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CHARLES BORSTEL
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Minutes

Bureau of Pipefitters, Refrigeration Technicians and Sprinklerfitters
Division of Professional Licensure
1000 Washington Street, Room 1D
Boston, MA 02118
April 18, 2018, 10:00 AM

1. Meeting called to order by the Chair at 10:07 a.m., followed by roll call, the Chair asked that members identify themselves and whom they represent:

Bureau Members Present:

David Sullivan, Chair
Dan Dumont, NE Mechanical Contractors
Justin Fishlin, Sprinklerfitter Member
Pauline Lally, User Member
Frank Norton, Boston Refrigeration Contractors
Allan Berry, Refrigeration Technician Member
Sharon Orr, Mechanical Engineer
John Viola, Sprinkler Contractor Member

Bureau Members Not Present:

Jennifer Revill, Public Member
Leo Fahey, Pipefitter Member
Brian Kelly, Mass. Building/Construction Trades

Guests Present:

Bryan Levesque, RT Applicant
Edward Arnold, SJ Applicant
Brian St. Germain, SJ Applicant
Justin Harden, SJ Applicant
Tom Coffey, Massachusetts & Northern New England
Laborers' District Council
Scott Coleman, Massachusetts & Northern New
England Laborers' District Council
Barbara Lagergren, Gould Construction Institute
Henry Mattuchio, DAS
Elizangela Barros, DPL
Bruce Hopper, DPL
Daniel Kilburn, DPL
Brian Logan, DPL
Kevin Scanlon, DPL
Cesar I. Lastra, DPL

2. **Minutes:** The draft minutes from the February 21, 2018 Bureau meeting were reviewed. **Motion to approve the minutes made by Justin Fishlin, seconded by Frank Norton; motion passed by unanimous vote.**
3. **Review of the following applications to examine:**

Bryan Levesque (RT) – Approved

Application to examine for Refrigeration Technician's license submitted by Bryan Levesque was considered. Mr. Levesque holds Refrig/Master 1 and Pipefitter/Master 1 licenses in Rhode Island and a Heating, Piping & Cooling Unlimited Journeyman license in Connecticut. Mr. Levesque has previously examined for the Massachusetts Refrigeration Technician's license twice without appearing before the



Bureau, but failed the exam on both occasions. Frank Norton questioned Mr. Levesque on his refrigeration trade experience. **Motion to approve the application made by Frank Norton, seconded by Allan Berry; motion passed by unanimous vote.**

Edward Arnold (SJ) – Approved

Application to examine for Sprinkler Journeyman's license submitted by Edward Arnold was considered. Mr. Arnold holds a Fire Protection Journey (FPJ) license in Rhode Island and completed training through the Rhode Island Construction Training Academy. Mr. Arnold was unable to attain documentation of working hours from past employer as he is no longer their employee. Pauline Lally stated that Rhode Island Certificate of Completion of Apprenticeship must have been issued upon verification of work hours. **Motion to approve the application made by John Viola, seconded by Justin Fishlin; motion passed by unanimous vote.**

Brian St. Germain (SJ) – Approved

Application to examine for Sprinkler Journeyman's license submitted by Brian St. Germain was considered. Mr. St. Germain holds a Fire Protection Unlimited Journeyperson license in Connecticut, but was unable to provide documentation of completing a sprinklerfitting training program. Cesar I. Lastra informed the Bureau that Mr. St. Germain's employer provided a letter certifying the completion of work hours and training hours in the sprinklerfitting trade. **Motion to approve the application made by John Viola, seconded by Frank Norton; motion passed by unanimous vote.**

Justin Harden (SJ) – Approved

Application to examine for Sprinkler Journeyman's license submitted by Justin Harden was considered. Mr. Harden holds a Fire Protection Unlimited Journeyperson license in Connecticut and has completed the AFSA four level apprenticeship training program. **Motion to approve the application made by John Viola, seconded by Justin Fishlin; motion passed by unanimous vote.**

4. Pipefitters License Clarification Letter

The topic was addressed at 11:19 a.m. Kevin Scanlon, General Counsel, informed the Bureau members that the Commissioner, received a clarification request on the subject of chilled water piping from Thomas P. Kerr Jr., Assistant Business Manager, of Pipefitters Local 537 Boston and Vicinity, this was thereafter sent to Bureau Counsel Charles Kilb for review. A letter of legal interpretation was drafted and, because it was not deemed to be controversial, sent it out without the Bureau's review. Due to concerns raised by outside parties, the General Counsel wanted to bring it to the Bureau's attention for discussion. General Counsel added that, in response to the legal interpretation, Tom Coffey and James Grosso submitted response letters on behalf of the groups they represent (Massachusetts & Northern New England Laborers' District Council and Associated General Contractors of Massachusetts, respectively) and were invited to the meeting to provide context. Review of Mr. Kerr's request, Mr. Kilb's legal interpretation, and the response letters from Mr. Coffey and Mr. Grosso ensued.

Tom Coffey, attorney for the Massachusetts & Northern New England Laborers' District Council, addressed the members of the Bureau. Mr. Coffey stated that the March 12th legal interpretation from Charles Kilb has raised many issues at a job site in Harvard where a chilled water line is being installed between buildings and that the work has traditionally been performed by laborers. Mr. Coffey informed the Bureau members that Mr. Kerr went to the contractor and insisted that the work be done by his union members and that the legal interpretation used by Mr. Kerr appeared to use the authority of the Bureau to create job opportunities. Upon discussing the matter with the General Counsel, Mr. Coffey was advised that the legal interpretation never went before the Bureau nor was it approved by the Bureau. Mr. Coffey requests that the Bureau table the legal interpretation, take it under advisement, and seriously consider the implications as it is being used as an official document approved by the Bureau to create an economic opportunity.

Mr. Coffey was questioned by members of the Bureau. Frank Norton inquired whether the laborers installing the chilled water lines held any licenses. Mr. Coffey was not sure, but stated that the chilled water lines were being installed at the same time as the hot water lines and there are licensed Master Pipefitters on the overall project. Dan Dumont inquired whether the chilled water lines were located in personnel

tunnels or underground. Mr. Coffey stated that the chilled water lines are being trenched underground. John Viola inquired whether the laborers go through a training program that exposes them to installing chilled water lines. Mr. Coffey was unsure if chilled water lines is a specific training program, but stated that the laborers are trained in installing far more significant lines that relate to the projects they're involved. Sharon Orr inquired on the type of piping that is involved in the installation (threaded, welded, metallic, etc.). Mr. Coffey is unsure, but believes that piping is of a different type that requires the connections to be performed by certified company representatives. Brian Logan, OPSI District Engineering Inspector, inquired on who insulates the pipes. Mr. Coffey did not know who insulated the pipes.

Mr. Viola stated that the letter from Charles Kilb appeared to be a legal opinion, which General Counsel acknowledged, but the General Counsel advised that, as it was on the scope of practice, it would be appropriate for the Bureau to review it. Mr. Norton stated that the Bureau was unaware of the legal interpretation, nor the discussion. Mr. Norton added that it appears that the Bureau is being drawn into a jurisdictional problem when they're a licensing committee. Mr. Coffey acknowledged Mr. Norton's statement, but stated that in his opinion, the clarification of chilled water lines on the second page of the legal interpretation, needs to be done through a regulation change. The General Counsel reiterated that there was a scope of practice issue and provided a short synopsis of the North Carolina Dental Case to the Bureau members to help ensure any action taken met the definition of "state action". A recommendation was made by General Counsel to table the matter for further legal staff review, for further discussion to formulate a letter or opinion from the Bureau to vote on. Pauline Lally reiterated that the Bureau was unaware of the discussion or legal interpretation regarding chilled water lines until it was discussed at the meeting. **Motion to table the matter for further legal staff review, for further discussion to formulate a letter or opinion from the Bureau to vote on made by Frank Norton, seconded by John Viola; motion passed by unanimous vote.**

5. Discussion of Draft Guidelines for Applications Going Before the Bureau

Cesar I. Lastra, Technical Code Coordinator, informed the Bureau members of the changes made to the draft "Guidelines for Applications Going Before the Bureau" that were requested at the February meeting by Brian Kelly and Justin Fishlin. Mr. Kelly was not present at this meeting, nor was Bureau Counsel, Charles Kilb, to discuss the "Review of Applications with Insufficient Educational Requirements". **Motion to table the discussion made by Frank Norton, seconded by Justin Fishlin; motion passed by unanimous vote.**

John Viola inquired whether the intent of the proposed criteria language for the Sprinklerfitter Contractor was to require that the applicant be licensed for five (5) years [10,000 hours] as a Journeyman Sprinklerfitter in a responsible management position or holding the Journeyman Sprinklerfitter license for five (5) years [10,000 hours] and providing evidence of being in a responsible management position? Mr. Lastra stated that he will make a note of the request for discussion at the next Bureau meeting.

6. Proposed Changes to 528 CMR

Bureau Counsel, Charles Kilb, presented to the Bureau members a first draft version of 528 CMR 11.00 at the February 21st meeting, but was not present at this meeting to discuss the proposed changes with the members of the Bureau. Dan Dumont summarized that the changes made to 528 CMR were for students in a vocational school to get credit towards attaining a Bureau license. John Viola inquired on whether the proposed changes to 528 CMR addressed out-of-state licensees who attained their license through a grandfathering period. Cesar I. Lastra informed Mr. Viola that the topic was to be addressed under item #5, but was tabled for discussion at the next Bureau meeting. Further discussion of the proposed changes to 528 CMR will take place at the next Bureau meeting.

7. Open Discussion of Apprenticeship and Pre-Apprenticeship Matters with Division of Apprenticeship Standards Deputy Director Henry Mattuchio

Henry Mattuchio, Deputy Director of the Division of Apprentice Standards (DAS), discussed the topic of allocating credit hours from existing HVAC framework programs in order to attain a future Pipefitter license with the Bureau members. Cesar I. Lastra stated that the composition of the Pipefitter pilot program that was approved in January was 150 schooling hours and 1,500 work hours. Mr. Lastra added that a discussion to allocate credit hours from the frameworks in HVAC, Plumbing, and Metal Fabrication took place at the February meeting where a recommendation was made by Justin Fishlin to break up the composition of the Pipefitter pilot program in to thirds. **Motion to approve allocating 50 schooling hours and 500 work hours from the frameworks in HVAC, Plumbing, or Metal Fabrication towards attaining a future Pipefitter license made by Allan Berry, seconded by Justin Fishlin; motion passed by unanimous vote.** Mr. Mattuchio inquired on how far back in the school year can the schooling hours and work hours be considered applicable. Pauline Lally stated that the allocation of schooling and work hours should be applicable as of January to be in line with the approval of the Pipefitter pilot program.

Mr. Mattuchio also informed the Bureau members of a meeting with Mt. Wachusett Community College regarding the feasibility of implementing a Pipefitter pilot program. Mr. Mattuchio stated that Mt. Wachusett Community College is working with the Leominster Center for Technical Education Innovation on this project and are awaiting a response from their superiors on the matter. Mr. Mattuchio added that many inquiries for the Pipefitter pilot program have been made, but no requests for the curriculum at this time. Mr. Mattuchio is awaiting to hear back from Maura Russell on the Vocational Schools' interest for the July 1st deadline.

In addition to the topics listed on the agenda, Mr. Mattuchio informed the Bureau members that he has stopped pre-apprentice students from going in to co-op, but is granting credit on schooling.

8. Enforcement by the Office of Public Safety and Inspections

Daniel Kilburn, District Engineering Inspector Supervisor, provided the Bureau with a report on the OPSI compliance. Mr. Kilburn stated that, in the month of February, six sprinklerfitting fines were issued in the amount of \$1,750, of which four fines were issued at one job site. Mr. Kilburn informed the Bureau that the authority of Massachusetts General Laws, chapters 146, section 89 was used to cover the rest of the statute so as to issue fines to: two sprinklerfitting apprentices that were working alone, the journeyman sprinklerfitter tasked to supervise the apprentices for not supervising, and a fire protection sprinklerfitting contractor for not supervising his journeyman and apprentices. Questions to Mr. Kilburn by the Bureau members ensued. Justin Fishlin asked whether fines are paid by the employee at fault or their company for ordering the employee to perform the work. Mr. Kilburn stated that those situations are taken in to consideration and Mr. Kilburn does advice OPSI Engineering Inspectors prior to the issuance of the fine. John Viola reiterated that situations where journeyman sprinklerfitters are fined for following their employers orders are a sensitive matter and should be taken in to consideration when OPSI Engineering Inspectors issue a fine. Mr. Viola inquired at what point a Bureau license can be pulled. Mr. Kilburn stated that a Bureau license, including the contractor's license, can be pulled at any time the Chief finds a violation to be egregious enough to take action through a board of three OPSI Engineering Inspectors. Mr. Kilburn reiterated that the OPSI Civil Fines system does not have records on second offenses for Bureau licenses, at this time. Mr. Fishlin inquired on raising the limits of fines as they appear low on the company level. Mr. Kilburn stated that fines for unlicensed operations start at \$250 and the fine for a journeyman allowing unlicensed operations start at \$500. Mr. Kilburn was under the impression that a fine for a contractor allowing unlicensed operations may start at \$1,000, which is the maximum for a first offense, but will have to verify that information. Mr. Viola inquired whether OPSI Engineering Inspectors checked ratios at the work site. Mr. Kilburn stated that ratios are not under the inspectors' jurisdiction.

General Counsel, Kevin Scanlon, reiterated that the DPL's emphasis is education and enforcement, but will also take a hard stand on egregious offenders, including criminal charges. General Counsel added that, in his opinion, as word gets around quickly, industries tend to self-regulate, and is hoping for compliance and less unlicensed practices.

9. Matters not reasonably anticipated 48 hours in advance of meeting

- No discussion on matters not reasonably anticipated 48 hours in advance of the meeting.

10. Motion to adjourn made by Frank Norton, seconded by Justin Fishlin; motion passed by unanimous vote, meeting adjourned at 11:55 a.m.

The next meeting of the Bureau of Pipefitters, Refrigeration Technicians, and Sprinklerfitters will be on Wednesday, May 16, 2018 at 10:00 AM. The meeting will be held at the Division of Professional Licensure, 1000 Washington Street, Room 1D, Boston, MA 02118.

List of Documents/Exhibits Used at this Meeting

- a. Draft minutes from meeting on February 21, 2018
- b. RT Application – Bryan Levesque
- c. SJ Application – Edward Arnold
- d. SJ Application – Brian St. Germain
- e. SJ Application – Justin Harden
- f. Pipefitters License Clarification Letter from Charles Kilb
- g. Pipefitters License Clarification Letter from Thomas P. Kerr Jr., Assistant Business Manager, Pipefitters Local 537 Boston and Vicinity
- h. Letters from James F. Grosso, representing the Associated General Contractors of Massachusetts, Inc. and the Labor Relations Division of Construction Industries of Massachusetts (Dated April 3, 2018 & April 4, 2018)
- i. Letter from Tom Coffey, representing the Massachusetts and Northern New England Laborers' District Council of the Laborers' International Union of North America, AFL-CIO and its Business Manager Joseph Bonfiglio
- j. Draft Guidelines for Applications Going Before the Bureau (April 18, 2018)
- k. Proposed Changes to 528 CMR 11.00: PREREQUISITES FOR EXAMINATIONS FOR PIPEFITTERS, REFRIGERATION TECHNICIANS, AND SPRINKLER FITTERS (February 21, 2018)
- l. Heating, Ventilation, Air Conditioning & Refrigeration Framework – Pipefitting
- m. Heating, Ventilation, Air Conditioning & Refrigeration Framework – Heating, Ventilation, Air Conditioning & Refrigeration (HVAC)
- n. Heating, Ventilation, Air Conditioning & Refrigeration Framework – Plumbing
- o. Heating, Ventilation, Air Conditioning & Refrigeration Framework – Sheet Metalworking
- p. Bureau of Pipefitters, Refrigeration Technicians, and Sprinkler Fitters – Compliance Inspection Report (April 18, 2018)