



Governor Brian Schweitzer

Montana

Department of Labor and Industry

Business Standards Division

November 15, 2011

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

Subject: Response to HB525 Questions - Montana Board of Plumbers

Dear Rep. Berry:

Below are the responses to the questions your committee has posed to the Montana Board of Plumbers relating to HB 525:

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

A plumber is a craftsman who specializes in installing and maintaining systems used for water, sewage, drainage and piping. A Master Plumber is a plumber who has demonstrated through testing and experience that he/she has truly mastered the profession. It takes 8 years before one can test for a Master Plumber license. The fact is that plumbers are the first line of defense in the fight against unsafe drinking water. You may have heard the slogan "The plumber protects the health of the nation." This slogan refers to plumbers keeping your drinking water safe by preventing contamination from sewer and other wastes that may come in contact with potable/drinking water. For example the CDC documented 57 waterborne disease outbreaks from 1981 to 1998 which resulted in over 9,700 cases of illness caused by water that was contaminated in the water distribution systems. It was estimated that over 50% of the contamination was due to cross connection and backflow issues, easily prevented through competent plumbing practices. In other words sewer water and other contaminants can enter into the water supply without proper safeguards that licensed plumbers are able to provide. Less than 10,000 cases of waterborne illness in this great nation of 300 million is minimal, thanks to a competent plumbing industry. A known but infrequently mentioned fact is that the practical absence of Typhoid fever and Cholera in our country is thanks, largely, to the plumbing industry. In addition to protecting the water supply plumbers make sure that the drainage system has the proper traps and vents to keep harmful gases, bacteria and other bugs from climbing out of the sewer system and into our homes. In contrast, 7.5% of deaths in India are attributed to water and sanitation

issues, and the World Health Organization has said that the SARS epidemic in the Asian countries a couple of years ago causing hundreds of deaths was spread through inadequate plumbing.

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

Without licensing and regulation, anyone could perform plumbing in Montana. With the majority of the plumbing performed under the foundation or within the walls of a home or building, the occupier of the structure would not be able to tell if the plumbing was done properly. If the work is not properly installed or inspected, the occupiers and future occupiers of the structure could be exposed to contaminated drinking water, wastewater, sewer gas and/or mold.

The lay person does not have adequate knowledge of proper construction, sizing, and venting of a plumbing system. Exposure to contaminated drinking water, wastewater, and sewer gas, compromise 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.

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 plumbing without a license and whose work has made families ill 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 a plumber 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 plumbing 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 Board of Plumbers consists of a nine member board appointed by the Governor with the consent of the senate, including two master plumbers, two journeyman plumbers, one registered professional engineer, three representatives of the public and one representative of the Department of Environmental Quality who must have experience in the regulation of drinking water systems. 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 Board of Plumbers does not have an association that could provide oversight at this time. Montana does have plumbing unions; however, the unions are not in a position to regulate the industry.

- 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 Board of Plumbers 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 plumbing. The Montana Board of Plumbers is made up primarily of experienced and knowledgeable plumbers 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 plumbing profession.

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

The nine member Board of Plumbers regulates a profession of approximately 1,400 plumbers. The Board has had no quorum issues regarding their 4 annual board meeting 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 a plumber, the Board believes it is necessary for plumbers and industry related professionals to regulate other plumbers. 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?**

The issue of overlapping scopes of practice has not arisen in relation to the Board of Plumbers.

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 a plumber, the public assumes that that person is qualified to perform plumbing. Licensure substantiates the fact that the individual has the education, training, and experience, verified by examination, to perform plumbing. Allowing unlicensed persons the ability advertise or otherwise represent to the public their competence or ability in the field of plumbing would be misleading to the public.

Sincerely,

Tim Regan
Chairman - Montana Board of Plumbers