

Minnesota Plumbing Board

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, And Notice of Hearing If 25 or More Requests For Hearing Are Received

Proposed Amendment to Rules and New Rules Regulating Plumber Licensing, Certification and Registration, and Continuing Education, *Minnesota Rules*, Chapter 4716; and Repeal of *Minnesota Rules* Parts 4715.5800 and 4715.6000.

Introduction. The Minnesota Plumbing Board intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes* §§ 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on Thursday, January 26, 2012, the Board will hold a public hearing in the Minnesota Room, Department of Labor and Industry, 443 Lafayette Road North, St. Paul, Minnesota 55155, starting at 9:00 a.m. on Monday, March 12, 2012. To find out whether the Board will adopt the rules without a hearing or if it will hold the hearing, you should contact the agency contact person after Thursday, January 26, 2012 and before Monday, March 12, 2012.

Agency Contact Person. Submit any comments or questions on the rules or written requests for a public hearing to the agency contact person. The agency contact person is: Carrie Rohling, Minnesota Plumbing Board, c/o Department of Labor and Industry, 443 Lafayette Road North, St. Paul, MN 55155, Phone (651) 284-5006, FAX (651) 284-5725, e-mails dli.cclboards@state.mn.us. TTY users may call the Board at (651) 297-4198.

Subject of Rules and Statutory Authority. The proposed rules are about regulating the licensure or registration of plumbing and water conditioning contractors and installers and other persons engaged in or working at the business of plumbing and water conditioning installation or service; certification for persons engaged in medical gas system installation, maintenance, or repair; continuing education for individuals licensed as master plumbers, journeyman plumbers, restricted master plumbers, restricted journeyman plumbers, water conditioning masters and journeymen; and other necessary amendments for clarity or editorial corrections, or to coordinate the rules with other licensing related rule chapters or the Minnesota Building Code, and to address laws passed during any regular or special legislative sessions in 2010 or 2011.

The statutory authority to adopt the rules is *Minnesota Statutes* §§ 326B.43, 326B.435, and 326B.52. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Thursday, January 26, 2012, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose

any change that you desire. You must also make any comments about the legality of the proposed rules during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the Board hold a hearing on the rules. You must make your request for a public hearing in writing, which the agency contact person must receive by 4:30 p.m. on Thursday, January 26, 2012. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the Board cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the Board will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the Board must give written notice of this to all persons who requested a hearing, explain the actions the Board took to affect the withdrawal, and ask for written comments on this action. If a public hearing is required, the Board will follow the procedures in *Minnesota Statutes* §§ 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The Board may modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted to the Board or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the Board follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Board encourages you to participate in the rulemaking process.

As the proposed rules and this notice were prepared for publication, the Board noticed that language it had approved to be included in the proposed rules was inadvertently left out. The Board intends to modify proposed rule part 4716.0092, subpart 2, by adding the words “had at least 12 months experience as a licensed water conditioning journeyman, or”. With this modification the subpart will read:

4716.0092, subp. 2. Water conditioning master. An applicant for a water conditioning master license must satisfactorily pass an examination given by the commissioner. An applicant for the water conditioning master examination must have had at least 12 months experience as a licensed water conditioning journeyman, or at least six months of practical experience as listed in subpart 4, item C, subitem (2). The applicant is responsible for verifying practical experience.

This language creates an additional option for water conditioning master examination

applicants to satisfy the pre-examination criteria. In addition, enabling applicants to qualify for examination with 12 months experience as a license water conditioning journeyman will expedite approvals by relieving applicants and the department from verifying work experience.

The Board will also correct a typo by replacing “4716.0080” with “4716.0072” at line 1.15 of the proposed rules.

Cancellation of Hearing. The Board will cancel the hearing scheduled for March 12, 2012, if the Board does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the Board will notify you before the scheduled hearing whether the hearing will be held. You may also call the agency contact person at (651) 284-5006 after January 26, 2012 to find out whether the hearing will be held. On the scheduled day, you may check for whether the hearing will be held by calling 651-284-5006 or going on-line at <http://www.dli.mn.gov/PDF/docket/4716docket.pdf> .

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, the Board will hold a hearing following the procedures in *Minnesota Statutes* §§ 14.131 to 14.20. The Board will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Beverly Jones Heydinger is assigned to conduct the hearing. Judge Heydinger can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone (651) 361-7838, and FAX (651) 361-7936.

Hearing Procedure. If the Board holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. At the hearing the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the Board and any interested person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes* §§ 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

The Board requests that any person submitting written views or data to the Administrative Law Judge before the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. The statement of need and reasonableness summarizes the justification for the proposed rules, including a description of who will be affected

by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the agency contact person or online at <http://www.dli.mn.gov/PDF/docket/4716docket.pdf>. You may review or obtain copies for the cost of reproduction by contacting the agency contact person.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 296-5148 or 1-800-657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the Board may adopt the rules after the end of the comment period. The Board will submit the rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want either to receive notice of this, to receive a copy of the adopted rules, or to register with the Board to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date that the Board adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

December 12, 2011



John Parizek, Chair
Minnesota Plumbing Board