

Board Minutes
Iowa Plumbing and Mechanical Systems Board Meeting
November 19, 2013 – 9:00 A.M.
Basement Conference Room B50, Grimes State Office Building,
400 E 14th Street, Des Moines, IA

Call to Order

Ron Masters, Chair, called the meeting to order at 9:00 A.M.

Roll Call

Members Present:

Jim Cooper
Mick Gage
Robert Kunkel
Rod Schultz
Ronald Masters
Sue Pleva
Ken Sharp
Blas Hernandez (joined at 9:22 A.M.)

Members Absent:

Michele Chalfant

Others Attendees:

Matt Oetker
September Lau
John Kelly
Carmily Stone
Susan Van Horn
Dan Hostetler

Minutes

A motion was made by Jim Cooper seconded by Mick Gage to approve the September 17, 2013 minutes. Motion passed.

NGA Veterans Licensing Project – Ken Sharp

Ken shared that the Governor’s office announced their effort to fast track veterans into civilian workforce upon returning from military duty. The department has also been involved in a grant application focusing on returning veterans to the states; aligning veterans training and experience into nursing and emergency medical professions. This week there is a meeting in Washington, DC to look at this grant.

IDPH sees a close alignment with these initiatives with the goals of this board to increase the number of qualified professionals entering the plumbing and mechanical trades. This will be an opportunity for us to explore the possibility to increase the number of apprenticeships into the trades. Greer Sisson, Department of Labor, as well as other departments has been involved in this effort.

2014 Legislative Session – Ken Sharp

There are no major legislative changes scheduled for the Plumbing Board during the 2014 legislative session. The only change anticipated is corrections to Chapter 29 which was passed last year. The industry partners plan to ask for the elimination of the Master Sheet Metal license.

Proposal to Move January Committee/Board Meeting/Hearing to January 13/14/15, 2014

Discussion was held on moving the scheduled meetings in January and it was decided that the meetings would shift one day and be held January 21/22/23 respectively. September Lau noted that if the hearings were set for January 23 she would not be available.

Blaz Hernandez joined the Board Meeting at 9:22 A.M.

Committee Reports and Recommendations for Actions – Rodney Schultz

Adopt and File

IAC 641 – Chapter 23 The purpose of this chapter is to clarify the standards governing the practice of the licensed trades defined in Iowa Code Chapter 105. The rules describe the conduct and minimum requirements that Plumbing and Mechanical Systems Board expects from a licensed contractor, master, journeyman or

apprentice working in the plumbing, mechanical, HVAC-refrigeration, sheet metal, and hydronics disciplines; and the conduct and minimum requirements for those possessing one of the specialty licenses, a medical gas certificate, or an inactive master/journey license. These rules also implement 2013 Iowa Acts, Senate File 427, to add new mechanical, HVAC-refrigeration, and sheet metal disciplines to the rules.

Ken Sharp stated that the changes to these rules would take effect May 1, 2014. This would give time for industry to work with the Legislature to remove the Master Sheet Metal license from this rule. If this change doesn't occur we will need to adopt emergency rules in May to compensate for this.

Sue Pleva made a motion seconded by Jim Cooper to adopt and file Chapter 23 as presented. Motion passed.

IAC 641 – Chapter 29 Plumbing and Mechanical Systems Board – Application, Licensure, and Examination

The changes outlined would be effective May 1, 2014. The Master Sheet Metal license needs to be removed from this as well.

Discussion was held. Ken Sharp made a motion seconded by Robert Kunkel to adopt and file Chapter 29 as presented. Voting in favor of the motion were Jim Cooper, Robert Kunkel, Rod Schultz, Ronald Masters, Sue Pleva, Blas Hernandez and Ken Sharp. Voting against the motion was Mick Gage.

IAC 641 – Chapter 30 Continuing Education for Plumbing and Mechanical Systems Professionals

The changes outlined would be effective January 15, 2014.

Mick Gage made a motion second by Jim Cooper to adopt and approve Chapter 30 as presented. Motion passed.

IAC 641 – Chapter 32 Plumbing and Mechanical Systems Board – Licensee Discipline

The changes outlined would be effective January 15, 2014.

Jim Cooper made a motion seconded by Mick Gage to approve Chapter 32 as presented. Motion passed.

IAC 641 – Chapter 33 Plumbing and Mechanical Systems Board – Contested Cases

The changes outlined would be effective January 15, 2014.

Jim Cooper made a motion seconded by Robert Kunkel to approve Chapter 33 as presented. Motion passed.

Update BOH Adopt and File

IAC 641 – Chapter 27 Plumbing and Mechanical Systems Board – Administrative and Regulatory Authority

IAC 641 – Chapter 29 Plumbing and Mechanical Systems Board – Application, Licensure, and Examination

IAC 641 – Chapter 30 Continuing Education for Plumbing and Mechanical Systems Professionals

IAC 641 – Chapter 32 Plumbing and Mechanical Systems Board – Licensee Discipline

IAC 641 – Chapter 35 Plumbing and Mechanical Systems Board – Licensure of Nonresident Applicant – Reciprocity

These were adopted by the Board of Health on Wednesday, November 13, 2014 and will be effective January 15, 2014.

Update Public Comment on Chapter 28: Board of Health RE: Notice of Intended Action

IAC 641 – Chapter 28 Plumbing and Mechanical System Board – Licensure Fees

Rodney Schultz reviewed the changes scheduled to go before the January Board of Health meeting for consideration.

Cindy Houlson shared that the Board of Health met on November 13 to review the re-noticed version of Chapter 28. Cindy stated that she also shared with the Board of Health the public comment that was received. One person was in attendance during the public hearing in October but no public comments were received at that time. Chapter 28 will be going to the Board of Health in January as "Adopted and Filed".

Application and Fees – Sue Pleva

Sue Pleva stated that she agreed with Cindy Houlson's report and reiterated that there were no public comments received during the hearing and this will be going to the Board of Health in January to be adopted and filed.

CEU Committee – Jim Cooper

Jim Cooper shared that in CEU Committee continues to meet monthly. In October they approved 19 courses/instructors applications and in November they approved 33 courses/instructors.

Chapter 29 Committee – Ron Masters

Ron Masters stated that the Committee met October 14 and November 18 and shared with the Board what this Committee reviewed and the decisions made.

The question was asked if a Specialty License can run a business. A specialty license can run their own business, however they do not work under a Master, so therefor will not be eligible for a contractor license. They cannot exceed the authority of the specialty license.

Code Committee – Mick Gage

Mick reported that the Code Committee continues to meet monthly and have updated Chapter 25. A printable version of Chapter 25 will go out to every licensee on November 22. A printable version will be available on the website on that date.

Discipline Committee – Sue Pleva

Sue reported that they continue to meet monthly and will be discussed later in this meeting.

Other Business

There was no other business.

Public Comment

Jason Shanks, Local 33 asked the question why some of the apprentices after passing their journey exam and are paying for their journey license have an expiration date within a few months and some have an expiration date of 3 years. Why is that different? The answer is that currently it is based on the original expiration date of the apprentice license. And they will have a pro-rated fee that they will pay for that license. Also in SF427 there are transition provisions to move towards the new licensing cycle where everyone renews July 1.

Questions were raised on requirement of CEU's for the renewal of apprentices and journeyman licensees. Cindy will follow-up with Jason to clarify the CEU requirements.

Waiver of Administrative Rules

Dave Versteeg, Superintendent of the Montezuma School s, spoke requesting a waiver of Administrative Rules to waive the need of installing restrooms while adding an addition to the exiting weight room. He stated that this would be a hardship financially and logistically on the Montezuma School District. The existing building was built in 2000 and was considered one structure since the High School and the weight room resides on the same lot, and was not required to install restrooms at that time. The city has indicated that they will not add another connection to the sewer since a lift station would be required on the Cities part.

Brian Bishop, State Fire Marshall, spoke and concurred with the statements given by the Superintendent.

After discussion the Board proposed two possible options to install a: 1) pump tank or 2) septic tank.

A motion was made by Mick Gage seconded by Jim Cooper to deny the waiver. Voting in favor of the motion were Jim Cooper, Mick Gage, Robert Kunkel, Rod Schultz, Ronald Masters, Sue Pleva, and Blas Hernandez. Voting not in favor of the motion was Ken Sharp.

The Board agreed to break at 10:10 A.M.

The Board re-adjourned at 10:20 A.M.

Unlicensed Complaint Discussion – September Lau and Sue Pleva

September Lau shared that documentation concerning these have been distributed to the Board members with the committee member's recommendations.

PMUL20100044 – Brad Malmanger: The Discipline Committee sent educational letters to total Comfort Systems and Alliant Energy regarding PMSB license requirements and recommends all Total Comfort Systems’ employees who are identified in evidence be issued a statement of charges. Since the evidence does not specifically identify Mr. Malmanger as having worked in Iowa, the Discipline Committee felt no probable cause exists to charge him with violation of Board rule. The Discipline Committee’s recommendation is to close this case due to insufficient evidence to establish probable cause. Mick Gage made a motion seconded by Rod Schultz. Motion passed.

PMUL20100044A – Olin Bakke: The Discipline Committee recommended that a Notice of Intent to impose a civil penalty be issued based on two occasions on which Mr. Bakke worked without a HVAC license. Mick Gage made a motion seconded by Robert Kunkel to issue a \$500 civil penalty. Motion passed.

PMUL20100044B – Tim Eisenmenger: The Discipline Committee recommended that a Notice of Intent to impose a civil penalty be issued based on three occasions on which Mr. Eisenmenger did HVAC work without a license, and one occasion on which Mr. Eisenmenger did plumbing work without a license. The Board discussed the issue of whether there was sufficient documentation in the investigative report that he performed work in both trades. Mick Gage made a motion seconded by Robert Kunkel to issue a \$750 civil penalty for three violations. Motion passed

PMUL20100044C – James Orr: The Discipline Committee recommended that a Notice of Intent to impose a civil penalty be issued based on five occasions on which Mr. Orr did HVAC work without a license, and 2 occasions on which he did plumbing work without a license. The Board discussed the issue of whether there was sufficient documentation in the investigative report that he performed work in both trades Jim Cooper made a motion second by Robert Kunkel to issue a \$1250 civil penalty for five violations. Motion passed.

PMUL20100044D – Ken Wolter: The Discipline Committee recommended that a Notice of Intent to impose a civil penalty be issued based on four occasions on which Mr. Wolter did HVAC work without a license, and 2 occasions on which he did plumbing work without a license. The Board discussed the issue of whether there was sufficient documentation in the investigative report that he performed work in both trades Sue Pleva made a motion seconded by Robert Kunkel to issue a \$1000 civil penalty for four violations. Motion passed.

PMUL20100044E – David Dobie: The Discipline Committee recommended that a Notice of Intent to impose a civil penalty be issued based on four occasions on which Mr. Dobie did HVAC work without a license, and 2 occasions on which he did plumbing work without a license. The Board discussed the issue of whether there was sufficient documentation in the investigative report that he performed work in both trades Sue Pleva made a motion seconded by Robert Kunkel to issue a \$1000 civil penalty for four violations. Motion passed.

PM20130054B – Calvin R Woodard: The Discipline Committee recommended that a Notice of Intent to Impose Civil Penalty be issued against Calvin Woodard for performing unlicensed HVAC work in the State of Iowa. Discussion was held and the Board decided to issue a notice of intent to impose a civil penalty in the amount of \$250. Jim Cooper made a motion seconded by Robert Kunkel. Motion passed.

PM20130054C – Ryan Brisendine: The Discipline Committee did not make a recommendation regarding this case. The Board discussed whether there was probable cause that Mr. Brisendine worked in Iowa without licensure. Jim Cooper made a motion seconded by Robert Kunkel to close PMUL20130054C due to insufficient evidence to establish probable cause. Voting in favor of the motion were Jim Cooper, Robert Kunkel, Rod Schultz, Ronald Masters, Sue Pleva, Blas Hernandez and Ken Sharp. Mick Gage abstained from voting.

Application Review

There was nothing to share with the board at this time.

Closed Session Discipline Review and Closed Session Deliberation

At 10:43 a motion was made by Robert Kunkel seconded by Rod Schultz 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. Jim Cooper, Mick Gage, Robert Kunkel, Rod Schultz, Ronald Masters, Sue Pleva, Blas Hernandez, and Ken Sharp were present.

A motion was made by Mick Gage at 12:16 P.M., seconded by Jim Cooper to into Open Session. Motion carried.

Open Session

PM20110009 Sue Pleva made a motion to close PM20110009 seconded by Ken Sharp. Motion passes.

PM20110009A Sue Pleva made a motion seconded by Ken Sharp to issue the Notice of Hearing and Statement of Charges as drafted in case PM20110009A. Motion passed.

PM20110009B Sue Pleva made a motion seconded by Ken Sharp to issue the Notice of Hearing and Statement of Charges as drafted in case PM20110009B. Motion passed.

PM20110017A, PM20110017B, and PM20110017C Sue Pleva made a motion seconded by Ken Sharp to close PM20110017A, PM20110017B, and PM20110017C. Motion passed.

PM20110019 and PM20110019A Sue Pleva made a motion seconded by Ken Sharp to close PM20110019 and PM20110019A. Motion passed.

PM20110034 Sue Pleva made a motion seconded by Ken Sharp to close PM20110034. Motion passed.

PM20110038 Sue Pleva made a motion seconded by Ken Sharp to close PM20110038. Motion passed.

PM20130002 Sue Pleva made a motion seconded by Ken Sharp to issue the Notice of Hearing and Statement of Charges as drafted in case PM20130002. Motion passed.

PM20130003 Sue Pleva made a motion seconded by Ken Sharp to close PM20130003. Motion passed.

PM20130009 Sue Pleva made a motion seconded by Ken Sharp to issue the Statement of Charges as drafted in case PM20130009. Motion passed.

PM20130010 Sue Pleva made a motion seconded by Ken Sharp to issue the Statement of Charges as drafted in case PM20130010. Motion passed.

PM20130053 Sue Pleva made a motion seconded by Ken Sharp to close PM20130053. Motion passed.

PM20130054 Sue Pleva made a motion seconded by Ken Sharp to close PM20130054. Motion passed.

PM20130054A Sue Pleva made a motion seconded by Ken Sharp to issue the Notice of Hearing and Statement of Charges as drafted in case PM20130054A. Motion passed.

PM20130068 Sue Pleva made a motion seconded by Ken Sharp to close PM20130068. Motion passed.

PM20130068A Sue Pleva made a motion seconded by Ken Sharp to close PM20130068A. Motion passed.

PM20130070 Sue Pleva made a motion seconded by Ken Sharp to close PM20130070. Motion passed.

PM20130071 Sue Pleva made a motion seconded by Ken Sharp to close PM20130071. Motion passed.

PM20100029, PM20120067, PM20120067B, PM20130047 and PM20130051 Sue Pleva made a motion seconded by Ken Sharp to accept the settlement agreement for PM20100029, PM20120067, PM20120067B, PM20130047 and PM20130051,. Motion passed.

PM20120042 Sue Pleva made a motion seconded by Ken Sharp to close PM20120042 to accept accept the statement of charges. Motion passed.

Discussion was held and it was decided that September will set hearing dates in January 2014 and March 2014.

Adjournment

At 12:25 P.M. a motion was made by Mick Gage seconded by Jim Cooper to adjourn the meeting. Motion passed.

The next Board Meeting is scheduled for Wednesday, January 22, 2014 at the State Hygienic Laboratory, DMACC, 2220 S. Ankeny Blvd., Ankeny, IA, Lab Facility Rooms 207 & 208.