248 CMR 3.00: GENERAL PROVISIONS GOVERNING THE CONDUCT OF PLUMBING AND GAS FITTING WORK PERFORMED IN THE COMMONWEALTH

Section

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3.01: Scope and Application

(1) Scope. The provisions of 248 CMR 3.00 govern the administrative requirements regarding the installation, removal, alteration, repair, and inspection of all plumbing and gas fitting work pursuant to M.G.L. c. 142, §§ 13 and 21. 248 CMR 3.00 also governs the administrative functions of the Board in sanctioning Licensees who engage in the installation, alteration, repair and Inspection of plumbing and gas fitting work pursuant to M.G.L. c. 142, §§ 13 and 21, and M.G.L. c. 112, § 61.

(2) Sections Declared Independent. Each Section of 248 CMR 3.00 through 11.00 and every part of each Section is hereby declared to be an independent Section and the holding of any Section or part of Section to be void and ineffective for any cause shall not be deemed to affect any other Section or part of Sections.

3.02: Definitions

For the purpose of 248 CMR 3.00 through 11.00 the following terms shall have the meanings indicated in 248 CMR 3.02. No attempt is made to define ordinary words that are used in accordance with their established dictionary meaning except where it is necessary to define their meaning to avoid misunderstanding. Definitions in M.G.L. c. 142 are not repeated here unless further clarity is required.

Apprentice Gas Fitter. A person not less than 16 years old who is licensed by the Board and learning and working at the business of gas fitting under the direct supervision of a master gas fitter or journeyman gas fitter while in the employ of a master gas fitter.

Apprentice Plumber. A person not less than 16 years old who is licensed by the Board and learning and working at the business of plumbing under the direct supervision of a master plumber or journeyman plumber while in the employ of a master plumber.

Board. State Board of Examiners of Plumbers and Gas Fitters as established in M.G.L. c. 13, § 36 and defined as the Examiners in M.G.L. c. 142, § 1.

Code. 248 CMR 3.00 through 11.00, subsequent amendments thereto, or and any emergency rule or regulation that the Board promulgates.

Direct Supervision. Supervision that is on-site and present during the conducted work.

Executive Director. The Executive Secretary of the Board as provided for in M.G.L. c. 13, § 36.

Generally Accepted Standard. A specification, code, rule, guide, or procedure recognized and accepted throughout the plumbing and gas fitting profession as authoritative.

Inspector. Either the Local Inspector or the State Inspector, as determined in 248 CMR 3.05(1)(a), who is responsible for granting or denying Permit applications and performing Inspections of plumbing and/or gas fitting work.

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Inspection. The Inspector's act of reviewing plumbing or gas fitting workmanship for compliance with the provisions of 248 CMR.

Licensee. A person duly holding a license issued by the Board.

Local Inspector. The Inspector of plumbing and gas fitting who is appointed by the building inspector, board of health, or mayor of each city and town in the Commonwealth pursuant to M.G.L. c. 142, §§ 11 and 12 and who administers and enforces the provisions of 248 CMR 3.00 through 10.00. For purposes of 248 CMR 3.00, Assistant, Alternate, or Deputy Inspectors shall also be deemed Local Inspectors.

Permit. A written notice that the Inspector grants to a plumber or gas fitter to commence work on a given installation. The Permit may contain limitations and conditions of the work to be performed. The uniform permit application form approved by the Board may be considered a Permit after issuance by the Inspector.

Permit Holder. A non-apprentice Licensee who has signed the uniform application for permit, is authorized to be granted a Permit under 248 CMR and who has received a Permit from the Inspector.

Principal. A licensed master plumber or master gas fitter who is in charge of the plumbing and/or gas-fitting operations of a business entity subject to licensure under 248 CMR 3.00. For purposes of 248 CMR 3.00, a principal need not have an ownership interest in the business entity.

Product-accepted (Product-acceptance). A plumbing or gas fitting product that may be installed pursuant to 248 CMR 3.00 through 10.00 based on the Board's determination that it meets the standards of 248 CMR 3.00 through 10.00.

Special-permission. Explicit permission from the Board that is required before installing certain products, materials, or systems because the product, material, or system raises special safety considerations.

State Inspector. A person employed by the Commonwealth of Massachusetts's Division of Professional Licensure who grants Permits and performs Inspections of the plumbing and gas fitting work in all state owned, used, leased (including sub-leased) or constructed buildings that are subject to the provisions of M.G.L. c. 142, § 21.

3.03: Business and Apprentice Licenses, Renewal, and Inspector Requirements

(1) Business Licensure.

(a) Licenses Required. All corporations, LLC's, partnerships, or other such entities that have plumbing or gas fitting employees are required to maintain a business license. Such business entities shall be properly constituted and chartered business organization recognized by the Secretary of the Commonwealth, such as a general partnership, limited partnership (LP), limited liability partnership (LLP), limited liability company (LLC), corporation or professional corporation (PC). Individuals practicing under their own name or a DBA do not require a business license. A business license shall be a certificate for purposes of M.G.L. c. 142, § 3B.

(b) Exceptions. Businesses employing licensed plumbers or gas fitters do not need to have a business license if they meet one of the following criteria:

1. A non-plumbing/gas fitting business does not need a business license if it employs one or more licensed plumbers or gas fitters and the only work performed by licensees is for the premises owned/leased and operated by that non-plumbing/gas fitting business. Apprentices may only be employed by such business when under the supervision of a master licensee.

2. Businesses solely engaged in work regarding undiluted liquefied petroleum gas installation do not require a business license so long as all individuals doing the work hold the proper license.

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(c) Applications. Applicants for Plumbing or Gas Fitting Business licenses shall meet the following criteria for licensure:

1. submission of an application completely and properly filled out in the manner prescribed by the Board, attested to under the pains and penalties of perjury by a master plumber or master gas fitter, as the case may be, who is a principal of the entity, and accompanied by such other information that the Board may require.

2. applicants for licensure must pay the nonrefundable fee as established by the Secretary of Administration and Finance pursuant to M.G.L. c. 7, § 3B, and 801 CMR 4.00: *Rates*.

3. Corporations.

a. Applications for Plumbing or Gas Fitting Corporations must include a signed and stamped copy of the Articles of Organization. Out of State Corporations must provide a signed and stamped copy of the filed Foreign Corporation Certificate or such other document as required by the Massachusetts Secretary of the Commonwealth.

b. The applicant for a plumbing corporation must be a master plumber who is a listed officer of the corporation; the applicant for a gas fitting corporation must be a master gas fitter who is a listed officer of the corporation.

4. Limited Liability Companies (LLC's).

a. Applications for Plumbing or Gas Fitting LLC's must include a signed and stamped copy of the Certificate of Organization. Out of State Corporations must provide a signed and stamped copy of the filed Foreign LLC Certificate or such other document as required by the Massachusetts Secretary of the Commonwealth.

b. The applicant for a plumbing LLC must be a master plumber who is a listed manager of the LLC; the applicant for a gas fitting LLC must be a master gas fitter who is a listed manager of the LLC. For purposes of 248 CMR 3.03(1)(c)5.c., if an LLC is member managed, a listed member of the LLC may be considered a manager.

5. General Partnerships, Limited Partnerships, and Limited Liability Partnerships (LLP's).

a. All partners in a general partnership, limited partnership, or LLP shall possess current Master Plumber or Master Gas Fitter licenses.

b. In the case of a general partnership, applicants must include with their application a notarized written agreement signed by all partners creating the general partnership.

c. In the case of a Limited Partnership or LLP, Applicants must include a signed and stamped copy of the partnership certificate filed with the Massachusetts Secretary of the Commonwealth.

(d) Responsibilities and Duties of the Licensee of Record for Business Licenses.

1. All business licenses are issued to the applicant for licensure who is a master plumber or master gas fitter. Business licenses are only transferable with Board approval.

2. Once licensed, the master plumber or master gas fitter who is considered the licensee on record for the business is required to ensure that:

a. all plumbing and gas fitting work performed by the business is accomplished by individuals with valid, current licenses; and

b. all licensees comply with the requirements of 248 CMR 3.00 through 11.00.

(e) Changes in the Licensee of Record for Businesses Licensed by the Board.

1. Routine Changes and Expiration of the Licensee of Record's License.

a. To withdraw as licensee of record from a business, a licensee must immediately notify the Board in writing and return all business licenses.

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b. So long as all other individuals performing plumbing or gas fitting for the business are validly licensed, the business may continue operating so long as a new application for a business license is filed by a licensed master plumber or gas fitter, as the case may be, within 60 days of the withdrawal of the licensee of record. The business may not continue to operate after 60 days, if the Board denies this application, or later date if an extension is granted by the Board for good cause.

c. In the event the qualifying officer's master license expires, the business may treat the expiration date as the equivalent of the date of withdrawal of the licensee of record from the business, however, any work performed by the master licensee with an expired license may lead to such disciplinary action as allowed by law.

2. Discipline against the Licensee of Record.

a. Any discipline against a licensee of record shall be considered discipline against the business, discipline against the business shall likewise apply against the licensee of record.

b. Should the license of the licensee of record be suspended or revoked, the business may not operate in the plumbing or gas fitting industry until such time as the suspension or revocation is lifted or a new license is granted by the Board by application of a new licensee of record.

3. Death of the Licensee of Record.

a. In the event its licensee of record dies, a business must notify the Board in writing of said death within 15 days.

b. So long as all other individuals performing plumbing or gas fitting of the business are validly licensed, the business may continue operating for 60 days. For good cause shown, the Board may extend this period.

(2) Apprentices.

(a) General Provisions.

1. No person shall work as an Apprentice unless he or she has been issued a license by the Board. Applicants for the Apprentice license must:

a. in conjunction with his or her employing master, complete an Apprentice registration form; and

b. submit the required fee and registration form to the Board.

2. The Apprentice license shall be exhibited whenever required by an Inspector.

3. The Apprentice and the employing Master Plumber or Master Gas Fitter shall be jointly responsible for completing the Apprentice registration form.

4. No Apprentice shall solicit by sign, listing or any other form of advertisement, work regulated or controlled by 248 CMR or M.G.L. c. 142.

5. Individuals learning the practice of undiluted liquefied petroleum gas installation pursuant to 248 CMR 11.00: *Education and Experience Standards and Requirements for Licensure* under the direct supervision of a properly licensed individual do not require an apprentice license.

6. Apprentices must retain all W-2 records demonstrating their employment throughout their apprenticeship as well as for a period of at least seven years after obtaining a journeyman license. Apprentices may not act as independent contractors and will not be credited for time performed as such. Master licensees retaining apprentices as independent contractors may be subject to disciplinary action for aiding and abetting unlicensed practice. For purposes of 248 CMR 3.03(2)(a)6., payments to an apprentice for plumbing/gas work, which is documented on an IRS form 1099, shall be considered sufficient evidence for the Board to find that an apprentice is acting as an independent contractor.

7. With proper documentation, including a written contract, a licensed apprentice shall be deemed employed when serving as an unpaid intern and accruing work experience hours so long as all work was performed under the supervision of a master licensee.

(b) Master's Duties regarding Apprentice Licensure.

1. Before a prospective Apprentice begins employment as an Apprentice gas fitter or Apprentice plumber with a Master Plumber or Master Gas Fitter, the employing Master Plumber or Master Gas Fitter shall be responsible for insuring that the apprentice has complied with all licensing requirements.

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2. The Apprentice license application form shall be signed by the Apprentice and the employing Master Plumber or Master Gas Fitter.

3. The master and/or licensed business entity must retain payroll records and other employment documentation for all apprentices so employed. These records must be made available to the Board upon request and must be retained by the master for at least seven years after the apprentice ceases employment with the master or such later date as allowed by law.

4. In the event an apprentice leaves the employment of a master prior to completing their apprenticeship, the master must provide the apprentice a signed statement of experience.

5. In the event the master separates from a business entity, thus ending a supervisory relationship with an apprentice, the master will be deemed to have satisfied the requirements of 248 CMR 3.03(2)(b)6. if he or she provides the apprentice with a signed statement of experience when leaving the business entity. However, the Board may seek employment records from the business entity as it deems necessary.

6. For purposes of businesses that do not need a license pursuant to 248 CMR 3.03(1)(b)1., apprentices may be employed and accrue valid experience time so long as said work is supervised by a journeyman or master licensee who can verify said experience. Master licensees working for such businesses who do not directly supervise apprentices may sign work experience forms for apprentices on behalf of their employing business, however, they must still be able to verify with employment records any hours credited to said apprentices.

(3) Inspectors.

(a) No plumber or gas fitter may act as or claim to be a Local Inspector of plumbing or gas fitting, unless appointed by a city or town inspector of buildings, board of health, or mayor as described in M.G.L. c. 142, §§ 11 and 11A.

(b) Inspector Notification to the Board and Continuing Education.

1. To ensure compliance with Board enforced statutory mandates, a plumber or gas fitter appointed to be a Local Inspector of plumbing or gas fitting must notify the Board in writing, via completing a Board approved form, within 15 days of appointment. Said form must include:

a. The name and license number of the journeyman or master plumber or gas fitter appointed as a Local Inspector;

b. The mailing address where the Local Inspector will receive official correspondence related to local inspections; and

c. A letter on city or town letterhead certifying the appointment of the Local Inspector. In the event that two or more towns have formed an inspection district pursuant to M.G.L. c. 142, § 10, the Local Inspector must either produce a letter from each town in which he or she would be inspecting or a letter from one town appointing the Local Inspector which states that the town is part of an inspection district and specifies which other towns are a part of said district.

2. Any Local Inspector who will cease duties as a Local Inspector must notify the Board in writing within 15 days of their final day as an Inspector.

(c) Inspector Continuing Education Requirements.

1. Pursuant to M.G.L. c. 142, § 11B, Inspectors must complete 12 hours of Board approved continuing education each year. This continuing education is separate from continuing education approved by the Board for non-Inspector plumbers and gas fitters as described in 248 CMR 11.00: *Education and Experience Standards and Requirements for Licensure*. Exemptions in 248 CMR 11.00 do not apply for Inspector continuing education.

2. Inspector continuing education must be approved by the Board and must be completed during the Inspector's personal license renewal cycle. The completion of said continuing education is a condition of being an Inspector and shall also be considered a condition for the renewal of the Inspector's personal license.

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3. Upon appointment, the amount of continuing education that an Inspector must complete may be pro-rated by the Board based upon the time of appointment so long as the Inspector has completed the equivalent amount of continuing education specified in 248 CMR 11.00: *Education and Experience Standards and Requirements for Licensure* for the period of time prior to the Inspector's appointment.

(d) The plumbing or gas-fitting license of any Inspector may be subject to disciplinary action for any violations of 248 CMR 3.03. Should the Board suspend or revoke the license of an Inspector, or should the Inspector let his or her plumbing or gas fitting license lapse, that individual may not inspect again, unless he or she obtains a valid license issued by the Board.

(4) Any person licensed by the Board may carry on the work within the scope of their license.

(5) 248 CMR 3.00, in conjunction with M.G.L. c. 142, shall be deemed to occupy the whole field of the licensing of plumbers, gas fitters, and undiluted liquefied petroleum gas installers in Massachusetts.

(6) Procedures for Renewal of Licenses.

(a) Licensees must renew their licenses every two years.

(b) Individuals must submit to the Board, or its agent, a completed written or electronic renewal application and the required fees prior to the expiration date of the license.

(c) Individuals must fulfill and document, as specified by the Board, the satisfactory completion of any continuing education requirements.

(d) Each licensee shall disclose in writing to the Board any finding made against him or her made by a court, other state or federal agency or, where applicable, by a licensing board of another jurisdiction within 15 days of said finding. 248 CMR 3.03(6)(d) shall not require disclosure of civil traffic offenses or dismissals of actions brought by the licensee. The provision of such disclosures shall be considered a condition of license renewal.

(e) It shall be the responsibility of all Licensees to notify the Board of any changes of address within 15 days of relocation as well as changes to any email addresses previously provided to the Board. Licensees who fail to so notify the Board may be subject to disciplinary action and are responsible for any failure to receive official Board correspondence including renewal applications.

3.04: Product, Design, and Testing Standards

(1) Board Required Product-acceptance. Only products and materials that have been listed by the Board as Product-accepted shall be used for plumbing and gas fitting work performed in the Commonwealth and governed by M.G.L. c. 142 and 248 CMR. The Board accepts products to ensure compliance with M.G.L. c. 142 and 248 CMR. The Board additionally requires manufacturers to provide information/testing to ensure their products meet applicable standards and are safe for public use. In making such acceptances, the Board does not relieve manufacturers of their independent obligations to only sell products that are safe for public use. The Board may designate third-party standards which, if met by a product, will relieve that product of the need to be Product-accepted.

(a) Record. The Board shall maintain a list of Product-accepted materials or products.

(b) Product-acceptance.

1. For products not already listed as Product-accepted by the Board, each manufacturer of materials and equipment used in the construction, installation, alteration, repair, or replacement of any plumbing or gas fitting system shall apply to the Board for product-acceptance of each individual item or model number that is to be made available for installation in the Commonwealth.

2. Should the Board grant product-acceptance, the grant shall be valid for such period as designated by the Board. The product will then be listed by the Board as Product-accepted. All permanent Product-approvals granted in the past are null and void.

3. No product that is subject to a product acceptance request shall be installed before the Board has voted to grant the product-acceptance request.

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4. An applicant for a product-acceptance request shall:
   a. provide a completed product acceptance application in compliance with 248 CMR 3.00;
   b. a nonrefundable application fee in the amount set by the Commission of Administration and Finance and made payable to the Commonwealth of Massachusetts;
   c. at the Board's request, appear at the Board meeting wherein the Product acceptance application is scheduled to be discussed; and
   d. fulfill any testing requirements or meet any applicable standards in their entirety required by the Board.
5. Modifications to a previously accepted product or material which would cause it to no longer adhere to the codes and standards originally applicable to the product, must be resubmitted to the Board.
6. At the Board's discretion, in *lieu* of granting an applicant's product acceptance or request, the Board may convert such a request to a request for a Test-site under 248 CMR 3.00.
7. In *lieu* of requiring the renewal of a product's acceptance, the Board may periodically require applicants to certify that:
   a. the product and its instructions have not been altered since first accepted by the Board; and
   b. the product continues to meet the requirements of 248 CMR 3.00 through 10.00.

(c) Board Suspension/Rescission of Product Acceptance.
1. Board acceptance of a product may be withdrawn whenever any of the following conditions exist:
   a. Plumbing laws or regulations have changed affecting the legal installation of the product;
   b. The product has become the subject of a recall by the manufacturer;
   c. The product has been deemed unsafe or defective by the Consumer Product Safety Commission, a court of competent jurisdiction, or other such legal entity operating under a state or federal law;
   d. The product has been modified without Board notice and acceptance;
   e. The installation of the product requires, but cannot meet, provisions of any non-plumbing laws/regulations;
   f. The manufacturer has not responded to Board requests/investigations, including any Board requests to certify the product continues to comply with 248 CMR 3.04;
   g. Board acceptance of the product was based on incomplete or incorrect information; or
   h. The Board has substantial evidence that continued use of the product would pose a threat to the public's health, safety, or welfare.
2. The rescission of a product's acceptance may, if necessary for public safety, occur prior to the manufacturer being provided with an opportunity to respond to the Board with grounds that may challenge the rescission. The provision of this opportunity shall not be interpreted to create any hearing or other due process rights other than those required by law.

(d) The Board may waive the need for a product to be accepted per 248 CMR 3.04(1) when in the best interests of the public's health, safety, or welfare.

(2) Variances.
(a) The Board may allow an applicant to use an alternative method, material, system or product that does not comply with 248 CMR 3.00 through 10.00 when:
1. in the Board's opinion there is an unusual or extraordinary circumstance or an established hardship that warrants special terms or conditions; and
2. the applicant seeks permission from the Board for using the alternative method, material, system, or product for one instance at one location.

(b) No plumbing or gas-fitting work that is subject to a Variance request shall begin before the Board has voted to grant the Variance request. The Board may make an exception to this rule subject to the following limitations:
1. The work was performed, prior to a variance being requested, by an individual licensed by the Board operating pursuant to a validly issued permit;

3.04: continued

2. Variances after the fact shall be granted only if a hardship can be established which would have justified the variance if sought prior to the work being performed.

3. The applicant for the variance must be the licensee responsible for the work performed. This applicant must be able to certify the following in writing and using a form approved by the Board in order to qualify for a variance after the fact:

a. That the work performed violates specific provisions of M.G.L. c. 142 and/or 248 CMR as cited by the inspector in writing which the applicant must provide to the Board;

b. The applicant must certify that he or she understands how the provisions of M.G.L. c. 142 and/or 248 CMR have been violated and that the licensee will ensure all his or her future work will conform to those requirements;

c. That the noncompliant work was unintentionally noncompliant due to a condition that the applicant who was responsible for the work could not have reasonably foreseen;

d. That the applicant notified the inspector immediately when the work was discovered to be noncompliant; work performed after this notification shall not be eligible for a variance; and

e. That the applicant agrees that the nonconforming work is subject to immediate removal if the Board, in its discretion, rejects the variance.

4. The availability of such an exception shall not relieve a licensee of their obligation to adhere to applicable plumbing and gas fitting laws and regulations governing their work; failing to adhere to 248 CMR 3.04(2)(b)4. may subject a licensee to disciplinary action.

(c) The Variance application shall:

1. be made to the Board before filing for the related Permit application to the Inspector;

2. be submitted in writing and using the forms provided by the Board;

3. include a copy of the petition for a Variance that was made to the Board of Health or to the Health Department for variance applications that involve plumbing work that is not under the jurisdiction of state inspectors; and

4. include a copy of the Board of Health or Health Department's response to the petition for variance applications that involve plumbing work that is not under the jurisdiction of state inspectors. The Board may waive this requirement so long as it may confirm that the petition was made in a timely manner.

(d) The applicant for a Variance request shall:

1. provide a completed application;

2. include a nonrefundable fee in the amount set by the Secretary of Administration and Finance and made payable to the Commonwealth of Massachusetts;

3. appear at the Board meeting wherein the Variance application is scheduled to be discussed; and

4. fulfill any testing requirements and/or meet any other applicable standards in their entirety required by the Board.

(e) Variances shall not be permitted to waive requirements of Massachusetts law, nor shall they be permitted for education or licensing requirements in 248 CMR 3.00 through 11.00.

(3) Special-permission.

(a) When safety is of special consideration, provisions of 248 CMR 3.00 through 10.00 may require that a Licensee obtain Special-permission from the Board before installing or using a given product, system, design, or method.

(b) To obtain Special-permission an applicant shall:

1. submit a request to the Board; and

2. at the Board's request, appear at a Board meeting where the request is scheduled to be discussed.

3.04: continued

(c) The Special-permission request shall include:
1. a nonrefundable fee in the amount set by the Secretary of Administration and Finance and made payable to the Commonwealth of Massachusetts;
2. a completed application;
3. a certification that the system was designed or engineered by a qualified individual;
4. the submission of a set of construction documents that have been stamped by a Massachusetts Registered Professional Engineer; and
5. any other requested documentation.

(4) Test-site.
(a) The Board may allow an applicant to use an alternative method, material, system or technology that does not comply with 248 CMR to determine its feasibility or safety.
(b) A Test-site is appropriate when an applicant anticipates that the alternative method, material, system, or technology may be used for more than one installation and at more than one location.
(c) No work that is subject to a Test-site request shall begin before the Board has voted to grant the Test-site request.
(d) The Test-site application shall be made to the Board before filing for the related Permit application to the Inspector.
(e) The applicant for a Test-site request shall:
1. provide a completed application;
2. include a nonrefundable fee in the amount set by the Secretary of Administration and Finance and made payable to the Commonwealth of Massachusetts;
3. appear at the Board meeting wherein the product Test-site application is scheduled to be discussed; and
4. fulfill any testing requirements or applicable standards in their entirety required by the Board.
(f) Should testing prove nonconformance of the product, material, system, technology, or method at issue, the test-site grant may be subject to additional tests or rescission.

(5) Required Tests.
(a) For the purpose of verifying a claim relating to an application made for Product-acceptance, Variance, Test-site, or Special-permission, the Board may require that tests be performed and that such Board recognized tests are performed at the expense of the applicant.
(b) Any tests required by the Board for the purpose of verifying a claim relating to an application made under 248 CMR 3.04(5) shall be conducted in accordance with industry recognized standards acceptable to the Board.

(6) Board Recognized Testing.
(a) The Board no longer approves testing laboratories. All previous approvals shall be deemed null and void.
(b) The Board will only recognize testing performed by laboratories that have been certified to meet industry-based guidelines to ensure appropriate testing.
(c) Laboratory certification shall be performed by:
1. Neutral/third-party accreditation bodies;
2. Neutral/third-party conformity assessment bodies; and
3. Governmental bodies.
(d) The Board reserves the right to reject tests from laboratories that lose their certification and/or fail to meet standards necessary for reliable testing.
(e) The Board may recognize field testing performed by certified third-party testing agencies.

3.05: Permits and Inspections

(1) Permits.
(a) Jurisdiction of Inspectors.

3.05: continued

1. State Inspectors. Permits to perform plumbing and/or gas fitting work in buildings owned, used, leased, or constructed by the Commonwealth pursuant to M.G.L. c. 142, § 21, shall be submitted to State Inspectors who shall grant or deny such Permit applications and who shall perform the related Inspections.

2. Local Inspectors. For all buildings that are not owned or constructed by the United States Government or that are not owned, used, leased or constructed by the Commonwealth, pursuant to M.G.L. c. 142, §§ 11, 11A and 12, all Permit applications shall be submitted to the Local Inspectors who shall grant or deny all such Permit applications and who shall perform the related Inspections.

3. For those buildings owned or constructed by the United States Government, Permits and Inspections for those buildings are only required at the request of the Federal Government.

4. In cases of emergency, a plumbing fixture or gas appliance may be installed, repaired, or turned on temporarily by the licensee prior to obtaining a permit provided:

a. the licensee has performed all testing required by 248 CMR;

b. the licensee and gas supplier (if applicable) are satisfied that the installation or repair will assure safe operation; and

c. the Inspector is notified and a regular inspection is made at the earliest opportunity and in no case later than the next working day.

5. Violations of Other Codes. Whenever an Inspector observes an apparent or actual violation of a statute, code, regulation, standard, municipal bylaw or ordinance not within the explicit authority of the Inspector under M.G.L. c. 142, and 248 CMR 3.00, the Inspector should report the findings to an official or entity having jurisdiction over that matter. The resolution of this apparent or actual violation shall not be construed as a requirement of 248 CMR 3.00 and shall be enforced by the official or entity having jurisdiction over that matter, not the Inspector.

(b) Requirements.

1. Until a Permit has been issued by the Inspector, plumbing or gas fitting work shall not be:

a. installed;
b. altered;
c. removed;
d. replaced; or
e. repaired.

2. Any application for such Permit shall be made in writing to the Inspector before work commences.

3. Each application for the Permit shall include:

a. a statement of the work to be performed;

b. the location of the building;

c. the names of the people or companies for and by whom the work is to be done; and

d. for applications for permit sought for work performed by students in a Board approved vocational school program, the application must include explicit written approval by the Board for the work to be performed.

4. Each Permit that is issued by the Inspector shall be subject to the express conditions set forth therein as to compliance with M.G.L. c. 142, and 248 CMR.

5. As a condition of granting a permit, the Inspector may require the applicant to submit a set of construction or engineered plans.

6. A minimum of one Permit is required for each building.

7. Permits to perform plumbing work shall be issued in compliance with the following:

a. Permits shall be issued to properly licensed individuals only. Permits may not be issued to apprentices.

b. Where a person seeks a Permit on behalf of a corporation or LLC, only the Master Plumber who has been granted the license to conduct the plumbing business as a corporation or LLC and who is a manager of the LLC or an officer of the corporation under M.G.L. c. 142, § 3B shall be issued the Permit.

c. Where a person seeks a Permit on behalf of a general partnership, limited partnership, or LLP, only the Master Plumbers who are partners in the partnership under M.G.L. c. 142, § 3B shall be issued the Permit.

3.05: continued

d. Where a Permit is being sought for work by a non-plumbing/gas-fitting business exempt from business licensure pursuant to 248 CMR 3.03(1)(b), a Permit may be issued to any properly licensed journeyman or master licensee employed by said business who agrees to be responsible for said work.

8. Permits to perform gas fitting work shall be issued in compliance with the following:

a. Permits shall be issued to properly licensed individuals. Permits may not be issued to apprentices. The only exception to this general requirement is for gas permits sought by a gas company as defined in M.G.L. c. 164, in such cases, a Permit may be issued to any employee of said company who is authorized to make binding representations on behalf of the company.

b. Where a corporation or LLC seeks a Permit, only the Master Plumber or the Master Gas Fitter who is a manager of the LLC or the officer of the corporation under M.G.L. c. 142, § 3B shall be issued the Permit.

c. Where a general partnership, limited partnership, or LLP seeks a Permit, only the Master Plumbers or the Master Gas Fitters who are partners in the partnership under M.G.L. c. 142, § 3B shall be issued the Permit.

d. Where a Permit is being sought for work by a non-plumbing/gas-fitting business exempt from business licensure pursuant to 248 CMR 3.03(1)(b), a Permit may be issued to any properly licensed journeyman or master licensee employed by said business who agrees to be responsible for said work.

9. A business entity that is changing its master licensee due to non-disciplinary reasons (routine or death, as outlined in 248 CMR 3.03(1)(e)) may have a master or journeyman employee file a permit application so long as they provide documentation that they have notified the Board of the change pursuant to 248 CMR 3.00. Once a new master takes over for the entity, that master must notify the Inspector in each city or town where the business has existing permits, and assumes responsibility for the existing permits taken out by the entity.

10. An Inspector may not deny a permit application and/or refuse to issue a permit, unless one of the following applies:

a. The licensee applicant has failed to fully fill out the uniform permit application and submit any required fees;

b. The licensee applicant and, if applicable, the applicant's business entity, does not have a valid license (in the case of a gas company as defined in M.G.L. c. 164, the applicant need not be licensed if the applicant is an employee of the gas company);

c. The licensee applicant has failed to submit required construction or engineered plans or has submitted a set of construction or engineered plans which, if adhered to, would cause the subject installation to not adhere to 248 CMR;

d. The licensee applicant has failed to provide evidence of workers compensation insurance if required by M.G.L. c. 152, § 25C(6);

e. The licensee applicant owes local property taxes in the city or town he or she is seeking to obtain a permit in and that city or town has adopted the provisions of M.G.L. c. 40, § 57;

f. The licensee applicant is prohibited from obtaining a permit pursuant to a decision by the Board or a court of competent jurisdiction;

g. The work location has outstanding plumbing violations that had been previously cited by the Inspector in writing to the property owner and said violations have not been resolved. This provision shall not be used to deny a permit for work which, if unperformed, would leave the subject property without potable water, heat, or sanitary drainage; or

h. The licensee has left another work site in a hazardous condition. For purposes of this section, gas turned on to a piping system or other such equipment without an approved inspection shall be deemed a hazardous condition.

(c) Exceptions to the Permit Requirement. A Permit is not required for:

1. the repair of leaks in a faucet, valve, or other working part of a plumbing fixture;
2. the clearance of a stoppage; and
3. Adjustment of gas appliance controls when said adjustment does not require any changes to the connection to the gas supply or associated piping.

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(d) Permit Termination.

1. When any of the work outlined in the Permit has commenced but the Permit Holder will not complete the work outlined in the Permit, the Permit shall be terminated by:
   a. the Permit Holder; or
   b. the person or entity who hired the Permit Holder.
2. Termination consists of sending written notice to the Inspector who issued the Permit, wherein the notice includes:
   a. the Permit number;
   b. a description of the work completed; and
   c. a description of the work not to be completed.
3. The Inspector shall perform an Inspection on the work that was completed under the original Permit.

(e) Invalidity. Permits shall be invalid if work is not started within 90 days of the date of the Permit, unless the holder of the Permit or Permits can satisfactorily prove that failure to start within the 90-day period was beyond his or her control.

(f) Response Time for Permit Applications. Within two working days upon the Inspector's receipt of the Permit application, the Inspector must act upon a Permit application received from a licensee. Acting does not constitute an approval or issuance of a permit.

(g) Permit Applications and Fees.

1. Permit applications must be accepted by the Inspector if submitted in person or by mail, however, applicants may choose to utilize electronic means if offered by the Inspector.
2. The Inspector must issue the Permit to the applicant in person, by mail, or the inspector may utilize other electronic means if acceptable to the permit applicant.
3. Internet Permit Applications.
   a. Inspectors may accept permit applications over the internet, however, to ensure uniformity throughout the Commonwealth, the internet application must be based solely on, and require no more or less information than the permit application approved by the Board.
   b. No Inspector shall deny a licensee a permit to perform plumbing or gas fitting because the licensee chooses not to utilize an internet permit application.
4. Fees charged for locally issued permits shall be determined by cities and towns, said fees shall not be subject to Board review.

(h) Notification That Permit Has Been Granted. Prior to issuing a formal Permit, an Inspector may notify an applicant that a Permit has been granted, the Permit applicant may treat this notification as the equivalent of receiving a Permit for purposes of commencing work. However, this notification is subject to the following requirements:

1. The notification must inform the applicant that a formal Permit is being issued;
2. The notification cannot be oral, it must be made in a reproducible medium, such as an email or writing, which must be retained by the Applicant until receipt of a formal Permit; and
3. The notification must be issued directly by the Inspector and cannot be delegated to anyone else.

(2) Plans and Specifications.

(a) Whenever plans and specifications are necessary or requested by the Inspector for any plumbing or gas fitting work, the applicant shall submit such plans to the Inspector. The Inspector may review the plans for up to 30 days prior to issuing the Permit.

(b) The plans and specifications shall include:

1. the name and address of the designer;
2. a certification by the designer that said plans and specifications are in compliance with 248 CMR; and
3. the stamp of a Massachusetts Professional Engineer.

(c) Plans and specifications shall not be required for minor repairs and alterations.

(3) Inspections.

(a) To insure compliance with all the requirements of M.G.L. c. 142, and 248 CMR, the Inspector shall inspect:

1. all work where a Permit is required;

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2. all the Permit related plumbing and gas fitting work; and

3. all portions of existing systems that may be directly affected by the plumbing or gas fitting work outlined in the related Permit application.

(b) The Inspector may require that at least two Inspections be performed; one rough Inspection and one final Inspection.

(c) The Inspector may require that a test be performed as part of the Inspection process.

(d) Notification.

1. It shall be the duty of the Permit Holder or other non-apprentice licensee employed by the Master Plumber or gas fitter to give notice to the Inspector when plumbing or gas fitting work is ready for Inspection.

2. The non-apprentice licensee or the Permit Holder shall establish that the work will stand the prescribed test and that the roughing-in has been completed as far as practicable before giving the notification.

3. If the Inspector determines that the work will not pass the test and/or requirements of 248 CMR 3.00 through 10.00, necessary corrections shall be made and the work shall be resubmitted for Inspection. The inspector must cite the provision of 248 CMR for any findings justifying a determination that the work performed is deficient.

(e) Within two working days upon the Inspector's receipt of proper notification that the plumbing or gas fitting work is ready for Inspection, the Inspector must act upon the request for Inspection. Proper notification shall mean that the Permit Holder has had direct communication with the Inspector.

(f) Covering of Work.

1. New plumbing and gas fitting work as well as portions of existing systems that may be directly affected by new work shall not be covered until it has been tested if required by the Inspector, and the Inspector has certified that the work is in compliance with M.G.L. c. 142, and 248 CMR 3.00 through 11.00.

2. If new plumbing and gas fitting work and such portions of existing systems that may be directly affected by new work are covered before being tested and approved by the Inspector, the work shall be uncovered for Inspection after the Inspector has issued a notice to uncover the work to the Permit Holder responsible.

(g) Defective Materials and Poor Workmanship. If, at the time of Inspection, any leaks, defective or patched materials, or evidence of unskilled or inferior workmanship are found with a plumbing or gas installation, regardless of who installed the work or whether it was within the scope of the permit, the following procedures shall be followed:

1. The Inspector shall condemn the same affected part(s) or entire system.

2. The Inspector shall order the Licensee to remove or correct the defective parts, or unskilled or inferior workmanship.

3. No further progress shall be allowed on the work until the defective parts or the unskilled or inferior workmanship is made to be compliant with 248 CMR.

(4) Right of Entry. Subject to compliance with all relevant federal and state laws, the Inspector shall, after showing proper identification, have the right to enter any premises for the purpose of conducting an Inspection of a plumbing or gas fitting system at such times as may be reasonably necessary to protect the public health.

(5) Material and Labor for Inspection and Tests. The equipment, materials, power, and labor necessary for the Inspection and any required tests shall be furnished by the licensed plumber or licensed gas fitter.

(6) Advisory Opinions and Appeal Procedure.

(a) State Inspector Advisory Opinion.

1. Any party who disagrees with or is aggrieved by the decision or interpretation of a Local Inspector may seek an Advisory Opinion from the State Inspector.

2. A request for an Advisory Opinion may be made by phone, by letter, or by electronic means to the State Inspector.

3. The State Inspector may respond to the request for an Advisory Opinion by requesting information from the relevant parties and then offering his or her interpretation of the pertinent portions of 248 CMR.

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4. The State Inspector's interpretation is a nonbinding statement of opinion on a matter submitted for that purpose.

5. At the State Inspector's discretion, his or her Advisory Opinion may be issued in writing or orally.

6. State Inspector advisory opinions shall not be considered to be official policies or rulemaking by the Board and do not constitute advisory opinions by the Board pursuant to M.G.L. c. 30A, § 8.

(b) Appeal before the Board. Any person who disagrees with or is aggrieved by the decision or interpretation of an Inspector may appeal to the Board for a hearing.

1. The appeal shall be in writing on a form approved by the Board.

2. The appeal shall be accompanied by a fee in the amount set by the Secretary of Administration and Finance and made payable to the Commonwealth of Massachusetts.

3. The fee shall be submitted by the appellant with the Executive Director of the Board who shall schedule the hearing and notify all interested parties.

4. The decision of the Board is final.

3.06: Grounds for Imposition of Disciplinary Sanctions

(1) Grounds for Imposition of Disciplinary Sanctions.

(a) Any violation of or failure to comply with any of the laws or regulations of the Commonwealth relating to the practice of plumbing or gas fitting including, but not limited to:

1. M.G.L. c. 142;

2. M.G.L. c. 112, §§ 61 through 65A; and

3. Any violation of 248 CMR 3.00 through 11.00, which is considered unprofessional and improper conduct.

(b) A Licensee is convicted of or admits to sufficient facts or pleads *nolo contendre* to a crime in any jurisdiction, whether felony or misdemeanor, in the Commonwealth or outside of the Commonwealth, regardless of adjudication or sentence, that relates to the practice of plumbing or gas fitting.

(c) No person shall aid or abet any plumber or gas fitter to violate the provisions of M.G.L. c. 142, M.G.L. c. 112, §§ 61 through 65A or 248 CMR 3.00 through 11.00.

(d) No person shall employ an unlicensed person or employ any unlicensed person in the performance of any work that requires a license by M.G.L. c. 142 or 248 CMR 3.00 through 11.00.

(2) Deceptive Advertising. The following advertising practices are considered fraudulent, false, deceptive or misleading and are prohibited:

(a) advertising that contains a misrepresentation of facts or false statements regarding the Licensee's professional achievements, degrees, trained skills, and qualifications;

(b) advertising that makes only a partial disclosure of relevant facts, such as advertising a discounted price without identifying the specific discounted product or service or without specifying the usual price for the discounted product or services;

(c) advertising that contains a representation that a continuing education or training program is approved by the Board, if the content of the program departs from the content approved by the Board or is not in fact approved;

(d) advertising that contains any representation, statement or claim that the Board determines is misleading or deceptive to the public; or

(e) any sign, listing or advertisement authorized by the Licensee which does not contain his or her designation and license number.

(3) Ethical Standards and Professional Conduct. Requirement to respond to the Board:

(a) A Licensee shall respond within ten days to a written communication from the Board or its designee and shall make available to the Board any relevant and authorized records with respect to an inquiry or complaint about the Licensee. The ten-day period commences on the date the Board sends the communication to the Licensee's last known address. This deadline may be extended by the Board or its designee with good cause.

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(b) A Licensee shall cooperate with any reasonable request from the Division of Professional Licensure's agent or employee acting on behalf of the Board while investigating a complaint or allegation regarding the Licensee.
(c) A Licensee shall not provide any services beyond the scope of their Board issued license(s).
(d) Each Licensee shall fully inform persons served of the nature, possible effects, and limitations of services rendered or to be rendered.
(e) A Licensee shall not charge for services not rendered.
(f) Unless required by law, a Licensee shall not reveal to any unauthorized person any confidential information obtained from the client that the Licensee serves professionally without the client's permission.
(g) Each Licensee shall take all reasonable precautions to avoid injuring persons and property in the delivery of professional services.
(h) Each Licensee shall not discriminate on the basis of race, religion, gender, sexual orientation, age, or against any other class defined by law.
(i) Licensees shall maintain objectivity in all matters concerning the welfare of persons served professionally.

3.07: Complaint Handling Process

(1) Any person, organization, agent or employee of the Division of Professional Licensure, or member of the Board may file a complaint or provide information to the Board that alleges misconduct by a Licensee or unlicensed individual. If complainant is not anonymous, the complainant shall provide his or her name, address, and telephone number and a detailed description of the alleged act(s) that prompted the complaint. The complaint form shall be signed by the complainant or an authorized representative. The Board, at its discretion may investigate anonymous complaints.

(2) Inquiry and Investigation. After receipt and review of a written complaint, the Board may conduct any reasonable inquiry or investigation it deems necessary to determine the truth and validity of the allegation(s) set forth in such complaint. If the Board or an authorized agent of the Board determines that the complaint is lacking in merit, it may close the complaint.

(3) Request for Response and Response. If the Board or its duly authorized agent determines that a complaint has merit, the Board or its duly authorized agent may request that the Licensee or unlicensed individual who is the subject of the complaint provide a response to the complaint. A Licensee or unlicensed individual shall respond to a request for response, and such response may be made either personally or through an attorney. A response shall address the substantive allegation(s) set forth in the complaint or request for response and be provided in writing in a timely manner in accordance with 248 CMR 3.00.

(4) Investigative Conference. To facilitate disposition, the Board or its duly authorized agent may request any person to attend an investigative conference to discuss the complaint and response at any time prior to the commencement of a formal hearing conducted pursuant to M.G.L. c. 30A.

(5) Board Action Required. If a Licensee or unlicensed individual fails to respond as requested by the Board or its duly authorized agent, or at any other point in the course of investigation or inquiry into a complaint, the Board or its duly authorized agent determines that there is reason to believe that the alleged acts occurred and constitute a violation for that a Licensee or unlicensed individual may be sanctioned by the Board, the duly authorized agent or the Board may issue an order to show cause or offer to resolve the complaint by consent agreement.

REGULATORY AUTHORITY

248 CMR 3.00: M.G.L. c. 112, § 61; M.G.L. c. 142, §§ 13 and 21.