermal professionals. I don't know where this stands and what traction it is likely to have. The legislative assessment that I prepared was in opposition. Based upon my preliminary reviews I don't see these as being much different than any other specialty licenses. I have no indication at this point when it will come out of committee. We have not heard of any meetings or discussions on this bill yet. That is being monitored very closely.

*Tom asked if Lynn Patterson's position is a full time lobbyist's position.*

Lynn was a full time legislative liaison. House File 45 is another bill that restricts state agencies from using public money to support a legislative liaison. We don't have a good understanding yet what impacts this would have if it is passed. With Lynn's departure, we are making due as best we can, relying heavily on our partners and their lobbyists to monitor these bills closely.

*Denny asked if the inspection report has gone anyplace.*

We have not received any response from anybody. I've not seen any indication of a bill coming out.

### Conference Planning Status – Ken Sharp

Tentative dates for the conferences are in Spencer (Iowa Lakes Community College) for May 7<sup>th</sup> and in Ottumwa at Indian Hills Community College on May 14<sup>th</sup>. We have had a number of industry partners offering their trainers. We are entering into some agreements with them to cover their costs. We are looking at a registration fee of \$125 for the day. We are looking at a budget that will not use any licensee fees to cover the cost of the conferences. It is just a matter of getting dates and speakers finalized, getting the conferences promoted.

We have indications that the Community Colleges and some of the industry partners they may be interested in continuing on with this model in the future,; clearly allowing us, as we have said all along, to step out of this after the first two to four conferences. Based upon what we are seeing at this point following those two conferences there will not be a need for us to be involved any longer. Each conference is set up to accommodate approximately 150 attendees, with the ability to expand if there is a great enough interest.

*Jane commented that this is a one day conference.*

Yes, it is a one day Saturday conference. Six hours will be available for CEUs. The mind set was that if you have a single license and need eight hours, you can get six hours hands on, in person and can get two hours online if needed.

*Brita asked what is the break even point as far as attendance.*

We have not looked that closely at it. Based 150 attendees, we looked at a \$100 registration and set a \$15,000 budget. That is what we presented to the conference planner, recognizing that we will probably sell these conferences out, or come very close to it. We have bumped up the registration fee to account for any shortage we may have.

### GIS Mapping – Ken Sharp

We have plans to update the GIS mapping that indicates where course offerings are. We would like to complete within the next month or two, depending on the availability of the GIS coordinator. That information will be shared with the CEU Committee as well as board members. There has been some interest from the industry to have those maps available to help them target areas that may be low. When future capabilities become available we should be able to have those posted on our website.

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## New Hires – Ken Sharp

We received approval to hire an additional clerk specialist to work with the CEU process. Ramona Cooper was hired and started on January 14<sup>th</sup>. We had a second clerk specialist request submitted, that position was denied. I suspect we will see some very tight restrictions going forward with the new administration. We are doing the best we can to manage the workload with the available staff.

## IABO/IAPMO Meetings - Ken Sharp

Cindy and I are committed to attending meetings of Iowa Association of Building Officials (IABO) and Iowa Association of Plumbing & Mechanical Officials (IAPMO) to talk about current issues and build a working relationship. While attending an IABO meeting we shared the Statewide Inspection Report with them. There were very few questions or concerns at that particular meeting.

## Software Status Susan Van Horn

Cindy reported for Susan. Thanks to Iowa interactive and ITE (internal support staff) the renewal software is at the point of security scanning yesterday. As long as it passes through that scan the renewal application should be available on line at the end of this week. If it did not pass the scan there are other fixes to be made and may delay it a couple of days.

*Jane commented that licensees could potentially renew online perhaps as soon as Friday.*

## Audit of CEUs – Ken Sharp

There were some questions raised last month in terms of where we are at in the process of auditing CEUs. We have met with the Professional Licensing Bureau; they have boards with licensees ranging from a few hundred to twenty some thousand licensees. They are all saying a 5% review of CEUs is very much the standard. Their boards for the most part do not have nearly as many control measures in place in terms of approving CEU offerings. Basically, their rules state, here are the types of CEUs required, and when that licensee comes in to renew on line there is a checkbox – did you complete your CEUs? yes or no. I have asked staff to compile a plan to deal with the audits. We have control measures in place for approving CEUs that are much higher than most of our other licensing boards.

*Mick: are we considering at all a plastic card for the pocket license?*

For this renewal cycle probably not. In time, yes we will certainly get there. We have other bigger issues to deal with that is more pressing.

*Jane: how are you going to choose the 5% for auditing?*

Those are some of the things we need to determine internally. Part of what we would like to look at is from the licensing software side of things, what is the easiest way to select that 1 in 20.

*Jane: It will be one of the staff members to spend time, sending letters and reviewing what comes back? Do you have the staff to do that?*

Those are some of the things we will be looking at. That is all part of that process that is of concern in terms of what the workload is going to be. Until we start getting a few of those from the licensees, I don't know how much time it is going to take. The key thing for us, because of the control measures that we have on the software renewal program, that information submitted matches up with information in the software. I think it will be a fairly expeditious review, but until we see what licensees are going to submit it is undetermined. One of the biggest concerns is if we send a letter out requesting CEU documentation and we get a partial response back.

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## Boards role in handling variances

Matt reported with the board gaining authority over the Iowa Plumbing Code, when individuals request variances from that code, that variance has to come before this board. It may be beneficial to have a committee assigned to initially screen those plumbing code variances to make sure the variance contains sufficient facts and information. Then the committee will present to the board with a recommendation. Does the board want to look through those things initially or would you prefer to have a committee, more versed with the plumbing code, should have an initial look at those to ascertain if sufficient information has been provided and make a recommendation.

*Ken: Is it appropriate? I anticipate there will not be very many. Prior to updating the code the big variances was the fixture counts. Is it appropriate to create a committee adhoc as we need them?*

Jane: My thought is we have the code committee that was to establish to review and suggest a state code. The experts should be on that committee and that would be a logical responsibility for that committee.

*Ken: That sounds very logical to me. If we get a variance in the office, we place that on the board agenda and immediately gets assigned from the board to that committee and then report back the next month. We have 120 days to respond to a variance.*

Matt commented that Tom brought up that there may be variances that need to be expedited. Would the committee expedite a variance? There is always the possibility of an emergency board meeting to address a variance.

## **Public Comments**

Chuck Thomas read messages from Albert Songer and Fred's Plumbing Inc.

*Jerry Hintz: The conversation about the practitioner I'm under the impression that when you make application to take an exam that it is good for a year. Could not understand why you were questioning that individual when he made application to the state and he was granted approval to take the exam. He had a year from October 4<sup>th</sup> to take the test.*

Ken: Under normal circumstances, if he were to qualify to take a master level exam under our current rules as they stand, he would not qualify to sit for the exam because he had never previously held a master license. The temporary allowance for 9/30/2010 was created to address that. There are a number that missed the grandfathering period and if a rural licensee, in an area that had never held a license before, they were given an opportunity to apply for the exam by Sept. 30<sup>th</sup>. The board made the decision, almost a year ago, that because those individuals missed the grandfathering provision that we should not give them a full year beyond that Sept. 30<sup>th</sup> to take that exam. That restricted date, November 15<sup>th</sup> was placed there, to grant you the opportunity but will have to restrict the time you have to pass the exam by November 15<sup>th</sup>. That is only for those individuals that were coming in for a master exam, who did not previously hold a master license.

*State contractor license. I know it is limbo right now. Are you still in the process of making rules and regulations for the application for the contractor license?*

The rules are finalized, that is part of Chapter 29, specifically 29.2(4). All the chapters are online.

*I thought we possibly might have a chance to correct some of the properties that are already passed. We all know there are those with licensees that got licenses fraudantly. Those individuals are still out there, now they will need to come up with bonding and insurance. The process keeps going, I thought*

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possibly we could get something set up some type of requirements that gets checked or audited to see if they are doing what they are suppose to be doing.

Tom commented even before the contractor license existed, you still had a contractor registration through Iowa Workforce Development. The bonding for contractor licensing is not a real high requirement, but you do have to get bonding. Most bonding companies will not issue a bond to individuals without a history in construction, unless you personally guarantee the bond, which means you would have to put up your personal assets in case you default on that bond. Liability insurance is also required. Liability insurance will have to be reviewed each year to make sure it meets statute. If it does not that contractor license is null and void. There are some checks and balances.

*Mike Macula: New construction on state or federally owned or leased property, does that fall under state licensing?*

We need to take a look at that exemption for state employees. Anyone in the trade minus those exemptions requires a license. I don't know if there are additional federal rules out there

Matt: I believe state property is covered in our rules. I am not sure of the federal property.

*As far as the University of Iowa, if there is an out of state contractor working there do they need to be Iowa licensed?*

Unless, they are state employees working in the scope of their job, anyone else in the trade, minus the exemptions are required to be licensed. Ken asked Brita and Denny to check on licensing requirements for federal jobs in their areas.

*Mike: is this board going to give new two year license and then do CEU audit? Or are you going to know ahead of time who you are going to audit.*

Auditing before a license is issued is not consistent with the procedures used by other licensing boards. Licenses are issued then an audit is done. Regardless of whether we issue a new license before audit or audit then issue license, it must go through the same process. The timeframe, disciplinary action, all the notifications are still the same.

*Mike: I have completed my CEUs, I could give my sheets to a thousand other people and they could put that number in and they are issued a two year license. Then Dan would have to investigate it and bring it forward.*

Brita: The instructor is required to send us a roster following presentation of the course. If you share your CEUs and didn't take the course, you would not show up on the roster.

Ken: A licensee has a certain protections of confidentiality which has to be dealt with in closed session. An unlicensed individual of which a complaint has been filed does not have those same protections and those are handled in open session.

*Kevin: In open session is the action public?*

Results of an unlicensed individual will be public with the publication of the minutes.

*Kevin: Will those be issued to the general public via newspapers, etc.?*

Matt: it depends on what the board decides. It is a public record.

Lunch Break about half an hour at 11:39 a.m.

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**Closed Session Discipline Review**

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

Brita Van Horne seconded motion

Roll call vote all ayes: Susan Salesman, Thomas Day, Mick Gage, Jane Hagedorn,  
Dennis Molden, Ken Sharp, Chuck Thomas and Brita Van Horne

Motion: Carried at 1244 p.m.

Returned to Open Meeting at 1:32 p.m.

Jane: I believe we are to discuss the case of Ted Salz Sr. and any action that we feel is right. Do we have consensus of the board that we would like to take some action?

Yes.

The one most close on the table now is that we would like to impose a civil penalty equal to the cost of what the license should be.

Cindy: There is a copy of an application that we could not accept because it came in after the deadline.

Brita: Based on the information that was submitted I believe there is evidence that he was working in all four trades.

Jane: He says that it was discovered that Ted Salz Sr. runs and operates a plumber or Ted the Plumber LLC business that provides both plumbing and mechanical services.

September: This is the document that will be sent out. It will be copied to the individual. Never done before.

Mick: Aren't we putting a cease and desist letter?

September: that is included in this document.

Mick: I was getting the impression that we weren't doing anything except penalty.

Cindy: He could sit for a journey exam; demonstrate two years experience and a journey license to take a Master exam.

September: I have this ready today if you would like to finish it we could get it filed today.

Jane: Is there a consensus of the board that we notify Mr. Salz.

No opposition

Sue: If nothing else, at least it will be on record if there are more occurrences.

Cindy: I just find out who the county attorney is where he resides?

Jane: Do we need to stipulate the \$1000 represents the licensing fee of each of the four licenses.

September: I don't believe that is necessary as it will be noted in the minutes.

Sue: I know that at times it is important that things be exactly right somewhere I saw LLC do we need to update that appropriately?

Mick: Are we filing against his business or Ted Salz Sr. himself?

September: We are filing against his person.

Ron Masters made a motion due to the board's findings of evidence demonstrates Mr. Salz Sr. was performing work covered under chapter 105 without a license that a civil penalty be imposed in the amount of \$1,000 plus cease and desist language.

Second: Mick Gage

No further discussion was held

Vote: All ayes

Motion: Carried

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Jane: Before we leave this case does the board have any wishes about beginning an investigation into the licensed master that lent his license.

Ron Masters made a motion to investigate the gentleman that lent his license to Mr. Salz.

Second: Mick Gage

No further discussion was held

Vote: All ayes

Motion: Carried

Jane: Dan you are so instructed.

Case number PM2010023 and PM2010032

The Plumbing and Mechanical Systems Board received two complaints alleging that Ted Salz Jr. had performed plumbing and mechanical work without a state license. The complaint was assigned a case number and later presented to the Discipline Committee with a request that they prioritize this. We approved and the investigation was initiated. I believe you know the details.

Denny: Did he make an application for any license?

Cindy: Ted Salz Jr. and Ted Salz Sr. filed their application together. They were both lost in the mail. His application identified Journey. Supposedly they were sent together and lost together. When I was first called I gave them the opportunity to send me a copy. At first when individuals were late we were giving them the opportunity to send it in and I would take to Ken. It was a formal way. When they sent them back in. It was in April when they contacted me asking where my license is, I told them we had no record of it. At that point they were to send me copies of the originals that they had filled out. That is when Ted Salz Jr.'s came in with the 4/10 date and Ted Salz Sr. had the earlier date 12/24.

Denny Molden made a motion to send a civil penalty for \$400. \$100 for each license he applied for.

-Cease and desist. And an amendment to the County Attorney.

Second: Mick Gage

Discussion: Jane: So it is essentially the same as the case before this. Dollar amount is different because of the license.

Vote: All ayes

Motion: Carried

September: we need a motion to adopt the documents, so I will send them around.

Jane: I would entertain a motion to accept this document.

Chuck: So moved

Second: Denny Molden

Vote: All ayes

Motion: Carried

**Next meeting** scheduled for Feb. 15, 2011 at the Department of Public Safety.

**Adjournment**