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**STATE BOARD OF PLUMBING  
BUSINESS MEETING  
MINUTES**

**Date:** February 16, 2023

**Time:** 10:30 a.m.

**Location:** 1100 N. Eutaw Street  
1<sup>st</sup> Floor Conference Room  
Baltimore, MD 21201  
**(In Person—Board Members and Staff Only)**

Also held virtually via Google Meet for the public and members not available in person.

**Joining Info:** By Video Conference  
[meet.google.com/qks-niad-yfo](https://meet.google.com/qks-niad-yfo)  
By Phone via Teleconference  
1-414-909-7588 (PIN: 385820141)

**Members Present:**

Joseph Radtka, Chairman  
Gregory Schott, Industry Member  
Michael Bowersox, Industry Member  
Roland Mann Jr., Industry Member  
Richard Small, Industry Member  
Keith Horton, Industry Member

**Absent:** Richard Bowers, Consumer Member

**LABOR Officials & Staff Present:**

John Bull, Executive Director  
Sloane Fried Kinstler, Assistant Attorney General  
LaKissha Thornton, Administrative Officer I

**OTHERS PRESENT:**

Wayne Fishpaw, Pipe Trades Technology  
Dustin Kruger, Kruger Training Academy  
Kirk Sweeny, Atlantic Blue Water  
Tyler McCaffrey, Esquire, representing Mid-Atlantic Pipe Trades Association

**CALL TO ORDER**

Chair Joseph Radtka called the Business Meeting of the Maryland State Board of Plumbing to order, virtually, at 10:38 a.m.

**APPROVAL OF MINUTES**

Chairman Radtka asked that a Board member move to approve the minutes of the January 19, 2023, Board Meeting.

A motion was made to approve the minutes of the January 19, 2023, Board meeting without corrections, by Mr. Bowersox, seconded by Mr. Mann, and by roll call, carried unanimously by the Board.

**PLUMBING COMPLAINTS**

Mr. Schott reported the findings of the Complaint Committee as follows:

<b><u>Closed Complaint</u></b>	<b><u>Under Investigation</u></b>	<b><u>Sent for A.G. Pre-Charge</u></b>	<b><u>Criminally Charged</u></b>
22-0043*	22-0044		
23-0015	22-0049		
23-0018			
22-0047			

\* Case was referred to the State Board of HVACR Contractors

Upon a Motion by Mr. Bowersox, and a second by Mr. Mann, the Board voted unanimously, by a roll call vote, to approve the Complaint Committee’s report and recommendations.

**REVIEW OF EXAMINATION STATISTICS AND LICENSE TOTALS**

PSI Exams submitted the following statistical summaries for January 2023:

<b>Plumber</b>	<b>Candidates Tested</b>	<b>Passed</b>	<b>Failed</b>	<b>Pass %</b>
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Journey Natural Gas Fitter	1	0	1	0%
Journey Plumber/Gas Fitter	32	11	21	34%
Master Natural Gas Fitter	3	2	1	66%
Master Plumber/Gas Fitter	11	3	8	27%
<b>TOTAL</b>	47	16	31	34%

Director Bull also reported that since January 2023, 47 candidates were tested, 16 candidates passed, 31 failed, for a pass rate of 34%. Since the inception of the test, 10431 candidates were tested, 3764 candidates passed, 6667 failed, for a pass rate of 36%. There are currently 13,097 active licensees.

## **CORRESPONDENCE**

Dustin Kruger, of Kruger Training Academy, posed a question he originally submitted via email to the Board regarding the USC backflow certification qualification requirements for an approved instructor. Chairman Radtka stated that upon the Board's review of Mr. Kruger's correspondence, that he was unsure as to why the question was being posed to the Board. Mr. Kruger indicated via email, and reasserted at the meeting, that his instructors would not be able to complete the University of Florida Treeo Center Program ("TREEO") training, as required by COMAR 09.20.04.02B(2), as he was informed by a TREEO representative that the program was being discontinued. Chairman Radtka stated that he had spoken with TREEO staff, and he was advised that the program was not being discontinued. Mr. Kruger clarified his comment, stating that he was informed by TREEO that they would not be accepting new applicants to the program. Counsel Kinstler suggested that the Board allow Mr. Kruger to provide a written statement from a TREEO representative to that affect, as such information had not been presented to the Board by TREEO. Mr. Kruger replied that he would forward the email from TREEO with that information to the Board. Mr. Kruger then asked if the Board was familiar with the American Backflow Association, which conducts an instructor certification program approved by the University of Southern California Foundation ("USC") for cross-connection contamination, and that his intent was to find out which programs were acceptable in accordance with COMAR. Wayne Fishpaw commented that, in accordance with COMAR, the American Society of Sanitary Engineering ("ASSE") required that an instructor be recertified every three years and complete an approved training course at least every five years.

Chairman Radtka replied stating that the Board would consider approving alternate programs, but that it would need to be demonstrated that programs approved by either TREEO, ASSE, or USC were not available. Counsel Kinstler recommended that Mr. Kruger and Mr. Fishpaw, submit all information on any proposed alternative training programs to the Board for review and compliance with COMAR 09.20.04.02. She stated that, as the Board was willing to consider alternative programs, such information be submitted directly to Director Bull or that the contact information for the providers of the program be sent to him so he may request it. Director Bull requested that Mr. Kruger and Mr. Fishpaw send him the contact information for any new proposed programs, and both agreed.

Mr. Kirk Sweeney posed a question about the status of his application for the Master Plumber/Gas Fitter exam. Counsel Kinstler stated that the Board could not discuss an application in an open session of a public meeting, to protect an applicant's privacy. She offered that, in the matter may be considered in a closed session in compliance with the MD Open Meetings Act. Counsel stated that if the application needed to be discussed by the full Board rather than a subcommittee, that the Board would need to convene in a closed session to discuss it. Director Bull informed the Board that the application did not contain any abnormalities that would cause it to need to be discussed by the full Board and that the matter would be reviewed by the Application Review Committee after the meeting. Director Bull informed Mr. Sweeney that upon the Committee's review, his application status would be communicated to him by staff.

No other correspondence was considered.

## **OLD BUSINESS**

Chairman Radtka began a discussion of a new regulation from the MD. Department of the Environment (“MDE”) regarding on-site disposal systems. Chairman Radtka reported that the regulation would require a permit to use an on-site disposal system and would impose a fee of \$150.00/per person working on the site. He continued, stating that the fee would not apply to any worker who was listed as a “helper” but would apply all other workers on the job site, and that he had received several complaints in his jurisdiction regarding the regulation. Chairman Radtka also expressed displeasure at the fact that the regulation was passed without consulting with the State Board of Plumbing and should have been as it significantly affects the plumbing industry. Mr. Schott confirmed that he had received several complaints in his jurisdiction as well and questioned why the regulation was put in place as it was never required in the past. Chairman Radtka asked Mr. Bowersox for his opinion on the regulation, as Mr. Bowersox has expressed concerns over the cost of licensure in the past. Mr. Bowersox asked what the Board’s options were to oppose the regulation as it has already taken effect. Chairman Radtka replied that he was unsure and requested that Director Bull contact MDE to find out how the regulation was passed, and to inquire on the status on the formation of a Board that would oversee these types of regulations. Director Bull stated that he would reach out to MDE and made mention a house bill that would support the regulation. Chairman Radtka stated that he was also concerned about multiple provisions of the regulations, which he believed crossed over into the scope of plumbing work and should not be within the jurisdiction of MDE. Director Bull stated that MDE did issue guidance on the regulation that helped to clarify who would need to register pay the fee for a permit. After a discussion,

Mr. Schott moved to instruct Director Bull to contact MDE on the Board’s behalf to address issues arising from the passage of the regulation, which was seconded by Mr. Bowersox, and unanimously carried by the Board.

No other Old Business was considered.

## **NEW BUSINESS**

Chairman Radtka stated that a Public Service Commission report from September 2022, regarding the enforcement of House Bill 1052 be placed on the agenda for the March 16, 2023 meeting of the Board.

Director Bull requested that the Board discuss the functions and members of the various subcommittees of the Board, as some Board members are up for reappointment, and that it would be beneficial to discuss the composition and function of each committee. Counsel Kinstler stated that a subcommittee may be established, or its duties and composition modified, by the Board Chair during a public meeting and approved by a majority of the Board. Chairman Radtka stated that the of the current Complaint, Code Review, and Exam Challenge Committees had already been established and that any new committees would be discussed and established as needed.

Chairman Radtka began a discussion about code adoption. He stated that the next version of the code that the Board would need to adopt would be the 2021 version. He stated that the 2021 Code could not be adopted until the State Building, Energy, and Rehabilitation Codes had been adopted. He recommended that the Board form a Code Review Committee to prepare to adopt the 2021 code. Counsel Kinstler reminded the Board of a prior discussion in which the Board considered that it could

adopt regulatory language identifying a specific code “as it may be amended from time to time,” which other regulatory bodies have done, to eliminate the practice of code modification and incorporation by reference on a cyclical basis. Mr. Schott asked if such a regulation would also apply to the administrative portion of the code. Counsel Kinstler replied that in its current regulation, the Board had adopted specific chapters and specifically omitted other portions that were within the purview of local jurisdictions. Similarly, Counsel advised that the Board could continue to adopt only specific chapters or sections of a code “as they may be modified from time to time”. Counsel further explained that the board’s current regulation contains a modification provision for each individual code, and it would be at the Board’s discretion whether a new edition required the Board to propose amendments to those sections or eliminate them if proposing language to adopt the most edition of a code as it may be periodically amended. Chairman Radtka requested that Counsel present the specific provisions of its regulation that set forth code modifications during the March Board meeting under Old Business. He also requested that Mr. Schott find out which edition of the code local jurisdictions are currently using and report it under Old Business at the March meeting.

Chairman Radtka asked Mr. McCafferty if he would like to address the Board regarding his concern. Mr. McCafferty replied that he had concerns about the closure of complaint 23-0020. Chairman Radtka advised Mr. McCafferty that the Board could not discuss the specific details of the complaint during a public meeting of the Board. Director Bull replied that a detailed response regarding the closure of the complaint would be provided to Mr. McCafferty after the meeting.

There was no other new business.

## **EXECUTIVE DIRECTOR’S RERORT**

Director Bull reported that the Board appointment process was still occurring. He advised that any member of the Board who was up for reappointment had been contacted. Director Bull continued stating that he was trying to fill the two vacant positions on the Board. Director Bull stated that while term limits on service were not imposed, any member who was up for reappointment would have to await confirmation from the Governor’s office for their next term. He then reported that the required Board member attendance reports had been submitted in compliance with requirements of the Governor's office. Chairman Radtka asked Director Bull to confirm that the two vacant Board positions were one consumer member and one industry member from the Eastern Shore, which Director Bull affirmed. Chairman Radtka asked if the residency requirement for consumer member eligibility is Maryland residency, which Director Bull confirmed was correct.

### **Legislative Update**

Director Bull stated that a new item would be added to the monthly Board Agenda, regarding proposed legislation. Director Bull stated that when new legislation that was relevant to the Board was proposed, it would be presented to the Board at the next public meeting after its introduction. He stated the new agenda item would be listed as “Legislative Updates”. He stated that he was currently aware of two bills that had been introduced that concerned the Board.

Senate Bill (“SB”) 0007 pertaining to on-site wastewater services and fees for registration to be paid into the On-site Wastewater Professionals Fund. He stated that the bill had not yet gone to committee for review. The Board expressed concern over the bill, and the establishment of additional fees imposed on the plumbing industry, and the apparent authority of an individual registered as an on-site wastewater professional to provide services that constitute the provision of plumbing services for

which a license is required. The Board asked that Chairman Radtka prepare and submit a letter to the Secretary expressing their opposition and concerns about SB 7.

SB 596 pertains to a licensing board's authority to deny a license based upon a past criminal conviction. Director Bull explained that by policy, former Governor Hogan stated that if a non-violent crime conviction occurred at least seven (7) years ago, that offense alone could not be the basis to deny licensure. He stated that SB 596 would require that a criminal conviction that is more than three (3) years old be directly connected to an individual's fitness to perform a job or provide authorized services to deny an occupational license issued by the Department of Labor. Counsel Kinstler also advised that the bill introduces language that prohibits a license denial licensure based solely on a criminal conviction for a juvenile; for which a sentence did not allow incarceration; or for a misdemeanor that did not include physical harm to another individual.

Counsel Kinstler confirmed that an applicant would still have to disclose all criminal convictions and would be reviewed by the Board or Board staff as authorized by the Board before approval. Counsel stated that concerning certain violent crimes and crimes of sexual nature could result in the denial of an application regardless of its impact on the ability of the applicant to perform the job. Counsel asked that a conviction that would require the review and approval by the full Board be sent to her so that she can prepare a synopsis of the relevant facts related to the matter for review by the Board. Director Bull informed the Board that the nature of most convictions submitted to Board staff for review would not rise to the level or require a review by the full Board under specific authority the Board has granted for staff review. Counsel advised Director Bull that, while the nature of the crime may not be severe, he ought to check for repeat convictions that might suggest a pattern and practice of certain criminal behavior that may indicate a specific threat to public safety, as indicated in SB 596.

Director Bull stated that he would be distributing contact information sheets to the Board members that will include each member's contact information, the dates and times of future meetings, and links to join the meetings virtually. Director Bull then concluded his report.

### **COUNSEL'S REPORT**

Counsel did not offer a report.

### **CHAIR'S REPORT**

Chairman Radtka stated that it is a pleasure to have an in-person meeting after having had only virtual meetings since the beginning of the pandemic. He stated that he looks forward to future in-person meetings and concluded his report.

### **CLOSED SESSION**

The Board did not convene in a closed session.

### **APPROVAL OF FINDINGS OF CLOSED SESSION**

The Board did not convene in a Closed Session.

**ADJOURNMENT**

Upon Mr. Bowersox's motion, and Mr. Schott's second, and by a roll call vote, the Board unanimously voted to adjourn the February 16, 2023 meeting at 11:45 a.m.

Signature on File

02/16/2023

\_\_\_\_\_  
**John Bull**  
**Executive Director**

\_\_\_\_\_  
**Date**

**Signed on behalf of the Board as voted and approved on 02/16/2023**