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TITLE 24

Professions and Occupations

CHAPTER 18. BOARD OF PLUMBING, HEATING, VENTILATION, AIR CONDITIONING, AND REFRIGERATION EXAMINERS

Subchapter II. License -- Plumbing

§ 1807. License required; exemptions.

(a) A person shall not provide plumbing services in this State nor hold himself or herself out to the public as being a licensed master plumber, nor use "licensed plumber", "master plumber", or "licensed master plumber" in connection with that person's name, nor otherwise assume or use any title or description conveying or tending to convey the impression that the person is qualified to provide plumbing services, unless the person has been licensed as a master plumber under this chapter, or exempted from the provisions of this chapter pursuant to subsection (c) of this section.

(b) If the license of a master plumber has expired or been suspended or revoked, it is unlawful for the holder of the expired, suspended, or revoked license to perform plumbing services in this State.

(c) An individual may provide plumbing services without being licensed under this chapter if:

(1) The individual is an apprentice, journeyman, mechanic, or other person providing such services under the supervision of a master plumber who is the individual's employer or who is employed full time by the same business entity as the individual;

(2) The individual is a homeowner who is performing plumbing services other than gas piping in or about that individual's own home that is not for sale or any part for rent or lease, provided that the individual has filed an application for a permit with the authorized inspection authority;

(3) The individual is providing such services on property used exclusively for agricultural purposes and the individual has filed an application for a permit with the authorized inspection authority; or

(4) The individual is providing such services pursuant to the provisions in § 1832 of this title.

(5) The individual is providing services authorized under subchapter III of this chapter.

(d) The penalty for a violation of this section is, for a first offense, a fine of not less than \$500 nor more than \$1000, and, for a second or subsequent offense, a fine of not less than \$1000 nor more than \$2000. Justice of the Peace Courts shall have jurisdiction over violations of this section. (71 Del. Laws, c. 185, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 296, § 1.)

§ 1808. Qualifications of applicant.

(a) An applicant for licensure as a master plumber shall submit evidence, satisfactory to the Board, and verified by oath or affirmation, that the applicant:

(1) Has received a journeyman's certificate issued in any state following completion of a plumbing apprenticeship program that meets or exceeds the Federal Bureau of Apprenticeship and Training Standards and, thereafter, performed plumbing services for 2 years under the supervision of a master plumber or an individual holding a similar level of licensure in another state; or has performed plumbing services for 7 years under the supervision of a master plumber or a plumber holding a similar level of licensure in another state and, thereafter, successfully completed the apprenticeship equivalency test approved by the Board and administered by a Delaware vocational-technical school;

(2) Has achieved the passing score on a written, standardized examination, designated by the Board and approved by the Division, for licensure as a Delaware master plumber after fulfilling the experience and/or training requirements of this section;

(3) Has not received any administrative penalties regarding the applicant's practice, including, but not limited to, fines, formal reprimands, license suspension or revocation (except for license revocation for nonpayment of license renewal fees), probationary limitations, and consent agreements which contain conditions placed by a Board on the applicant's occupational conduct or practice, including the voluntary surrender of a license, certificate, registration, or other authorization to provide plumbing services. The Board may determine after a hearing whether the imposition of a particular administrative penalty is grounds to deny licensure; however, after a hearing, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(3) of this section, if it finds all of the following:

a. More than 5 years have elapsed since the applicant has fully discharged all imposed sentences. As used herein, the term "sentence" includes, but is not limited to, all periods of modification of a sentence, probation, parole or suspension. However, sentence does not include fines, restitution or community service, as long as the applicant is in substantial compliance with such fines, restitution and community service.

b. The applicant is capable of practicing plumbing services in a competent and professional manner.

c. The granting of the waiver will not endanger the public health, safety or welfare;

(4) Does not have an impairment related to drug or alcohol use that would limit the applicant's ability to provide plumbing services in a manner that is not detrimental to the health, safety, or welfare of the public;

(5) Does not have any disciplinary proceedings or unresolved complaints pending against the applicant in any jurisdiction where the applicant has previously been or is

currently authorized to provide plumbing services; or have a criminal conviction record or any pending criminal charges relating to an incident, the circumstances of which substantially relate to providing plumbing services. An applicant who has such a criminal conviction record or any such pending criminal charges must request appropriate authorities to provide information about the record or charges directly to the Board in sufficient specificity to enable the Board to make a determination of whether the record or charge is substantially related to providing plumbing services.

(b) The Board may waive the requirements of paragraph (a)(3) or (6) of this section for good cause.

(c) Each applicant shall provide the information requested on the application form approved by the Board. All evidence of experience must be submitted by affidavit on forms approved by the Board. An application form may not require an applicant to submit a photograph of himself or herself, or information related to citizenship, place of birth, length of state residency, or personal references.

(d) If the Board finds that false information has been intentionally provided to the Board, it shall report its finding to the Attorney General's Office for further action.

(e) If the Board refuses to accept, or rejects, an application and the applicant believes that the Board acted without justification, or imposed a higher or different standard to the applicant than to other applicants, or in some other unlawful manner contributed to or caused the refusal or rejection of the application, the applicant may appeal to the Superior Court. (71 Del. Laws, c. 185, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 296, § 1; 75 Del. Laws, c. 436, § 15.)

§ 1809. Examination.

(a) The written, standardized examination required in § 1808(a)(2) of this title must be offered at least quarterly. The Board will determine the passing score in its rules and regulations.

(b) An applicant who fails to receive a passing score on an examination administered pursuant to this chapter may apply to

retake the examination on the next available date. If an applicant fails to pass the examination after 3 attempts, the Board, in its rules and regulations, may specify the conditions under which an applicant may retake the examination. (71 Del. Laws, c. 185, § 1; 74 Del. Laws, c. 262, § 32; 75 Del. Laws, c. 296, § 1.)

§ 1810. Reciprocity.

(a) Upon submission and acceptance of a written application on forms provided by the Board, along with payment of the required fee, the Board shall grant a license to each applicant who presents proof of current licensure in good standing in another state, the District of Columbia, or a territory of the United States whose standards for licensure are substantially similar to those of this State and who submits the verified evidence described in § 1808(a)(3) through (5) of this title.

(b) An applicant who is licensed by another state, the District of Columbia, or a territory of the United States whose standards for licensure are not substantially similar to those of this State must have practiced for a minimum of 7 years after licensure, in addition to meeting the other qualifications for reciprocity in this section. (71 Del. Laws, c. 185, § 1; 75 Del. Laws, c. 296, § 1.)

§ 1811. Fees.

The amount set by the Division for each fee imposed under this chapter shall approximate and reasonably reflect the costs necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division in its services on behalf of the Board. A separate fee may be charged for each service or activity, but a fee shall not be charged unless the service or activity is specified in this chapter. The application fee may not be combined with any other fee. At the beginning of each licensure biennium, the Division, or another state agency acting in its behalf, shall compute the fees for each separate service or activity for the licensure biennium. (71 Del. Laws, c. 185, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 296, § 1.)

§ 1812. Issuance and renewal of licenses.

(a) The Board shall issue a license to each applicant who meets the requirements of this chapter for licensure as a master

plumber and who pays the appropriate fees established under § 1811 of this title.

(b) A license is renewable biennially in a manner determined by the Division, upon payment of the appropriate fee, submission of a renewal form provided by the Division, and proof that the licensee has met any continuing education requirements established by the Board.

(c) The Board, in its rules and regulations, shall determine the period of time within which a licensee may renew that licensee's license, notwithstanding the fact that the licensee failed to renew that licensee's license on or before the designated renewal date; provided, however, that the period of time may not exceed 1 year beyond the designated renewal date.

(d) A licensee, upon the licensee's written request, may be placed on inactive status for no more than 5 years. A licensee on inactive status who desires to reactivate that licensee's license must complete and submit an application form approved by the Board, submit the reactivation fee set by the Division, and submit proof of fulfillment of any continuing education requirements established by the Board. (71 Del. Laws, c. 185, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 296, § 1.)

§ 1813. Complaints.

(a) All complaints received by the Division shall be investigated in accordance with § 8735 of Title 29. The Division shall issue a final written report at the conclusion of its investigation.

(b) If the Board determines that a person has provided or is providing plumbing services or has used or is using the title "master plumber", "licensed plumber," or a similar designation contrary to the requirements of this chapter, the Board shall request that the Office of the Attorney General issue a cease and desist order and/or prosecute the person. (71 Del. Laws, c. 185, § 1; 74 Del. Laws, c. 262, § 32; 75 Del. Laws, c. 296, § 1.)

§ 1814. Grounds for discipline or other remediation.

An individual licensed under this chapter is subject to disciplinary sanctions set forth in § 1815 of this title or other

appropriate remediation, if, after a hearing, the Board finds that the licensee has:

(1) Engaged or knowingly cooperated in fraud or material deception in order to acquire a license, has allowed another person to use that individual's license, or has aided or abetted an unlicensed to represent himself or herself as an individual licensed pursuant to this chapter;

(2) Illegally, incompetently, or negligently provided plumbing services;

(3) Been convicted of an offense, the circumstances of which substantially relate to providing plumbing services. A copy of the record of conviction certified by the clerk of the court entering the conviction is conclusive evidence of conviction;

(4) In the last 2 years used illegal drugs; used prescription drugs without a prescription; excessively used legally prescribed drugs; or abused alcoholic beverages or drugs to the extent that it impaired that individual's ability to provide services authorized under this chapter with reasonable skill, competence, and safety to the public;

(5) Engaged in an act of consumer fraud or deception, engaged in the restraint of competition, or participated in price-fixing activities;

(6) Violated a provision of this chapter or any lawful regulation established hereunder;

(7) Had that individual's license as a master plumber restricted, suspended or revoked, or been subjected to other adverse action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for the suspension, revocation, or other adverse action in another jurisdiction have been presented to the Board by certified record and the Board has determined that the facts found by the appropriate licensing authority in the other jurisdiction constitute 1 or more of the acts listed in this section. A person licensed in this State is deemed to have given consent to the release of information regarding license suspension or revocation or other adverse action taken by the Board or by

comparable agencies in other jurisdictions and to have waived all objections to the admissibility of previously adjudicated evidence of the acts or offenses which underlie license suspension or revocation or other adverse action;

(8) Failed to notify the Board that the individual's license to provide services authorized under this chapter in another jurisdiction has been subject to discipline, or has been surrendered, suspended, or revoked. A certified copy of the record of disciplinary action, or of the surrender, suspension, or revocation of the license shall be conclusive evidence thereof;

(9) A physical or mental impairment that prevents that individual from providing services authorized under this chapter with reasonable skill, competence, and safety to the public. (71 Del. Laws, c. 185, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 262, § 33; 75 Del. Laws, c. 296, § 1.)

§ 1815. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it determines that a licensee has violated a ground for discipline set forth in § 1814 of this title:

(1) Issue a letter of reprimand to the licensee;

(2) Censure the licensee;

(3) Place the licensee on probationary status and require that licensee to:

a. Report regularly to the Board upon the matters that are the basis of the probation; and/or

b. Limit all practice and professional activities to those areas prescribed by the Board;

(4) Suspend the license of the licensee;

(5) Revoke the license of the licensee;

(6) Prescribe an administrative penalty, not to exceed \$500 for each violation.

(b) The Board may withdraw or reduce conditions of probation imposed pursuant to paragraph (a)(3) of this section, if it finds that the deficiencies that required the conditions of probation to be imposed have been remedied.

(c) If the Board suspends a licensee due to an impairment pursuant to § 1814(9) of this title, the Board may reinstate the license if, after a hearing, the Board is satisfied that the licensee is able to provide professional services with reasonable skill, competence, and safety to the public. (71 Del. Laws, c. 185, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 296, § 1.)

§ 1816. Hearing procedures.

(a) If a complaint alleging that a licensee has violated § 1814 of this title is filed with the Division pursuant to § 8735(h), the Board shall set a time and place to conduct a hearing on the complaint. The Division shall give notice of the hearing and the Board shall conduct the hearing in accordance with the Administrative Procedures Act, Chapter 101 of Title 29.

(b) A hearing conducted pursuant to this section is informal, without the use of the Delaware Rules of Evidence. If the Board decides by the affirmative votes of 5 or more members that a licensee has violated § 1814 of this title, the Board may take any action permitted under this chapter that the Board considers reasonable. The Board's decision must be in writing and must include the reasons for the decision. The Board shall immediately mail its decision to the licensee or personally serve the licensee with the decision.

(c) If a licensee disagrees with the decision of the Board, the licensee may appeal the Board's decision to the Superior Court within 30 days of the postmarked date of the copy of the decision mailed to that licensee, or within 30 days of personal service. Upon appeal, the Court shall review the evidence on the record. A stay pending review may be granted by the Court in accordance with § 10144 of Title 29. (71 Del. Laws, c. 185, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 296, § 1.)

§ 1817. Reinstatement of a suspended license; removal from probationary status; replacement of license.

(a) The Board may reinstate a suspended license if, after a hearing, the Board is satisfied that the licensee has taken the required corrective actions and has otherwise satisfied all of the conditions imposed pursuant to the license suspension and/or probation period.

(b) An individual seeking license reinstatement and/or removal from probationary status must pay the appropriate fees and submit the documentation required by the Board to show that all the conditions imposed pursuant to the license suspension and/or the probation period have been met. Proof that the individual has met the continuing education requirements of this chapter may also be required.

(c) If a license is lost, destroyed, or mutilated, a replacement license may be issued subject to the rules of the Board. A charge must be assessed for the issuance of a replacement license. (71 Del. Laws, c. 185, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 296, § 1.)

§§ 1818, 1819. [Reserved.] (75 Del. Laws, c. 296, § 1.)

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