

PUBLIC HEALTH DEPARTMENT [641]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board of the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 23, “Plumbing and Mechanical Systems Board—Licensee Practice,” Chapter 27, “Plumbing and Mechanical Systems Board—Administrative and Regulatory Authority,” Chapter 28, “Plumbing and Mechanical Systems Board—Licensure Fees,” Chapter 29, “Plumbing and Mechanical Systems Board—Application, Licensure, and Examination,” and Chapter 30, “Continuing Education for Plumbing and Mechanical Systems Professionals,” Iowa Administrative Code.

Items 1, 2, 10, and 11 of the proposed amendments adopt new definitions or amend existing amendments to clarify requirements.

Items 3, 4, 5, 8, 9, 12, and 26 would prohibit a person from holding both an active apprentice license and an active specialty license at the same time. The purpose of the amendments is to resolve an existing conflict in board rules that allow persons with a special restricted license to work within the scope of the restricted license without supervision and state law which requires that apprentices may only work under the supervision of another licensee. The amendments specify that if a person currently holds an active special license and seeks an active apprentice license, the special license must be placed on inactive status. No fee or continuing education would be required to maintain the specialty license on inactive status so long as the person maintains active licensure as an apprentice. If the person later drops out of the apprenticeship program, the person can surrender the apprentice license and reactivate the specialty license by paying the fee for an active license.

Items 6, 14, and 17 update references to the board website, which has changed. Item 7 of the proposed amendments deletes a reference to a subrule that does not exist.

Items 13 and 21 of the amendments implement provisions to create a “one-stop shop” that will allow contractors licensed under Iowa Code chapter 105 to apply for or renew the contractor license issued by the Plumbing & Mechanical Systems board at the same time as applying for or renewing the contractor registration issued by the Labor Services Division of the Department of Workforce Development. Applicants for a contractor license or renewal of a contractor license issued by the board will also be required to include the fee for a three-year contractor registration and other items required for a contractor registration under the Labor Services Division of the Department of Workforce Development. The board will transmit the portion of the fee received for contractor registration to the Labor Services Division, as well as the other information required for contractor registration. The amount of the fee has not changed or increased, however, the fee collected will be three times the annual fee amount to allow for a three-year registration period. These provisions implement Iowa Code sections 91C.1 and 105.18.

Items 15, 16, 18, 19, 20, and 21 clarify applicant responsibilities, the renewal period and specific renewal requirements for each type of license. There are no new requirements or fees, except to authorize the board to collect the fee for contractor registration at the time of renewal of the contractor license, as required by Iowa Code chapter 91C to implement the joint contractor license and contractor registration requirements.

Item 22 of the proposed amendments clarifies the requirements for filing a complete application, the late renewal period, and requirements to reinstate a lapsed license. The

requirements for late renewal and reinstatement remain the same as they are under existing board rules.

Item 23 of the amendments specifies the current administrative requirements to reactivate an inactive license, review of applications, and grounds for denial of an application.

Item 24 and item 25 rescind subrule 30.2(2) and renumber the following subrules accordingly. The existing subrule 30.3(2) is duplicative to subrule 30.2(3).

Item 27 clarifies that the licensee must maintain their own records of all continuing education courses attended.

Item 28 of the proposed amendments would create an exemption from the continuing education requirements for someone who had obtained a specialty, journeyman, or master license with less than one year remaining in the continuing education compliance period. The exemption would apply only to the licensee's first renewal of that license and only to each license that was issued with less than one year remaining in the continuing education compliance period. Item 28 also creates an exemption from the continuing education requirements for a person that possesses an inactive specialty license and active apprentice license. Part of apprenticeship training includes classroom hours of education and on the job training.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 7, 2017. Written comments should be directed to Jennifer Hart, Plumbing and Mechanical Systems Board, Iowa Department of Public Health, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-6114; email jennifer.hart@idph.iowa.gov.

Also, there will be a public hearing on February 7, 2017, at 1 p.m. in Conference Room 518, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give

their names and addresses for the record and to confine their remarks to the subject of the amendments.

These rules are subject to waiver under the Board's general waiver provisions contained in 641—Chapter 31.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 105.4.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “inactive status” in rule **641—23.1(105)**:

“Inactive license” means a license that is available for a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level. An inactive license must be renewed prior to its expiration date. An inactive license is not valid for practice until the license is reactivated by the board.

ITEM 2. Amend rule **641—23.1(105)**, definition of “lapsed license,” as follows:

“*Lapsed license*” means a license that expired prior to June 30, 2017, and was not renewed within 60 days following its expiration date and is no longer valid for practice, or a license that expired on or after June 30, 2017, and was not renewed by the following August 31, and is no longer valid for practice.

ITEM 3. Adopt the following **new** subrule 23.6(3):

23.6(3) *Dual licensure as an apprentice prohibited.* A licensee may not simultaneously possess both an active apprentice license and an active specialty license.

ITEM 4. Adopt the following **new** subrule 23.7(6):

23.7(6) Dual licensure as an apprentice prohibited. A licensee may not simultaneously possess both an active apprentice license and an active specialty license.

ITEM 5. Adopt the following **new** subrule 23.8(3):

23.8(3) Inactive specialty license.

a. A person possessing an active specialty license under rule 641—23.7(105) must submit a written request to place the specialty license on inactive status in order to obtain an active apprentice license. The licensee must acknowledge that the licensee is unable to perform any work covered under Iowa Code chapter 105 outside of the apprenticeship program.

b. Notwithstanding 641—subrule 28.1(3), a person possessing both an inactive specialty license and an active apprentice license is not required to pay a renewal fee for the inactive specialty license so long as the person remains actively licensed as an apprentice.

c. Notwithstanding 641—subrules 30.2(2), a person possessing an inactive specialty license and an active apprentice license is not required to obtain any continuing education hours for renewal so long as the person remains actively licensed as an apprentice.

d. A person possessing both an inactive specialty license and an active apprentice license may surrender the apprentice license and reactivate the specialty license upon written request and payment of the fee for an active specialty license in the amount specified in 641—Chapter 28.

ITEM 6. Amend rule 641—27.6(21), introductory paragraph, as follows:

641—27.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained through the Iowa department of public health’s Web site (<http://www.idph.state.ia.us> <http://idph.iowa.gov/PMSB>) or directly from the board office.

ITEM 7. Amend paragraph **28.1(1)“g”** as follows:

g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), and 29.2(10); and 29.2(11) is \$50.

ITEM 8. Amend paragraph **28.1(3)“e”** as follows:

e. An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50. However, no fee is required for an inactive special restricted license as defined in 641—subrule 23.8(3) so long as the person possessing the inactive specialty license remains actively licensed as an apprentice.

ITEM 9. Amend paragraph **28.1(3)“g”** as follows:

g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), and 29.2(10); and 29.2(11) is \$50. However, no fee is required for an inactive special restricted license as defined in 641—subrule 23.8(3) so long as the person possessing the inactive specialty license remains actively licensed as an apprentice.

ITEM 10. Adopt the following **new** definition of “contractor,” “lapsed license,” “reactivated license,” and “reissued license” in rule **641—29.1(105)**:

“*Contractor*” means a person or entity that provides plumbing, mechanical, HVAC-refrigeration, or hydronic systems services on a contractual basis and who is paid a predetermined amount under that contract for rendering those services.

“*Lapsed license*” means a license that expired prior to June 30, 2017, and was not renewed within 60 days following its expiration date and is no longer valid for practice, or a license that expired on or after June 30, 2017, and was not renewed by the following August 31, and is no longer valid for practice.

“*Reactivated license*” means a license that is changed from inactive to active status pursuant to rule 641—29.8(105).

“Reissued license” means a refrigeration or HVAC license that was changed to a HVAC-refrigeration license pursuant to 641—29.8(105). Reissued license also means a HVAC or refrigeration license and a hydronic license that was changed to a mechanical license pursuant to 641—29.8(105).

ITEM 11. Amend rule **641—29.1(105)**, definition of “inactive license,” as follows:

“*Inactive license*” means a license that is available for a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level. An inactive license must be renewed prior to its expiration date. An inactive license is not valid for practice until the license is reactivated by the board.

ITEM 12. Adopt the following **new** paragraph **29.2(1)“d”**:

d. If the applicant currently holds an active specialty license, place the specialty license on inactive status as specified in 641— subrule 23.8(3).

ITEM 13. Amend paragraph **29.2(4)“a”** as follows:

a. File an application and pay application fees in accordance with rule 641—29.5(105). Effective May 1, 2017, include the fee for a three-year contractor registration as specified in 875—Chapter 150.

ITEM 14. Amend paragraph **29.5(1)“b”** as follows:

b. Applications can be completed on-line or on a paper application. Paper applications are available to download at <http://www.idph.state.ia.us/ch/plumbing.asp> from the board website or from the board office by writing to: Plumbing and Mechanical Systems Board, Iowa Department of Public Health, 312 E.12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

ITEM 15. Rescind subrule 29.5(3) and adopt the following **new** subrule in lieu thereof:

29.5(3) Applicant responsibilities. An applicant for an initial license or license renewal bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, state or national testing or credentialing organizations, and educational institutions providing the information required to complete a license, certification, or renewal application;

b. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, prior professional experience, education, training, criminal history, and disciplinary history; and

c. Submitting complete application materials. An application for a license or certification, or renewal of a license or certification will be considered active for 90 days from the date the application is received. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for applications submitted online, the electronic timestamp will be deemed the date of filing. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license or certification, the application shall be considered incomplete and shall be destroyed.

ITEM 16. Rescind subrule **29.5(5)**.

ITEM 17. Amend paragraph **29.6(3)“b”** as follows:

b. Examination applications can be completed on-line or on a paper application. Paper applications are available to download at ~~http://www.idph.state.ia.us/eh/plumbing.asp~~ from the board website or from the board office by writing to: Plumbing and Mechanical Systems Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

ITEM 18. Amend subrule 29.7(1) as follows:

29.7(1) Renewal period. The period of licensure to operate as a contractor or work as a master, journeyman or apprentice in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board shall be for a period of three years, except as allowed or required in circumstances described in this subrule.

ITEM 19. Rescind paragraph **29.7(1)“b.”**

ITEM 20. Reletter paragraphs **29.7(1)“c”** to **29.7(1)“e”** as **29.7(1)“b”** to **29.7(1)“d.”**

ITEM 21. Rescind subrule 29.7(3) and adopt the following **new** subrule in lieu thereof:

29.7(3) Specific renewal requirements.

a. Active and inactive apprentice, specialty, journeyman, and master licenses. An apprentice, specialty, journeyman, or master licensee seeking renewal shall:

(1) Submit an application for renewal either electronically or on the forms provided by the board office.

(2) Meet the continuing education requirements as set forth in rule 641—30.2(105), unless no continuing education is required as specified in 641—subrules 23.8(3), 30.2(2), or 30.6(1).

(3) Include the appropriate fee as specified in 641—Chapter 28 of these rules. A penalty shall be assessed by the board for late renewal, as specified in 641—Chapter 28.

b. Medical gas piping certification holders. A medical gas piping certification holder seeking renewal shall:

(1) Submit an application for renewal either electronically or on the forms provided by the board office.

(2) Provide evidence that the person has maintained valid certification issued from the National Inspection Testing Certification (NITC) Corporation or an equivalent authority approved by the board.

(3) Include the appropriate fee as specified in 641—Chapter 28 of these rules.

c. Contractor licenses. Beginning with the July 1, 2017, renewal and each renewal thereafter, renewal of the contractor license shall constitute registration as a contractor under Iowa Code chapter 91C. A contractor licensee seeking renewal shall:

(1) Submit an application for renewal on the forms provided by the board office. Licensees may renew their licenses online or via paper application.

(2) Include evidence of professional liability insurance and a surety bond required by 641—subrule 29.2(4).

(3) As specified in 875—Chapter 150, include proof of workers' compensation insurance coverage, proof of unemployment insurance compliance, and for out-of-state contractors, a bond as described in Iowa Code chapter 91C.

(4) Include the appropriate license fee as specified in 641—Chapter 28 of these rules. A penalty shall be assessed by the board for late renewal, as specified in 641—Chapter 28.

(5) Include the fee for a three-year contractor registration as specified in 875—Chapter 150.

ITEM 22. Adopt the following **new** subrules 29.7(4) to 29.7(6):

29.7(4) Complete and timely filed application. No renewal application shall be considered timely and sufficient until received by the board office and accompanied by all material required for renewal and all applicable renewal and late fees. Incomplete applications will not be accepted. For purposes of establishing timely filing, the postmark on a paper

submittal will be used, and for renewals submitted online, the electronic timestamp will be deemed the date of filing.

29.7(5) *Late renewal.* A licensee shall have a one month grace period after the expiration date of the license to renew without payment of a late fee.

a. A licensee who seeks to renew more than one month but less than two months after the license expiration date, may renew upon payment of the late fee in the amount specified in 641—Chapter 28 in addition to the renewal fee.

b. A license remains valid for practice for up to two months past the expiration date of the license. After two months, the license shall lapse and become invalid for practice until the license is reinstated.

29.7(6) *Reinstatement.* A person seeking reinstatement of a lapsed license must submit an application for reinstatement electronically or on the forms provided by the board office and include all required documentation and fees.

a. A licensee who allows a license to lapse for more than two months but not more than 365 days may reinstate and renew the license upon payment of the late penalty fee in the amount specified in 641—Chapter 28 in addition to the renewal fee. A specialty, journeyman or master licensee must also meet the continuing education requirements as set forth in rule 641—30.2(105), unless no continuing education is required as specified in 641—subrules 23.8(3), 30.2(2), or 30.6(1).

b. A person holding a specialty, journeyman or master license who allows the license to lapse for more than one year may reinstate and renew the license by providing evidence of one the following:

(1) For a journeyperson or master licensee, retaking and successfully passing the applicable licensing examination; or

(2) Retaking and successfully completing all continuing education requirements as set forth in rule 641—30.2(105) for each renewal period in which the license was not timely renewed.

c. A contractor licensee seeking reinstatement of a license that has been lapsed for more than one year may reinstate and renew the license by submitting evidence of meeting the requirements specified in subrule 29.7(3) and payment of any required fees.

d. A licensee who reinstates and renews a lapsed license shall not be entitled to a prorated renewal fee.

ITEM 23. Adopt the following **new** rules 641—29.10(105), 641—29.11(105), and 641—29.12(105):

641—29.10(105) Reactivation of an inactive license. An inactive license is not valid for practice but must be renewed in accordance with rule 641—29.7(105). If an inactive license has not been timely renewed and becomes lapsed, the requirements for reinstatement of the license must be met. A person with an inactive license that is not lapsed who is seeking to reactivate the license shall:

29.10(1) Submit a written request to the board office for active license status; and

29.10(2) Pay the fee for an active license in the amount specified in 641—Chapter 28.

29.10(3) A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal period following reactivation.

641—29.12(105) Review of applications. Upon receipt of a completed application, the board executive officer or designee has discretion to:

1. Authorize the issuance of the license, certification, or examination application.
2. Refer the application to a committee of the board for review and consideration when the board executive officer determines that matters including, but not limited to, prior criminal history, chemical dependence, competency, physical or psychological illness, professional liability claims or settlements, professional disciplinary history, education or experience are relevant in determining the applicants' qualifications for a license, certification, or examination.

29.12(1) Following review and consideration of an application referred by the board executive officer, the committee may at its discretion:

- a.* Authorize the issuance of the license, certification, or exam application.
- b.* Recommend to the board denial of the license, certification, or exam application.
- c.* Recommend to the board issuance of the license or certification under certain terms and conditions or with certain restrictions.
- d.* Refer the license, certification, or examination application to the board for review and consideration without recommendation.

29.12(2) Following review and consideration of a license, certification, or exam application referred by the committee the board shall:

- a.* Authorize the issuance of the license, certification, or exam application;
- b.* Deny the issuance of the license, certification, or exam application; or
- c.* Authorize the issuance of the license or certification under certain terms and conditions or with certain restrictions.

29.12(3) The committee or board may require an applicant to appear for an interview before the committee or the full board as part of the application process.

641—29.13(105) Grounds for denial of an application. The board may deny an application for license, certification, or examination for any of the following reasons:

1. Failure to meet the requirements for license, certification, or examination as specified in these rules.

2. Failure to provide accurate and truthful information, or the omission of material information.

3. Pursuant to Iowa Code section 105.22, upon any of the grounds for which licensure may be revoked or suspended.

This rule is intended to implement Iowa Code section 105.22.

ITEM 24. Rescind subrule **30.2(2)**.

ITEM 25. Renumber subrules **30.2(3)** to **30.2(4)** as **30.2(2)** to **30.2(3)**.

ITEM 26. Adopt the following new paragraph **30.2(2)“e”**:

e. An individual possessing one or more inactive special, restricted licenses under 641—subrule 23.8(3) shall not be required to complete any continuing education hours for the special restricted license so long as the person remains actively licensed as an apprentice.

ITEM 27. Adopt the following new subrule 30.2(4):

30.2(4) It is the responsibility of each licensee to maintain a record of all continuing education courses attended and retain proof of compliance with the continuing education requirements.

ITEM 28. Adopt the following new paragraphs **30.6(1)“f”** and **30.6(1)“g”**:

f. Obtained a specialty, journeyperson, or master license with less than one year remaining in the continuing education compliance period. This exemption shall apply only to the licensee's first renewal of that license and only to each license that was issued with less than one year remaining in the continuing education compliance period.

g. Possesses an inactive specialty license under 641—subrule 23.8(3) and is also actively licensed as an apprentice.