



Pat Quinn, Governor  
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**TO:** State Board of Plumbing Examiners

**FROM:** Frank Shimkus, Plumbing Program Manager

**DATE:** November 27, 2012

**SUBJECT:** Minutes for the August 14, 2012 Open State Board of Plumbing Examiners Meeting

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**Attendance and Meeting Location**

The meeting began at 1:00 p.m. on August 14, 2012 at the Illinois Department of Public Health, 525 W. Jefferson St. 4<sup>th</sup> Floor, Springfield, Illinois.

The following were in attendance:

**IDPH Staff**

Teresa Garate, Assistant Director  
David Culp, Deputy Director, Office of Health Protection  
Kevin Jacobs, Assistant Chief Counsel  
Ken McCann, Division Chief, Environmental Health  
Justin DeWitt, Chief, General Engineering Section  
Frank Shimkus, Manager, Plumbing Program  
Irma Anaya Villa, Administrative Assistant  
Tiago Maia, Graduate Intern

**State Board Of Plumbing Examiners**

Lawrence G. Allport  
Thomas E. Caliper  
James Flemming  
John F. Gallagher  
Todd Sandberg  
Timothy D. Strubhar  
William Weinoffer

**Guests**

Larry Swope, Illinois Pipe Trades Association

### **Welcome and Introductions**

Teresa Garate introduced herself and announced that she would only be with IDPH for another three weeks. She welcomed everyone and allowed self introductions of everyone in attendance.

### **Agenda**

- Garate informed everyone that the Department is proposing to continue to hold the plumbing exam at the local 149 union facility in Savoy, but make some changes due to the need to reduce costs and increase efficiency. The contract with the local has not been executed, but the Department is working on it and trying to determine date in September or later due to logistics.
- IDPH staff estimated there were about close to 200 applicants waiting to test
- Strubhar asked what was being done for those individuals that have completed the maximum of 72 months and cannot do any plumbing.
- Shimkus explained that apprentices qualify to test after only 48 months and have a two year time frame in which they should take the test.
- Garate stated that if we had applicants in that situation, the Department would work with them on a case-by-case basis and look at each one to allow them to work rather than hold them up if it is determined that they are in that situation because we did not hold an exam.
- DeWitt pointed out that July and August are the only two months that an exam was not held and the Plumbing Licensing Law only requires the program to offer an exam every three months.
- An examiner remembered only holding the exam 4 times a year in the past and that it resulted in a backlog due to the high failure rate and people turned around and applied to test again so exams filled up quickly. He stated the problem is not how many times we give the test, it's the same people testing over and over that creates the backlog
- Culp asked if there was anything to limit the times a person can test
- The group discussed that sponsors are supposed to be held responsible for apprentices who fail three times, by meeting in front of the board with the sponsor
- Garate asked if that step is required before they be allowed to take the exam again (yes).
- Strubhar read Section 750.320, f) which states that the examinee and sponsor are to be called before the Department and Board of Plumbing Examiners after failing three times and any examinee who fails to appear shall be ineligible for admission to the next exam and the examinee, employer and sponsor are all subject to license revocation.
- Garate asked if this issue has been brought up before and there were yes and no answers from the group, so Garate said she would have legal review it and make sure we comply

- Garate moved on to address the Department's intent to have IDPH staff proctor the exam and the examiners only be present for the grading on one day
- Several board members felt such a procedure would be against the board's outlined duties in Section 750.210 of the Plumbers Licensing Code
- Strubhar read aloud part of the section that state that the board will "assist the Department in administering" the exam and felt that language included proctoring.
- Garate stated that legal had already reviewed the list of duties and concluded that the Board is not required to proctor the exam
- Several members felt that the proctoring needs to be done by licensed plumbers
- Garate disagreed and felt that proctoring a test does not require content expertise, only knowledge of the instructions and the ability to provide oversight to ensure that instructions are followed
- Members used the copper project as an example to explain that the examiners need to be present because part of the grading is measuring the overall length of the project and the cuts and the other part is after the person breaks apart the project, so the Board wanted to know how that could all be done by anyone afterwards
- DeWitt's reply was that the project would be left intact and broken later
- The examiners went on to explain that they do a lot of grading during the assembly of the project to check that the copper is clean, separated from the plastic, etc.
- Garate asked why there was grading during the proctoring and asked what happens if an examiner notices that an examinee is doing something wrong or has done 20% of the project wrong. She asked if that person is stopped or at what point a person would be failed before the project is even finished
- The group answered that grading is done during the project as is necessary only to make sure the material is properly cut, cleaned, etc.
- Culp asked if this was like a driver's test where the grading process begins while the person is driving rather than when the person comes back and the group agreed.
- Garate asked if they know during the assembly of the project if a person failed and the board answered "no".
- Culp asked the examiners if they convey anything to the examinee and the group answered "no".
- Gallagher asked Garate why she was trying to make decisions if she does not understand the process and asked if she had invited Shimkus on any of the discussions. She had. He then asked Shimkus if he had explained any of this to her. Shimkus' responded that he had answered everything he was asked.
- Culp intervened to defend Shimkus and took responsibility for the miscommunication and explained that when you don't know a process, you don't know what questions to ask and pointed out that the real issue in question is whether or not content expertise is required for the proctoring of the exam

- Garate moved on to ask whether the board if they had any problem with not proctoring the written part of the exam since that only requires the examinee to read questions and write answers
- Several board members did not agree with that either because sometimes the examinees ask questions
- Garate responded that the examiners are only supposed to read instructions, not try to explain the meaning, so anybody could do that.
- Swope diverted to ask how the proposed changes would be a cost reduction when IDPH staff would also have to be paid to travel to the exam and do the proctoring.
- Garate's reply was that staff already get paid to work and will not get paid for travel, but all the details for the process have not been worked out
- Gallagher stated that the multiple choice portion is only a small portion of the exam and is graded by the Scantron machine, but the examiners try to explain the questions without giving them the answer. He was also concerned about the grading of the architectural drawing which is now done on the spot
- Strubhar joined in to say he felt the examiner needed to know what the examinee was told by an outside person because it could affect the grade
- Garate responded, "That's the thing, you're not supposed to say anything". She explained that proctoring the exam means one can only read the instructions and if a person asks for explanation the response should be "I can only read the instructions. I cannot help you." She didn't understand what could possibly be said that would affect a person's grade.
- Swope returned to his doubts that the proposed changes are for cost saving reasons (several members agreed). He felt there must be an "ulterior motive" because in his opinion, the exam could not be done anywhere else by anyone else for any cheaper. He believed this had more to do with the frustration toward the Plumbing Program. He said he had heard many complaints about Shimkus not doing his job.
- Garate interrupted and asked that her staff not be attacked and assured the examiners that she did not call the meeting to attack them or anybody either and the reason for the meeting was to discuss the issues
- Gallagher and Strubhar again stated that Shimkus could have answered her questions without calling the examiners to the meeting.
- An incident from when Ted Buecker was in charge of the Plumbing Program was brought up. A man had a copy of the test that was going to be administered that day and he was reading it while the examiners were having breakfast at the hotel. Because of these types of problems, the program now prepares three different exams from which one is chosen on site so that nobody knows exactly what will be on the exam, but the projects have remained the same for years.
- Gallagher stated that the board has suggested to the Department that the projects be changed, but nothing has happened.
- Garate also asked for other ideas for improvement
- Gallagher's response was that the repeat applicants was the main problem

- Culp asked if procedures can be changed by rule or if there's a procedure to make a judgment to determine a maximum number of times a person can take a test.
- Swope's opinion was that the sponsors need to be held responsible, rather than the apprentice, because they are the ones that need to be providing the correct training
- Garate asked if they noticed a pattern, that certain sponsors were good or bad. They answered "no" because they haven't seen them.
- Gallagher mentioned an incident of the past where a representative of the Governor's Office contacted the board give a man a plumbing license, so he was admitted to the exam but failed and they got a lot of grief for that, so he felt the board constantly under pressure and doesn't get anywhere with meetings.
- Garate asked how often the group meets.
- Gallagher responded, "maybe three times" that he could remember in about five years.
- DeWitt asked Gallagher, as the Chair, how often he has called the group to meet and he replied that he had said something just two months ago about having a meeting
- Garate expressed concern about the strong "disconnect" between the board members and the Department. She was going to recommend support from the Director's Office for the two to work on establishing a better relationship and have regular meetings to become more cohesive and help the plumbers.
- DeWitt considered the problem to be "structural". He feels the law is "poorly written" because it doesn't provide much direction. It says there will be a chairman, but doesn't specify how the chairman will be selected. The board doesn't even have bylaws.
- Garate agreed that more specifics were needed such as what experience the chairman should have, or who selects the chairman and determine the length of term to serve.
- Strubhar went back to the subject of exam content and asked about changes that were suggested two years ago for a plastic project
- Garate asked Shimkus why nothing has been done to which he replied that the board and the Department have not taken the time to officially meet to discuss the details and agree on what needs to be done and how to incorporate it into the exam.
- Culp interjected to suggest that the group hold off on drastic changes to exam content and continue to discuss how to hold the exam first.
- A member inquired about changes to the exam drawings that members spent hours drafting and then they were gone. He had no clue what happened to them.
- DeWitt replied that the Department has the files
- Garate asked how long ago this work was done. The answer was about five years and some of the work was put into place but not all.
- Garate asked if there is a subcommittee to work specifically on developing new projects or drawings or how was Sandberg selected to do that work. The answer

was “no”, he just volunteered. Members just get together after the exam and discuss things.

- Sandberg brought up the failure rate again and stated that the law is not vague on that issue and does state the Department needs to call the sponsor and apprentice to a meeting after failing the exam three times. He believes that’s a downfall on behalf of the Department because it’s not being done and the board cannot call them to a meeting. He concluded that employers want to keep their plumbers as apprentices so they can pay them less.
- Garate pointed out that there is no process set for when an individual will be called to the meeting, where it will be held and how it will be handled, so that needs to be built in. The group needs to decide if these meetings need to be held at set times throughout the year or after the exams, etc.
- Culp said he believed the group was making a good start with this meeting by establishing what the issues are and figure out what can be done to address them whether by rules, guidelines or statute and also addressing the need for bylaws.
- Garate agreed and believed the main issues are to determine what needs to happen when an examinee fails, the validity of the exam itself, create bylaws as a team and set a schedule for regular meetings.
- Garate called attention to Weinhoffer who had been silent and he said he was “just taking it all in”.
- Allport asked Shimkus about eight drawing changes he gave him at the June exam to review
- Shimkus confirmed that he still had them in his office, but they need to be scanned and approve the changes before they can be used
- The procedure for a person to complain or inquire about why he/she failed the exam (one time) was discussed. The person makes the complaint to Shimkus and then they set up a meeting with the examiners after the next exam and review the graded exam.
- DeWitt added that the examinee has 30 days to contact the Department to contest the results and incumbent upon the Department to defend the results.
- Garate: How do we do that when we didn’t grade the exam?
- DeWitt: There’s a legal process through which we can do an administrative review.
- Gallagher chimed in that the examiners also sit down with the examinee to go over the grading.
- DeWitt asked how the group can review the practical portion, which by that time is gone. The answer was that it can’t be done because there is nowhere to store the projects, so they are discarded.
- Garate asked if the group was able to identify patterns of mistakes being made and provide feedback to the workforce or what, if any, dialog exists.
- Gallagher responded that there are schools in the Chicago area and it’s been said certain State inspectors (he didn’t want to mention names) take projects to those schools.

- Shimkus assured the group that at least since he's been in office, he feels confident that no such thing has occurred.
- Garate cautioned the group about making accusations and informed all that the State's OIG (Office of the Inspector General) will perform an investigation if a complaint is filed and everyone is subject to investigation including herself.
- The group discussed the fact that the exam material has not been changed for many years and this and the other issues discussed existed before Shimkus' time with the program.
- Culp agreed and felt no single person could be singled out as responsible, but the focus should be how to move forward and pointed out that this meeting was a step in that direction and noted that the Plumbing Code Advisory Council has also recently resumed regular meetings and asked Flemming if he was happy with the progress of that board and he was. Flemming stated that it's a lot better than it was.
- Caliper noted another issue with disclosure of exam results to the examiners.
- Swope chimed in and said his understanding is that the examiners know if a particular examinee failed, but the Department would not confirm to the examiners that he/she didn't get a license.
- Garate asked for an explanation of why such information needs to be verified and asked if it has ever happened that a person who passed did not get a license.
- Caliper replied "no", but felt the examiners should be allowed to know.
- Garate asked if it has ever happened "the other way" where a person who failed did get a license and the response was "yes", so she asked if that was because the person appealed or gone through an administrative process and the answer was "yes".
- DeWitt explained that several IDPH staff members are involved and stated that there is a lot of oversight in government and several people have to sign off on decisions. He also declared that the information is all public record.
- Shimkus stated that the Department provides a copy of the exam results to Gallagher after every exam.
- Swope explained that his frustration comes from continuous calls from the 22 local unions that the State inspectors in their respective areas don't do their jobs and he wasn't sure, but he assumed Shimkus was in charge of overseeing their work.
- Shimkus clarified that he only serves as an advisor to the inspectors and that they get their direction from the regional supervisors.
- Garate pointed out that we don't have enough inspectors.
- McCann added that we recently lost five inspectors (and are down to seven for the entire State, of which three are on medical leave).
- Garate said we are looking to not only fill those positions but increase them and gave credit to Culp for the idea.
- Culp confirmed that the Department is working on improving the Plumbing Program and admitted the regulatory aspects of the Plumbing Program have not been as consistent as other programs in the Division of Environmental health

but his staff is trying to make the plumbing industry safer. He said other programs have established advisory groups which have been helpful, so he welcomes the feedback because we all have the same goal, but you can't do anything about something you're not aware of.

- Strubhar asked if there is anything that says a State inspector cannot teach on the side.
- Gallagher replied that there's nothing stopping them from doing that but there are "big bucks" involved and apprentices are paying a lot of money at the schools.
- Caliper recalled the inspectors saying they can't do it.
- Garate affirmed that all inspectors are State employees and union members, which means they are required to file secondary employment and request approval.
- Caliper stated that if this was all about money, he would give up his \$50 and do the work for free, but he wanted to know where the money is going because at one point, it was \$25 to get a license and went to \$100 to which everyone agreed because it was to fund the program, but then the fund was swept.
- Garate confirmed that the fund was swept a few years ago, but the current Governor does not sweep, he borrows, which means the money is paid back with interest and it's done within 18 months. She said no money had been borrowed from the Plumbing Program, the funds were swept years ago and did not get the money back and does not have enough money to pay its current staff and we're trying to bring on more inspectors.
- Ken addressed to group to acknowledge dramatic improvements he's noticed in the Program since he started 4-5 years ago. He's worked with the program on the online renewal system and the new database. Staff has put in countless hours of overtime and Irma and her staff have been doing a great job in the past year to the point where we're just now getting caught up and staff is able to stay on top of the licensing and is doing better than in the past, so there is some focus on the program.
- Weinoffer asked how the program will do Continuing Education with only 5 inspectors because he noticed that there were no classes posted online. He also questioned the requirement to do it every year when the Code hasn't changed. He felt the Continuing Education is a waste of time for the plumbers and a money making opportunity for the sponsors.
- DeWitt said most of have "suffered CE in some form" because everyone has to do it for different types of licenses and the industries support Continuing Education because it "feeds the beast". It is time consuming the Department staff to process also, but there isn't much political support to eliminate it.
- The group discussed the Continuing Education requirement for plumbers and plumbing inspectors and the challenges of obtaining the credits due to limited availability because the program has to rely on third party sponsors. Certified inspectors are required to have 14 hours annually, which is even more difficult and State inspectors are not exempt.
- Garate suggested the group meet again in September to continue the discussions.



- Gallagher suggested raising the exam fee to \$200 to increase funds.
- Garate said it would need to be changed by the legislature, but Gallagher said it had been done without last time.
- Culp reminded the examiners that an exam was tentatively scheduled for September 25<sup>th</sup> and 26<sup>th</sup> in Savoy and the group agreed to meet again the 25<sup>th</sup> after the exam. The Department would send out what was captured in this meeting and suggest agenda items to list for the next meeting.
- Swope asked if he could invite an organizer for the pipe trades who has concerns about the amount of apprentices a Chicago-licensed plumber can have because they are registering two apprentices in Chicago and registering more with the State.
- McCann said that's more of a Plumbing Code Advisory Council issue and not for this board.
- Garate reviewed the five main issues identified in the meeting:
  1. Examinees to appear before the board after failing three times
  2. Safety, validity and reliability of the test
  3. Updating the test
  4. The board needs bylaws
  5. More open communication and knowing the roles of examiners and the Department
- The group agreed to not change the existing procedures to administer the exam until the issues on the list are addressed.

**Meeting adjourned:** Approximately 1:45 p.m.