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BUSINESS REGULATION

CHARLES BORSTEL
COMMISSIONER, DIVISION OF
PROFESSIONAL LICENSURE

Minutes

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

1. Meeting called to order by the Chair at 10:03 a.m., followed by roll call, the Chair asked that members identify themselves and whom they represent:

Bureau Members Present:

Charles Borstel, Chair
Pauline Lally, User Member
Frank Norton, Boston Refrigeration Contractors
Sharon Orr, Mechanical Engineer
John Viola, Sprinkler Contractor Member
Brian Kelly, Mass. Building/Construction Trades
Leo Fahey, Pipefitter Member

Bureau Members Not Present:

Allan Berry, Refrigeration Technician Member
Dan Dumont, NE Mechanical Contractors
Justin Fishlin, Sprinklerfitter Member
Jennifer Revill, Public Member

Guests Present:

Stephen Affanato, New England Mechanical Contractors Association
Paul Campbell, Pipefitters Local 537
Pat Daly, IUOE Local 877
Peter Gibbons, Sprinkler Fitters Local 550
Timothy Gibbs, EM Duggan
Ed Marks, Beacon Piping Co.
Tim Gilligan, Pipefitters Local 537
Thomas Kerr, Pipefitters Local 537
John Kilduff, IUOE Local 877
Barbara Lagergren, Gould Construction Institute
Jim O'Brien, Pipefitters Local 537
Carine Sauvignon, Massasoit Community College
William Young, Pipefitters Local 537
Henry Mattuchio, DAS
Elizangela Barros, DPL
Charles Kilb, DPL
Daniel Kilburn, DPL
Brian Logan, DPL
David Sullivan, DPL

2. **Minutes:** The draft minutes from the June 20, 2018 Bureau meeting were reviewed. **Motion to approve the minutes made by Frank Norton, seconded by John Viola; motion passed by unanimous vote.**



3. Review of the following applications to examine:

Nathaniel R. Menoche (PJU) – Tabled

Application to examine for Journeyman Pipefitter Unrestricted license submitted by Nathaniel R. Menoche was considered. Mr. Menoche was not present at this meeting. **Motion to table the application made by Brian Kelly, seconded by Sharon Orr; motion passed by unanimous vote.**

4. Review of Massasoit Community College HVAC curriculum for consideration as an RT approved school

Carine Sauvignon, Dean of Emergent Technologies at Massasoit Community College, appeared before the Bureau to address their questions regarding the Massasoit Community College HVAC curriculum for consideration as a Refrigeration Technician approved school. Charles Kilb, Bureau Counsel, notified the Bureau members that the requested structure of breakdown hours was included in their packet. Ms. Sauvignon informed the Bureau that Massasoit Community College inherited the Blue Hills Vocational School's approved Refrigeration program in the 1980s which was transferred to a degree program. Ms. Sauvignon added that their students traditionally are not from vocational schools, but Massasoit Community College does accept and transfer previous learning experience in to credits. The Chair inquired whether students were working while attending school. Ms. Sauvignon stated that some students do maintain employment while in school and those students wanting to experience the trade do tend to move to a four year school after graduation. Discussion regarding the Massasoit Community College program ensued. Brian Kelly questioned why the previously approved Refrigeration program under the Blue Hills Vocational School was not maintained. Ms. Sauvignon could not answer the question, but was made aware by a graduate that Massasoit Community College was not listed as an approved school. Ms. Sauvignon added that the previously approved Refrigeration program was modified to comply with college standards. Mr. Kelly asked if Bureau Counsel had a recommendation for the Bureau. Bureau Counsel stated that there was no reason not to approve the program, but informed the Bureau members that the submitted program applies to the students working either 4,000 hours or 6,000 hours. **Motion to add the Massasoit Community College program to the list of Refrigeration Technician approved schools made by Brian Kelly, seconded by Frank Norton; motion passed by unanimous vote.**

5. Further Discussion and possible vote on the Pipefitters License Clarification Letter previously issued March 12, 2018

Brian Kelly recused himself from the discussion at 15:01 minutes in to the Bureau meeting. Charles Kilb, Bureau Counsel, addressed the Bureau members regarding the letter dated March 12, 2018 which the Bureau tabled for further review. Bureau Counsel informed the Bureau members that if they wish to accept the letter, as written, that they do so with the caveat that acceptance is subject to the final approval by the Commissioner [of the Division of Professional Licensure]. Bureau Counsel noted that the intent of a separate approval by an independent state actor will legally insulate the Bureau members from anti-trust allegations. Leo Fahey questioned why the other Bureau member had to recuse himself. Bureau Counsel stated that the matter was a private issue kept in confidence. Frank Norton questioned why the caveat was the best avenue for the Bureau. Bureau Counsel stated that someone who disagrees with the letter cannot go to court to sue the Bureau and its individual members, other than the public member, and claim that the decision was based upon the members' involvement in the trade and be liable for violating federal anti-trust laws. Bureau Counsel added that having an independent state supervisor have the authority to make the final decision, in this case the Commissioner, is consistent with the Governor's Executive Order 567. Mr. Fahey questioned if a change in Commissioner will result in a vote change if they do not agree with the letter. Bureau Counsel stated that a future Commissioner may not have the authority to change a vote taking place at this meeting. Mr. Norton questioned what would happen if the Commissioner vetoes the Bureau's approval. Bureau Counsel stated that that Bureau can take another vote next time with the caveat to proceed after the Commissioner's veto. Bureau Counsel added that the Bureau members have the right to do so, but may be vulnerable to personal anti-trust lawsuits. Mr. Fahey questioned whether Bureau members can seek the advice of their personal counsel. Bureau Counsel stated that, as a board, he is the

only counsel to the Bureau and personal counsel apply to personal situations. The Chair stated that the matter of discussion is a contentious issue and wants to protect the Bureau members from personal anti-trust allegations. **Motion to accept Pipefitters License Clarification letter as written by Bureau Counsel and contingent on the final approval of the Commissioner made by Frank Norton, seconded by John Viola; motion passed by unanimous vote.** The Chair informed the Bureau members that, as Commissioner, he will approve the Pipefitters License Clarification letter. Brian Kelly returned at 29:13 minutes in to the Bureau meeting.

6. Review of draft 528 CMR for further changes

Sharon Orr started the discussion by disclosing that she is a Mechanical and Welding Engineer and is trying to navigate through the license tiers to figure out the premises of tiers that are in place. Ms. Orr added that she is struggling to find the logic and what the jurisdiction is over welding. Daniel Kilburn addressed the Bureau members by stating he was familiar with the licensing process and the comments made at the public hearing. Mr. Kilburn stated that the pipefitting licensure is not a tier system, but rather a matrix where the applicant can follow a path of their choosing. However, Mr. Kilburn, raised the concern over people, who are not required to be certified welders to operate welding machines, having to get a pipefitting welding license. Ms. Orr informed the Bureau members that welding operators operate orbital welders which are simple to use and have a separate certification under the ASME Section IX code than that of certified welders. Mr. Kilburn suggested that a change be made to allow licensed apprentices to operate welding machines before becoming a licensed journeyman. Ms. Orr questioned whether a process welding license is required when only operating an orbital welder. Brian Kelly disagreed with Ms. Orr as the welder operator certification requires extensive training, including the knowledge of programming the machine. Ms. Orr noted that the ASME Section IX code makes the distinction of welder and welding operator. Ms. Orr added that she understood the initial intent of the license language was streamline and be less bureaucratic, however, she noted that many sub tiered licenses will not be use. Mr. Kilburn informed the Bureau that different pipefitting exams are created each month, but doubts that less than 10 sub tiered exams are taken a year. Mr. Kilburn added that allowing apprentices to operate welding machines under supervision would solve the problem of having over qualified individuals performing this task. Mr. Kelly acknowledged that it is a very confusing system that needs to be reviewed. Mr. Kilburn noted that the system is not burdensome, except for the welding operators, which wasn't made aware until later in the process. Discussion ensued on the process to attain a pipefitting welder's license. The Chair recommended that Mr. Kilburn, Assistant Chief David Sullivan, and legal review the matter for further discussion. Leo Fahey questioned whether the intent was to create a separate sub-tier of licensure for welding machine operators. Mr. Kilburn stated that it was not the intent to do so heading in to this meeting, but may be a good idea. Mr. Kelly suggested to involve industry professionals to address new technologies and processes. **Motion to table the discussion for further review by OPSI staff made by Brian Kelly, seconded by Sharon Orr; motion passed by unanimous vote.**

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

Henry Mattuchio discussed the topic of auditing the Bureau approved Refrigeration schools and modifying the DAS Certificate of Completion of Apprenticeship to display the work hours and school hours completed by the apprentice. Mr. Mattuchio noted that this change was a result of talks with Assistant Chief of Inspections David Sullivan. Charles Kilb, Bureau Counsel, acknowledge that the audit performed by Mr. Mattuchio was of great help to the Bureau as it brought the schooling information up to date. Bureau Counsel added that he would encourage that the same audit to be conducted on the Bureau approved Pipefitting schools. Sharon Orr was in support of Bureau Counsel's comment. Mr. Mattuchio acknowledged the Pipefitting school audit request and would try to provide information at the next Bureau meeting.

Frank Norton asked Mr. Mattuchio if there was any discussions on getting high school Refrigeration seniors out on to the field. Mr. Mattuchio stated that problems with the schools and the students' age were contributing factors to not having the seniors out on the field. Bureau Counsel added that the current statutory age requirements would have to change in order to allow this practice. Brian Logan, OPSI

Engineering Inspector, informed the Bureau members that the Greater New Bedford Regional Vocational Technical High School offers a boiler operator program to their students that allows them to sit for the Second Class Fireman's license exam before they reach the required 18 years of age. Mr. Logan made the recommendation to look in to this program to see if it can be applied to the Refrigeration trade. Brian Kelly made the recommendation to reach out to the Department of Fire Services' Chief of Engineering Inspections, Edward Kawa, for more information.

8. Jurisdictional Report by the Office of Public Safety and Inspections

Daniel Kilburn, District Engineering Inspector Supervisor, presented the OPSI jurisdictional report. Mr. Kilburn informed the Bureau members that the Bureau license compliance rate remains consistent with the rates of past months. Mr. Kilburn also introduced a new report to the Bureau members that looks in to the exam results of applicants with credentials outside of Massachusetts that were approved to examine by the Bureau. Mr. Kilburn stated that the report shows results similar to the general exam rates, but were lower than the general rates. Frank Norton questioned whether the exam is too hard. Mr. Kilburn acknowledge that the Bureau approved applicants are not performing as well, but are not performing poorly. Brian Kelly noted that the report shows that the applicants have not failed more than twice on three attempts which may be a result of requiring a refresher to bring them up to speed. Mr. Kilburn also noted the surprising amount of applicants who've failed the exam and do not retest. The Chair asked Mr. Kilburn whether the OPSI Inspectors were experiencing any compliance related issues. Mr. Kilburn noted that no issues were experienced and that the compliance rates remain consistent with past months' rates. Leo Fahey inquired whether OPSI Inspectors will be checking for licenses related to the Pipefitter License Clarification letter that was approved at this meeting. The Chair acknowledged that OPSI Inspectors would be doing so, but emphasized the agency's role as educators before enforcers.

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

- Brian Kelly noted that the Bureau traditionally has cancelled one of its meetings in the summer. **Motion to cancel the August meeting made by Leo Fahey, seconded by Frank Norton; motion passed by unanimous vote.**

10. Motion to adjourn made by Frank Norton, seconded by Sharon Orr; motion passed by unanimous vote, meeting adjourned at 11:17 a.m.

The next meeting of the Bureau of Pipefitters, Refrigeration Technicians, and Sprinklerfitters will be on Wednesday, September 19, 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 the Bureau meeting on June 20, 2018
- b. PJU Application – Nathaniel R. Menoche
- c. Massasoit Community College's Refrigeration Technician Curriculum
- d. Pipefitters License Clarification Letter from Charles Kilb (March 12, 2018)
- e. Proposed Changes to 528 CMR 11.00: PREREQUISITES FOR EXAMINATIONS FOR PIPEFITTERS, REFRIGERATION TECHNICIANS, AND SPRINKLER FITTERS (July 18, 2018)
- f. DAS Audit of Refrigeration Technician Approved Programs and Hours
- g. Pass Fail Rates – Bureau Approved Licenses – April 2017 to May 2018
- h. Bureau of Pipefitters, Refrigeration Technicians, and Sprinkler Fitters – Compliance Inspection Report (June 20, 2018)