



**STATE BOARD OF PLUMBING
BUSINESS MEETING
MINUTES**

Date: June 15, 2023

Time: 10:30 a.m.

Location: 1100 N. Eutaw Street
5th Floor Conference Room
Baltimore, MD 21201
(In person for Board Members and Staff only)
Held via Video Conference
meet.google.com/qks-niad-yfo
By Phone via Teleconference
1-414-909-7588 (PIN: 385820141)

Members Present: Joseph Radtka, Chairman
Michael Bowersox, Industry Member
Roland Mann Jr., Industry Member
Keith Horton, Industry Member
Richard Bowers, Consumer Member
Leif Hancock, Industry Member

Absent: Gregory Shott, Industry Member

LABOR Officials & Staff Present: John Dove, Commissioner, Occupational and Professional
Licensing
John Bull, Executive Director, Mechanical Licensing Unit
Sloane Fried Kinstler, Assistant Attorney General
LaKissha Thornton, Administrative Officer III

OTHERS PRESENT: Wayne Fishpaw, Pipe Trades Technology
William Sompayrac, Pipeline Training Institute
Brian Brooks- Lowes Corp., State Licensing Manager

CALL TO ORDER

Chair Joseph Radtka called the Business Meeting of the Maryland State Board of Plumbing to order, virtually, at 10:36 a.m.

APPROVAL OF MINUTES

A motion was made to approve the Minutes of the May 18, 2023 Plumbing Board Meeting by Mr. Bowersox, seconded by Mr. Mann, and by a roll call vote unanimously approved by the Board.

After the Approval of the Minutes, Director Bull introduced Commissioner John Dove to the Board. Mr. Dove greeted and thanked the Board members for their service and stated that he was very fortunate to be here. Commissioner Dove stated that he is a former officer in the Marine Corps, a graduate of the Naval Academy, and that he has 30 years of experience working in the medical field, specifically, regarding sales and installation of medical devices. He shared that he has been on the job for four (4) weeks and that he is looking forward to working with everyone connected to Occupational and Professional Licensing. Chairman Radtka, on behalf of the Board, welcomed and congratulated Commissioner Dove and thanked him for attending the meeting.

PLUMBING COMPLAINT COMMITTEE

Chairman Radtka reported the findings of the Complaint Committee as follows:

<u>Closed Complaint</u>	<u>Under Investigation</u>	<u>Sent for A.G. Pre-Charge</u>	<u>Criminally Charged</u>
22-0006			
23-0003			
23-0009			
23-0010			
23-0013			

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

REVIEW OF EXAMINATION STATISTICS AND LICENSE TOTALS

PSI Exams submitted the following statistical summaries for May 2023:

Plumber	Candidates Tested	Passed	Failed	Pass %
Journey Natural Gas Fitter	1	1	0	100%
Journey Plumber/Gas Fitter	43	17	26	40%
Master Natural Gas Fitter	5	2	3	40%
Master Plumber/Gas Fitter	18	4	14	22%
TOTAL	67	24	43	36%

Chairman Radtka reported that since January 2023, 297 candidates were tested, 115 candidates passed, 182 failed, for a pass rate of 39%. Since the inception of the test, 10681 candidates were tested, 3864 candidates passed, 6817 failed, for a pass rate of 36%. There are currently 13,395 active licensees.

CORRESPONDENCE

There was no correspondence for the Board to consider.

OLD BUSINESS

Discussion on Fire Advert System:

Chairman Radtka reintroduced the discussion the Fire Advert FGAG03-15 Automatic Stove Shut Off system. The Chairman stated that, while he supported the product, he was concerned that the manufacturer indicates that no professional installation is required. He stated that such a system must be installed by a licensed master or journeyman plumber/gas fitter, licensed master, or journeyman natural gas fitter, working with the appropriate local permit as it requires alteration of the gas piping in the home. Chairman Radtka stated that he had confirmed the requirement for a permit with each local jurisdiction for such installation. Director Bull questioned whether the installation in new construction required a permit. Chairman Radtka confirmed that a new piece of equipment being added to the gas line would require a permit and code compliance inspection. Mr. Hancock commented that he agreed with the Chairman in that a permit should be required for installation and that the installation should be performed by, at least, a licensed journeyman under the supervision of a licensed master. Chairman Radtka recommend that the Board send to the manufacture of Fire Advert cautioning that if advertising and selling the product in Maryland, they must indicate that installation must be done by properly licensed plumber or gas fitter under a locally-required permit.

Mr. Bowersox moved to send the manufacturer of the Fire Advert FGAG03-15 shut off device a letter that the Board required their product information indicate that installation by a licensed plumber or gas fitter and acquisition of a local permit were required. The motion was seconded by Mr. Hancock and unanimously approved by the Board. Mr. Bull indicated that he would prepare and send the letter.

Discussion on Backflow Certification Providers/TREEO

Chairman Radtka reintroduced a discussion on the TREEO recertification process questioning whether the Board had voted to approve an additional time extension for instructors needing backflow recertification. Counsel Kinstler reminded that Board that, during the April 18, 2023 meeting of the Board, Andrew Campbell, on behalf of TREEO, had agreed to a 90-day extension of certification until the end of September 2023. Director Bull stated that he had not received any new information from Mr. Campbell regarding their recertification process or the extension and that he would reach out to him for more information. Mr. Bowersox questioned the Board's authority to certify a backflow instructor certification program outside of TREEO. Counsel Kinstler advised that there is a statutory requirement that any program that the Board certified must meet the requirements of TREEO, ASSE, and the University of Southern California. She stated that the Board may approve a program that meets those requirements but should exercise caution to ensure that approved providers of training and providers of certification testing do not constitute a conflict of interest. Mr. Bowersox expressed an interest in the Board's development of a backflow instructor certification/recertification program. Mr. Fishpaw stated that, in addition to the TREEO program, the ASSE program was still offering training.

Chairman Radtka expressed concern that TREEO is currently certifying backflow instructors and providing backflow courses and certifications. Director Bull stated that, based on the law, nothing prevented TREEO from doing so and that, while TREEO is conducting testing and certification, while also offering backflow instruction, that they are willing to provide their program and instruction materials to outside companies for use, providing that they do not use TREEO's name when selling or advertising such services.

Counsel reminded that Board that it was discussed that the Board has the authority to approve additional programs for backflow training/certification and that there had been valid concerns about potential conflicts of interest associated with entities approved to provide backflow instruction together with backflow certification. Chairman Radtka raised an additional concern about the adequacy of backflow training facilities, stating that mobile certification providers may not have access to an appropriate facility in which to provide training. He stated that it may be necessary to implement more stringent requirements for such operations.

Mr. Bowersox stated that the Board should meet with those who are proposing backflow certification programs for review and acceptance by the Board. Counsel reminded that Board that a similar program had recently been proposed and rejected by the Board from Kruger Training Academy based on Kruger's intent to provide both backflow instruction and certification, and if, as Director Bull stated, such action is not prevented by statute and being practiced by TREEO, that the Board might revisit the application. Chairman Radtka proposed that the Board review the statute regarding backflow instructor certification and discuss it at next month's meeting. Counsel reminded the Board that if they wished to take action to revise the statute that the deadline for submission to the legislature by the Board for the 2024 session had passed but such legislation could be pursued by the industry, on which the Board could take a position. Counsel Kinstler stated that she would provide to Board members applicable statutory and regulatory provisions to the Board for review at the next meeting.

NEW BUSINESS

Code Update

Chairman Radtka informed the Board that the Building Codes Administration Codes had adopted the International Residential Code (IRC), International Building Code (IBC), The International Green Energy Code (IGEC), and International Existing Building Code (IEBC), that their enforcement began on May 29, 2023, and that State law requires that local jurisdictions begin enforcing those codes by May 19, 2024. Chairman Radtka recommended that Board approve the 2021 International Plumbing Code (IPC), International Fuel and Gas Code (IFGC), and relevant plumbing and gas portions of the 2021 IRC by May 29, 2024 and determine when to begin implementation of updated codes. Counsel Kinstler reminded that Board that it could include language to indicate the Board is adopting the most recent version of a code as it may be periodically amended, to eliminate the delay associated with each code update and adoption cycle. She suggested other boards had done so when appropriate to save both time and money, such as acquiring the materials required for and completion of the incorporation by reference ("IBR") process. Counsel further reminded the Board that its members or a Code Update Committee should review applicable COMAR provisions regarding modification of its codes to determine whether such modifications were still necessary and, if so, what changes to page or section number references, etc. were required.

Brian Brooks, Lowe's, Inc., joined the Business Meeting at 10:28 a.m.

Mr. Bowersox asked whether the Board must adopt new codes. Counsel replied that the Board is required to adopt the State Plumbing Code under Md. Ann. Code, Bus. Occ. & Prof. §§12-205 and 12-206. Counsel offered to distribute applicable COMAR sections regarding code adoption to the Board for consideration and review before the next meeting.

Director Bull asked Counsel about adoption of codes not adopted by the Department of Labor and Industry. Counsel explained that any provisions not adopted by another state agency must be adopted through regulatory action by the Board after compliance with the IBR process. Mr. Bowersox expressed the need for the Board to stay on pace with the release of each new Code publication, citing that the Board is already behind in the adoption process. Chairman Radtka concurred and asked Counsel whether the Board needed to

form a committee to review the most recent version of the Codes for adoption. Counsel confirmed that a committee should be established during a public meeting. Chairman Radtka tabled the discussion to allow the members of the Board an opportunity to consider if they would like to participate in a Code Update Committee.

Mr. Bowers joined the meeting at 10:38 a.m.

COMAR 09.20.05.03

Director Bull introduced a discussion regarding proposed action to amend the regulation pertaining to the Board's licensing fees, COMAR 09.20.05.03. Director Bull explained that Commissioner Dove and the Secretary's Office share his suggestion that Board fees be non-refundable. Counsel explained that the State Board of Plumbing is a part of the joint special fund for the Mechanical Boards through which each of the Mechanical Boards shares revenue and expenses. *See* Md. Ann. Code, Bus. Occ.& Prof. §§ 2-106.9 and 2-106.10; COMAR 09.20.05.01. Director Bull clarified that the action he seeks would not raise licensing fees but would only make any fees paid to obtain a license or certificate or other administrative matter non-refundable. Mr. Bowersox asked why the Board was not raising license fees. Director Bull replied that there have been discussions on raising license fees but no official determination had been made by the Division of Occupational and Professional Licensing as on this topic. Mr. Bowersox questioned whether an increase in license fees would allow for the stipulated salary to be paid to Board members. Director Bull cited that the statute allows for the payment of a salary to Board members if the Departmental budget allows and that provisions would have to be implemented to determine the overall increase in Board revenue to see if it would support the payment of a salary to Board members. Chairman Radtka asked for a motion to approve Board action to make license fees non-refundable under COMAR 09.20.03.05.

A motion was made to make license fees non-refundable by Mr. Hancock and seconded by Mr. Horton. By a roll vote, Mr. Mann, Mr. Horton, and Mr. Hancock voted in favor; Mr. Bowersox opposed. Mr. Bowersox insisted on additional discussion before finalization of the vote, asking again for an explanation of the process to raise license fees in lieu of Mr. Bull's request for non-fundable fees. Director Bull attempted to clarify the issue at hand for the Board, stating that the Board is currently facing budget deficiencies; allowing for non-refundable fees would cover the costs of staff's efforts to process and evaluate original and renewal license applications; issue approved license cards; implement requested license status changes; and tend to the official business of the Board. Mr. Bull further explained that when an individual submits an application, Director Bull and his staff conduct an initial evaluation of the applicant's pre-license qualifications, including certification and sufficiency of work experience; participation or completion of an approved apprenticeship program; review of letters of good standing for reciprocal license applicants, etc. He explained that even if an applicant does not meet the pre-license requirements, staff have already devoted time and expense to the administrative process.

Mr. Bowers questioned whether the fees at issue are paid by licensees and applicants. Director Bull confirmed that they are charged to applicants but can be paid by an employer. Mr. Hancock asked Mr. Bull to confirm that the only fees subject to refund are for an applicant who did not qualify for licensure after evaluation of their application. Director Bull confirmed that was correct. Mr. Bowers stated that while he understood that the fee would only be retained in instances where an individual did not qualify for a license, he objected to the measure, because an individual who did not qualify for licensure may not be able to afford the license fee without obtaining the license, as it not obtaining it could bar them from certain employment. Mr. Bowers requested that Director Bull provide financial data of his unit's costs and expenses to support the need to implement non-refundable license fees. Over Counsel's objection, Mr. Bowersox directed Mr. Bull to poll the Board members on the motion again. On a repeat vote, Mr. Bowersox, Mr. Mann, and Mr. Horton voted against the motion; Mr. Hancock voted in favor. The motion was defeated.

Counsel reminded the Board of the Joint Special Mechanical Board Fund and expressed concern about Board of Plumbing being qualified to participate in the Fund if the other Mechanical Boards agreed to make their license fees non-refundable. Director Bull confirmed that the Board of Plumbing might be removed from the Fund and such action would have to be taken by changing the statute. He continued stating that the Board might not be able to continue to fund itself if it were separated from the Fund. Mr. Bower restated his demand that Mr. Bull disclose a full accounting of the costs and expenses to operate his unit before the Board is asked to consider this measure.

Joint Mechanical Board Meeting

Director Bull informed the Board that the Chairman of the Board of HVACR Contractors had suggested that joint meeting of the Mechanical Licensing Boards. Director Bull suggested that each Board Chairman and, perhaps, Vice-Chairman attend the meeting to discuss issues that overlap the interests of mechanical service providers and across multiple licensing units. Chairman Radtka expressed support for a joint meeting and asked if any members of the Board had comments. Mr. Bowersox recommended forming a committee to represent the Plumbing Board at the proposed meeting. Mr. Bower asked whether the HVACR Board Chairman had provided a written statement regarding the goals and intent of the meeting. He questioned the types of issues to be discussed at such a meeting. Counsel Kinstler advised the Board that the O&P Design Boards hold a regularly scheduled joint meeting to consider matters of mutual interest; as examples for a Mechanical Board joint meeting, Counsel cited issues arising from the MDE regulation of onsite wastewater management, local permit matters and code compliance inspections. Director Bull also expressed his support for a joint meeting of the Mechanical Boards. Chairman Radtka asked if a committee to represent the Board of Plumbing needed to be formed at this meeting to which Director Bull confirmed that no action was necessary at this time, as he was gauging the various board's interest in having a meeting. Counsel explained that a committee could be established, but the idea had been for the Chairs or Chairs and Vice Chairs to attend, unless the Chair wished to designate someone else to attend in place of the Chair.

Chairman Radtka asked Director Bull if he had received any new information from MDE regarding an exemption from the onsite wastewater management registration requirement put in place by SB 0007. Director Bull confirmed that the letter from the Board had been sent, but he had not yet received any new information.

EXECUTIVE DIRECTOR'S REPORT

Director Bull reported that Mr. Leif Hancock had officially joined the Board and welcomed him. Director Bull stated that there are currently two vacancies on the Board and that he was working with the Appointment's Office to fill them. If the vacancies could not be filled as mid-term appointments, he would seek to extend the terms of the current members holding those seats.

Director Bull stated that the Division of Occupational and Professional Licensing was working on overall strategic goals with the Office of the Secretary. He stated had he advised the Secretary's Office that the Mechanical Boards were seeking to promote apprenticeship programs in the various disciplines covered by the Mechanical Licensing Unit. He stated the goal is to promote apprenticeship programs to high schoolers looking for alternatives to college and direct entry into the workforce. He continued, stating that he felt promoting apprenticeship programs would help to grow the industries. He is seeking the Boards' help in promoting those programs. Chairman Radtka stated that his company had an apprenticeship outreach program and that he would be happy to provide contact information for those involved in that effort. He encouraged Director Bull to reach out to MPMIA (Maryland Plumbing & Mechanical Inspectors Association) for assistance.

Director Bull continued stating that, in addition to promoting apprenticeship programs, he hoped to increase reciprocal licensing agreements among the Mechanical Boards. He reported Board that an updated reciprocal licensing agreement had been negotiated between the VA State Board of Electricians and the MD State Board of Electricians to allow reciprocity for journeyman electricians. He stated that he would like to negotiate similar agreements for reciprocity of plumbers with the other surrounding jurisdictions, such as Virginia and D.C. Mr. Bowersox stated that he believed that the MD State Board of Plumbing’s requirement for a backflow certification to obtain a journeyman or master plumber/gas fitter license stood in the way of reciprocating licensure with the other local jurisdictions, as they do not require it. He cited that Virginia has a backflow certification unit that operated separately from the VA Board of Plumbing as a barrier. Mr. Fishpaw disagreed, stating that Delaware does not require a backflow certification and that we have a reciprocity agreement for master plumbers in place with that state. Chairman Radtka stated that the passing exam score was the reason reciprocal licensing could not be achieved with other jurisdictions in the past, citing the Virginia exam. He stated that the VA does not have a plumber/gas fitter exam (they test for each separately) and that they require a 75 passing score on the license exam and MD requires a 70. Counsel suggested that further discussion between the state Boards could resolve the exam score discrepancy to establish an equitable method of licensure to establish a reciprocity agreement; as an example, she explained a prior agreement that Maryland Electrician Board had with Delaware in which a Delaware licensee was required to hold a license for one (1) year before being eligible for a reciprocal license from Maryland, to make up for the one-year shortage of work experience hours required for Delaware licensure. Chairman Radtka asked Director Bull to keep the Board informed of any progress with D.C. reciprocity. Mr. Bowers stated that he did not have any objections to allowing reciprocal licensing with other jurisdictions as long as it did not have an impact on licensed MD residents to obtain employment in the state.

Director Bull announced to staff that Ms. Thornton had been promoted to become the lead administrator for the Mechanical Licensing Unit, overseeing other administrative staff.

COUNSEL’S REPORT

Counsel did not offer a report.

CHAIR’S REPORT

Chairman Radtka did not offer a report, but congratulated Ms. Thornton on her promotion and welcomed Mr. Hancock to the Board.

CLOSED SESSION

The Board did not convene in a closed session.

ADJOURNMENT

Upon Mr. Bower’s Motion, and Mr. Mann’s second, and the Board unanimously voted to adjourn the meeting at 12:42 a.m.

Signature on File

June 15, 2023

John Bull
Executive Director

Date

Signed on behalf of the Board as voted and approved on _____