

**Plumbing and Mechanical Systems Board Meeting
Tuesday, September 20, 2011**

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

Call to Order – Chair, Jane Hagedorn called the meeting to order at 8:00 a.m.

Roll Call: Jim Cooper, Mick Gage, Jane Hagedorn, Blas Hernandez, Ron Masters, Dennis Molden, Susan Salsman, Chuck Thomas and Brita Van Horn

Absent: Ken Sharp and Jenny Pitts

Attendance: Cindy Houlson, Matt Oetker, September Lau, John Kelly and Mary Swinehart

A disciplinary contested case hearing will interrupt agenda at 9:15, the agenda business will resume following board deliberations.

Minutes of August 16, 2010 will be reviewed at the next meeting.

Residential Plumbing Issue – Vona Currier

Matt Oetker provided some background. Ms. Currier has contacted the department several times and has spoken with various individuals. The last time we spoke I suggested she complete a complaint form and it will be investigated. That is one of the enforcement mechanisms the board has to assure all Iowa's are receiving Statute 105 covered services. She has not filed a complaint. Ms. Currier secured plumbing services for installation of a shower at her mother's (Mary Wood) residence. She was unhappy with the results. She requested to speak with the board seeking a determination as to plumbing code compliance. The board has no jurisdiction over the enforcement of the plumbing code. The board maintains jurisdiction over licensees, we do not inspect, and we do not permit so compliance with the code is outside this board's jurisdiction.

Vona Currier presented her concerns and asked for the board's assistance. She has tried many avenues and has not been able to solve her issue. It was suggested that another resource was to contact the state ombudsman. She commented she had done that, they were not able to address these complicated issues with the plumbing code.

Once again it was suggested that if Ms. Currier feels the licensee deviated from the standard of care or otherwise violated the rule there is a complaint process that would lead to an investigation. She was provided with Matt Oetker's and Dan Hostetler's business cards.

The Board reviewed a letter from the City of Boone regarding this issue.

Waivers of Administrative Rule

Kent Church

Mr. Church filed a waiver of petition requesting a waiver of rule Chapter 29 Application, Licensure and Examination rules 29.8 (1) & 29.8(2)a, 29.8(2)b. This rule allowed individuals to sit for a master's exam within that window of opportunity that ended November 15th. Mr. Church received approval for examination in October, 2010. He took the Master Refrigeration exam on November 15, 2010 and did not pass the exam. He requested an extension of time to allow him to take the Master Hydronics and Master Refrigeration exams.

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Historically, the Board has ruled that individuals that tried to take the exam and failed during that period were granted an additional six months from the date of the order to obtain a passing score on the exam.

Chuck Thomas made a motion to allow Mr. Church six additional months from the date of this order to take and pass the master hydronics and master refrigeration exams.

Ron Masters seconded the motion.

No further discussion was held

Vote: All ayes

Rolf Martin

Mr. Martin filed a waiver of petition requesting a waiver of Chapter 29 Application, Licensure and Examination rule 641—subrule 28.1(5) A licensee who allows a license to lapse for more than 60 days is required to retake and pass the applicable licensing examination and pay the appropriate renewal of license fee.

Mr. Martin's Master Plumbing license expired July 7, 2011 and his Master Refrigeration license expired on July 21, 2011. Mr. Martin tried to renew his Master Plumbing license online on Labor Day, Sept. 5th. "I am not asking for extra days or an extension to the 60 days of grace, I am just asking the board to not count the holiday as one of the 60 days."

The board examined four factors set forth by rule.

1. *Why would applying the rule result in an undue hardship on you?* Mr. Martin stated "it would be an undue hardship to have to wait to retake the test because without a license I will be unable to work."
2. *Would waiving the rule prejudice or harm the rights of 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.
3. *Whether or not this has been set by statute?* This was a rule set by the board and the board has the authority to waive that rule.
4. *How will the public health, safety and welfare be protected if the waiver request is granted?* Requiring someone to demonstrate their competence in their respective discipline is the means by which the board can assure the protection of public health, safety and welfare.

Mick Gage made a motion to deny Mr. Martin's waiver request.

Chuck Thomas seconded the motion.

No further discussion was held

Vote: All ayes

Jay Vallicott

A petition for waiver was filed by Mr. Vallicott to waive Section 641-25.4 State Plumbing Code. The West Central Valley Community School District in Stuart, IA has received grants and funding for the addition of two storm shelter safe rooms. One for the existing high school built in 2009-2010 to serve as a wrestling practice area and the elementary school renovated in 2010-2011 to serve as a group activity area. FEMA allows the use of chemical toilets for temporary use only in the event of emergency. Two restrooms were included.

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John Kelly did extensive investigation to ascertain compliance with the Iowa Plumbing Code. It was determined that the additions as well as the existing buildings do not meet the fixture count requirements in the Iowa Plumbing Code or fixture counts based on actual occupancy therefore should be denied.

Brita Van Horne made a motion to deny this petition of wavier on the grounds that the additions as well as the existing buildings do not meet the fixture count requirements in the Iowa Plumbing Code or fixture counts based on actual occupancy.

Mick Gage seconded the motion.

John Kelly will compose a letter informing Mr. Vallicott of the board's ruling.

Vote: All ayes

David Whittington

A petition for waiver was filed by Mr. Whittington to waive Section 641-28.1.

Mr. Whittington claimed he did not receive a renewal notification; therefore he did not renew his license within the 60 day limit allowed.

Renewal notices are sent out in batches. A list of those that have been sent 60 day before expiration date confirms one was sent to him. His address was correct on his account and the notice was not returned. Mr. Whittington did comment that sometimes their mail does not always come through.

The board examined four factors set forth by rule.

1. *Why would applying the rule result in an undue hardship on you?* Mr. Whittington stated "by not granting me the waiver to renew my license I cannot continue to work, I am a family owned business and the sole provider for my family.
2. *Would waiving the rule prejudice or harm the rights of 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.
3. *Whether or not this has been set by statute?* This was a rule set by the board and the board has the authority to waive that rule.
4. *How will the public health, safety and welfare be protected if the waiver request is granted?* Requiring someone to demonstrate their competence in their respective discipline is the means by which the board can assure the protection of public health, safety and welfare.

Brita Van Horne made a motion to deny this petition of wavier on the grounds that it is the licensee's responsibility to renew their license in a timely manner. Mr. Whittington still has the option of obtaining a license by passing the exam.

Ron Masters seconded the motion.

No further discussion was held

Vote: All ayes

Chad Hale

Chad Hale submitted a letter requesting an exception of the payment of late fee (\$60) for allowing his license to lapse for more than 30 days but less than 60 days. The board felt the facts were substantially in the letter to fall under a petition of waiver. Mr. Hale was provided the appropriate application to file for a petition of waiver, however he did not provide.

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The Board requested Mr. Hale provide additional information in the form of a petition of waiver to allow the board to review.

Request for Exemption/Hardship

Terence Flynn

Terence Flynn provided a letter (dated August 15, 2011) requesting the board to allow “renewal of his licenses based on available CEUs”. (The CEU referred to had not received approval from the CEU Committee) Mr. Flynn’s journey person hydronics, refrigeration and HVAC expired June 15, 2011, thus allowing his license to lapse for more than 60 days and requiring him to retest to reinstate his licenses. The board agreed his request is confusing as to what he is actually requesting.

September Lau will write a letter to Mr. Flynn explaining the Board wanted more clarification about what he was requesting and pointing him to the correct form.

Committee Reports and Recommendations for Actions

Administrative Rules Committee Susan Salsman Chair

Ron Masters made a motion to Adopt and File 641 IAC Chapter 28 Plumbing and Mechanical Systems Board-Licensure Fee

Mick Gage seconded

No further discussion was held

Vote: All ayes

Susan Salsman made a motion to Adopt and File 641 IAC Chapter 29 Plumbing and Mechanical Systems Board-Application, Licensure and Examination

Chuck Thomas seconded

No further discussion was held

Vote: All ayes

Susan Salsman made a motion to Adopt and File 641 IAC Chapter 30 Continuing Education for Plumbing and Mechanical Systems Board

Chuck Thomas seconded

No further discussion was held

Vote: All ayes

Susan Salsman reported this committee has not met since the last board meeting and there are no meetings scheduled at this time.

CEU Committee Jane Hagedorn Chair

Jane reported this committee continues to meet monthly with weekly emails for approval or request for additional information.

Total applications received	1,519
Instructor applications approved	432
Course applications approved	891
E courses approved	46

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Applications waiting for approval	21
Applications that have been returned due to inadequate information and have received no response within 30 days	129

Chapter 29 Committee Ron Masters Chair

Ron reported this committee met yesterday morning. The committee is recommending the board recognize Western Iowa Tech as equivalent for Service Technician HVAC Specialty License.

Ron Masters made a motion to recognize Western Iowa Tech as equivalent for Service Technician HVAC Specialty License
Chuck Thomas seconded
No further discussion was held
Vote: All ayes

Ron reported that yesterday he received some information from Black Hills Energy; a meeting will be scheduled for review of this information. There will be additional meetings for discussion of hydronics.

Code Committee Mick Gage Chair

Mick reported this committee discussed the UPC Green Plumbing & Mechanical Code Supplement. Committee recommends the UPC Green Plumbing & Mechanical Code Supplement as a reference and for cities to look at.

Discipline Committee Jane Hagedorn, Chair

Jane reported this committee continues to meet on a regular basis. Based on hearings and closed sessions we are a pretty active committee.

Meeting Times

Following are committee meetings to be scheduled for Monday, October 17, 2011
Chapter 29 Committee will meet 10-11 in Room 418
Apps & Fees Committee will meet at 11-12 in Room 517
Discipline Committee will meet 12-2 in Room 517
CEU Committee will meet 2-4 (unless Testing & Exam needs to meet) in Room 517
Testing & Exam possibly 3-4 p.m. in Room 517
Chairs Committee 4-5 in Room 517

Other Business

S. Salsman had something to bring up as far as minutes. Last meeting we went over and had minutes had some corrections for those minutes and then minutes were posted without corrections. I don't know given the importance of what is said this is what goes on record I don't know what you might want to do to see that that does not happen.
Jane asked if Cindy could speak to that.
Cindy commented she can't. I know there was information sent to Ken, I was not privy to the information exchange.
Jane: so this is a question possibly for Ken. So hold that till we can clarify it with Ken.

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Public Comment

Brian Riekens Email (attached with agenda) regarding his concerns with non-licensed contractors working in the state of Iowa.

The board has a process in place and is actively investigating complaints submitted through that process. Submitted complaints are taken very seriously and follow through with whatever actions are appropriate.

Travis Waldstein Fax (attached with agenda) regarding concerns of specialty licensing, Mechanical Code is under Department of Public Safety and inspections.

The rules for specialty licensing have been adopted and are in the administrative portion to allow applications and get it rolling. There is a projection in the near future but not a firm date. Contractor licensing is part of that same time frame. The specialty licensing will roll out first. Mr. Waldstein may wish to share his concerns with his legislatures regarding inspections.

The board wishes a letter of response to Mr. Waldstein be sent from Cindy Houlson representing what was discussed at this meeting.

Mike Macula *Is any member of the board tracking what the Department of Public Safety is doing with the 2012 code adoptions?*

Blas Hernandez commented he did not know what the final outcome will be but Stuart Crine is the Commissioner of the Building Code Bureau. They are discussing whether or not they should adopt the 2012 Code because there is a lot of expense such as replacing all code books and training personnel. The regulation that may be more strict can be a problem concerning the legislature and the governor.

Every September IAPMO publishes the changes to the Uniform codes at a convention where they look at the changes to the codes and act upon them. Would any of the board members be allowed to go to that and be a part of it?

We will check with Ken Sharp to see what our options are within the budget.

Are online renewals going okay?

Cindy responded it has been going on for some time and the paper application fee will be reinstated in October.

Jerry Hintz *Where do we stand on the new tests? How long will it be before the new tests are out there?*

Chuck Thomas responded we have to get changes pertaining to the legislative changes from last session figured out first. Then at some point the Code Committee will start looking at the 2012 code adoption. The test is reviewed every June, so code adoption would not be an immediate process.

Jerry commented on a contractor from Arkansas working in the state of Iowa. They were fined by Cedar Rapids, they did not have permits. Inspectors in Cedar Rapids do not check for licensing. An outfit from Cedar Falls pulled the permit. We have no idea who put the job in, it was done on weekends. I have spoken with Dan and will fill out a complaint and send it in. Something needs to be done. Thought there was a liaison that represents this board.

I believe all liaisons were terminated. No state agency can have a liaison.

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Mike Macula: *Do we have anything that says you have to train to a certain code for NFPA 99C medical gas?*

Chuck Thomas responded that an individual has to meet NITC standards. When they upgrade to a new code we would hold all equivalents to NITC standards.

The 2012 NFPA 99C code has come out and it is a better code book.

Break for half an hour for Lunch

Going forward the board agreed that during months when there is a hearing on Wednesday following the board meeting there will be an hour or an hour and a half allocated for lunch. When there is not a hearing on Wednesday, lunches will be ordered or members will provide their own lunch.

Closed Session Discipline Review

Brita Van Horn 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)."

Susan Salsman seconded motion

Roll call: **Jim Cooper, Mick Gage, Jane Hagedorn, Blas Hernandez, Ron Masters, Dennis Molden, Susan Salsman, Chuck Thomas and Brita Van Horn**

Motion: Carried at 12:09 p.m.

Board returned to Open Session at 12:56 p.m.

Brita Van Horn made a motion to close Case PM2010006

Susan Salsman seconded

No further discussion

Vote: All Ayes

Brita Van Horn made a motion to close Case PM20110040

Susan Salsman seconded

No further discussion

Vote: All Ayes

Brita Van Horn made a motion to close Case PM20090007 with no action

Susan Salsman seconded

No further discussion

Vote: All Ayes

Susan Salsman made a motion to close Case PM20110026

Brita Van Horne seconded

No further discussion

Vote: All Ayes

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Brita Van Horn made a motion to adjourn this meeting.

Susan Salsman seconded

No further discussion

Vote: All Ayes

Adjournment at 1:08 p.m.