



Governor Brian Schweitzer

Montana
Department of Labor and Industry
Business Standards Division

December 15, 2011

Rep. Tom Berry, Chair
Economic Affairs Interim Committee
Montana Legislature
State Capitol
Helena MT 59620

Subject: Response to HB525 Questions - Montana State Electrical Board

Dear Rep. Berry:

Below are the responses to the questions your committee has posed to the Montana State Electrical Board relating to HB525:

1. What is the public health, safety, or welfare rationale for licensing and regulating your profession/occupation?

Being a licensed electrician implies that the person has all certificates and licenses, as well as all the education and training, needed to perform aspects of wiring for, installing, and repairing electrical apparatuses including equipment for light, heat and power. Licensed electricians protect the health of Montanans by being statutorily subject to the National Electrical Code (NEC). Their work is inspected for safety against poor installations that could cause house or building fires. Without the proper education and technical knowledge to understand the (NEC), many homes and buildings would be improperly wired. Structures require proper conduit and correct size wiring, along with the correct breaker size in order to insure the wires can transmit the correct voltage. If the wiring is not properly sized, connected or run, the safety of the home owner or occupiers of buildings will be jeopardized.

2. If your profession is not licensed, what public protection would be lost?

Without licensing and regulation, anyone could perform electrical installations in Montana. With the majority of the electrical installation performed within the walls of a home or building, the occupier of the structure would not be able to tell if the electrical installation was finished properly. If the work is not properly installed or inspected, the occupiers and future occupiers of the structure could be exposed to electrocution, electrical fires or malfunctioning of the electrical system.

The lay person does not have adequate knowledge of proper construction, wire sizing, or voltage requirements. Exposure to faulty and improper wiring compromises the health, safety, and welfare of the citizens of Montana.

- 3. If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.**

Yes, a board is necessary for health, safety, and welfare. The board was created for the protection of the people of this state from the danger of electrically caused shocks, fires and explosions. Also, to protect property from the hazards of electrically caused fires and explosions and to establish a procedure for determining where and by whom electrical installations are to be made and to assure the public that the persons making electrical installations are qualified to do so.

- 4. Does the board deal with unlicensed practice issues? If yes, what types of issues?**

Yes, the Board deals with unlicensed practice issues. This is a very important function of the board as unlicensed practice complaints make up a good portion of a typical Board meeting's work.

The board frequently investigates and reviews information regarding unlicensed practice. Many complaints regarding unlicensed practice are initiated by homeowners who recognize, after the work is done, that the work is substandard, inefficient, or even dangerous. For example, the board has sought injunctions against people who refused to stop electrical installations without a license and whose work electrocuted a person or resulted in damage to the home. It is not uncommon for the complaining party to describe the cost involved in repairing the substandard work the unlicensed person did, ironically to save the cost of hiring a licensed person.

- 5. People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living. What is your response?**

The training, education, and supervised experience currently required of individuals to qualify for licensure as an electrician is necessary to help ensure each person will be capable of providing services that meet building code safety and efficiency requirements. Licensure represents a necessary barrier to entering this profession to allow the public a certain measure of protection and confidence that the person being hired is capable.

The Board does not discriminate with regards to whom may submit an application. Staff for the Board will review all applications submitted.

Assuming an individual comes from a jurisdiction in which electrical licensure is not required; staff and/or the Board will review all the experience an

applicant submits. If the applicant's experience meets the established criteria, was legally obtained, and is verifiable; either the staff or the Board will approve the applicant to sit for the examination. Upon passage of the exam, the applicant will be licensed.

- 6. How does your board monitor bias among board members toward a particular licensee, an applicant or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?**

The Montana State Electrical Board consists of a five member board appointed by the Governor with the consent of the senate, including two master electricians, one journeyman electrician and two public members. The diversity of the board helps serve to reduce the chances that any particular board member's bias will affect how the board carries out its business. The Board members understand the responsibility that comes with their appointments and the impact of their decisions. If a member determines they may have a conflict of interest, they will immediately recuse themselves and abstain from discussion involving an applicant, agenda topic or complaint.

The Board only licenses a single profession; therefore, bias towards another profession or occupation is not an issue.

- 7. Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?**

The State Electrical Board does not have an association that could provide oversight at this time. Montana does have electrician unions; however, the unions' primary loyalties are to their membership and profession, not to the health, safety, and welfare of the citizens of Montana.

- 8. Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?**

The Montana State Electrical Board does not facilitate the billing of insurance claims in the same manner as many of the licensed health care boards do.

- 9. What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?**

Licensing and discipline processes frequently involve technical issues relative to electrical installations. The Montana State Electrical Board is made up

primarily of experienced and knowledgeable electricians and construction professionals. As such, the board members have a clear understanding of the qualifications of licensure and generally accepted standards of practice. Therefore, it is appropriate and wise for the board to determine the requirements of licensure and standards of care in their regulation of the electrical profession.

10. Is there an optimum ratio between licensees, board size, or public representation?

The five member State Electrical Board regulates a profession of approximately 5,000 licensed electricians and electrical contractors. The Board has had no quorum issues regarding their 4 annual board meetings and the various panels & committees that are required to carry out the business of the Board. Based on the work being accomplished, it appears that the current ratio between licensees, board size, and public representation is appropriate.

11. If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

Regarding the specialized knowledge required to be an electrician, the Board believes it is necessary for electricians and industry related professionals to regulate other electricians. When circumstances dictate disciplinary action, the Board members have the specialized knowledge required to fairly and impartially rule on the issues.

12. If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the others' practice? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

At times, the Elevator, Low Voltage Technicians, Well Drillers, Fire Alarm Installers and Maintenance personnel have provided some feedback pertaining to the laws and rules of the State Electrical Board. Each time the board has been able to resolve any issues with little or no resistance. Each occupation normally understands the laws and rules of each other thus there has been little if any practice issues between the occupations.

13. Should the board have the ability to limit use of certain terminology to only a licensee?

Yes, the Board should have the ability to limit use of certain terminology to only a licensee. When a person holds themselves out to be an electrician, the public assumes that the person is qualified to perform electrical installations.

Licensure substantiates the fact that the individual has the education, training, and experience, verified by examination, to perform electrical work. Allowing unlicensed persons the ability to advertise or otherwise represent to the public their competence or ability in the electrical field would be misleading to the public.

Sincerely,

Jack Fisher
Board President - Montana State Electrical Board