

BEFORE THE BOARD OF PLUMBERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.180.2301 unprofessional) PROPOSED AMENDMENT AND
conduct and the adoption of NEW) ADOPTION
RULE I military training or experience)

TO: All Concerned Persons

1. On March 24, 2014, at 9:30 a.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Plumbers (board) no later than 5:00 p.m., on March 14, 2014, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlbsdplu@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.180.2301 UNPROFESSIONAL CONDUCT (1) through (1)(g) remain the same.

(h) allowing false or misleading advertising in relation to the licensee's business as it relates to the field of plumbing; ~~and~~

(i) engaging in a commercial activity that conflicts with responsibility to clients or to other licensees or apprentices; and

(j) failing or refusing to provide the board verification of an employee's hours worked in the employ of the licensee when the request for verification is made for purposes of licensure.

(2) remains the same.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-69-202, MCA

IMP: 37-1-131, 37-1-316, 37-1-319, MCA

REASON: It is a matter of law that an applicant for a master plumber license must provide evidence of work performed as a journeyman plumber, verified by time or pay records of actual plumbing experience, to qualify for licensure as a master plumber. It is also a matter of law, in nearly all cases, that a journeyman plumber must work in the employ of a master plumber. As a result, most journeyman

plumbers rely upon a master plumber to provide the written verification of hours worked. The board concluded that if a master plumber refuses to verify actual hours worked, the master plumber is withholding information that belongs to the journeyman plumber and is interfering with the journeyman plumber's legitimate interest to seek a master plumber license.

The board has observed a number of instances in the past few years when the master plumber has refused to provide the requested evidence of hours worked. This amendment will clarify that such a refusal is unprofessional conduct. In amending this rule, the board is not suggesting that a master plumber is endorsing or recommending the journeyman plumber, nor is the master plumber making any representation of competence or skill with respect to the journeyman plumber when written verification of hours is made.

4. The new rule proposed to be adopted provides as follows:

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a plumber or medical gas endorsee.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a plumber or medical gas endorsee. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be

met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdpplu@mt.gov, and must be received no later than 5:00 p.m., on March 28, 2014.

6. An electronic copy of this notice of public hearing is available at www.plumber.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdpplu@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.180.2301 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of New Rule I will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdpplu@mt.gov.

10. A department representative will preside over and conduct this hearing.

BOARD OF PLUMBERS
TIM REGAN, PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 18, 2014