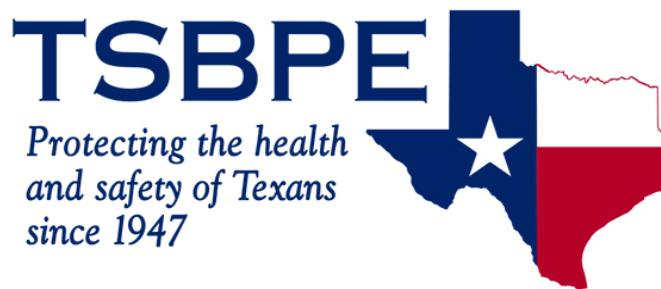


# TEXAS STATE BOARD OF PLUMBING EXAMINERS



Administrative Rules

Effective June 20, 2019

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## **TITLE 22 EXAMINING BOARDS**

### **PART 17 TEXAS STATE BOARD OF PLUMBING EXAMINERS**

#### **CHAPTER 361 ADMINISTRATION**

##### **SUBCHAPTER A GENERAL PROVISIONS**

###### **§361.1 Definitions**

(a) The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

- (1) APA--The Administrative Procedure Act, Chapter 2001 of the Texas Government Code.
- (2) Adopted Plumbing Code--A plumbing code, including a fuel gas code, adopted by the Board or a political subdivision in compliance with §1301.255 and §1301.551 of the Plumbing License Law.
- (3) Advisory Committee--A Board appointed committee subject to §1301.258 of the Plumbing License Law, §361.12 of the Board Rules and Chapter 2110 of the Texas Government Code, of which the primary function is to advise the Board.
- (4) Appliance Connection--An appliance connection procedure using only a code-approved appliance connector that does not require cutting into or altering the existing plumbing system.
- (5) Applicant--An individual seeking to obtain a license, registration or endorsement issued by the Board.
- (6) Board--The Texas State Board of Plumbing Examiners.
- (7) Board Member--An individual appointed by the governor and confirmed by the senate to serve on the Board.
- (8) Building Sewer--The part of the sanitary drainage system outside of the building, which extends from the end of the building drain to a public sewer, private sewer, private sewage disposal system, or other point of sewage disposal.
- (9) Certificate of Insurance--A form submitted to the Board certifying that the Responsible Master Plumber carries insurance coverage as specified in §1301.522 of the Plumbing License Law and §367.3 of the Board Rules.
- (10) Chief Examiner--An employee of the Board who, under the direction of the Executive Director, coordinates and supervises the activities of the Board examinations and registrations.
- (11) Cleanout--A fitting, other than a p-trap, approved by the adopted plumbing code and designed to be installed in a sanitary drainage system to allow easy access for cleaning the sanitary drainage system.
- (12) Code-Approved Appliance Connector--A semi-rigid or flexible assembly of tube and

fittings approved by the adopted plumbing code and designed for connecting an appliance to the existing plumbing system without cutting into or altering the existing plumbing system.

(13) Code-Approved Existing Opening--For the purposes of drain cleaning activities described in §1301.002(3) of the Plumbing License Law, a code-approved existing opening is any existing cleanout fitting, inlet of any p-trap or fixture, or vent terminating into the atmosphere that has been approved and installed in accordance with the adopted plumbing code.

(14) Complaint--A written charge alleging a violation of state law, Board rules or orders, local codes or ordinances, or standards of competency; or the presence of fraud, false information, or error in the attempt to obtain a license, registration or endorsement.

(15) Contested Case--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for adjudicative hearing.

(16) Continuing Professional Education or CPE--Board-approved courses/programs required for a licensee, or registrant with an endorsement, to renew his or her license, registration and/or endorsement.

(17) Director of Enforcement--An employee of the Board who meets the definition of "Field Representative" and, under the direction of the Executive Director, coordinates and supervises the activities of the Field Representatives.

(18) Direct Supervision--

(A) The on-the-job oversight and direction of a registered Plumber's Apprentice performing plumbing work by a licensed plumber who is fulfilling his or her responsibility to the client and employer by ensuring the following:

(i) that the plumbing materials for the job are properly prepared prior to assembly according to the material manufacturers recommendations and the requirements of the adopted plumbing code; and

(ii) that the plumbing work for the job is properly installed to protect health and safety by meeting the requirements of the adopted plumbing code and all requirements of local and state ordinances, regulations and laws.

(B) The on-the-job oversight and direction by a licensed Plumbing Inspector of an individual training to qualify for the Plumbing Inspector Examination.

(C) For plumbing work performed only in the construction of a new one-family or two-family dwelling in an unincorporated area of the state, a Responsible Master Plumber is not required to provide for the continuous or uninterrupted on-the-job oversight of a Plumber's Apprentice's work by a licensed plumber, however, the Responsible Master Plumber must:

(i) provide for the training and management of the Plumber's Apprentice by a licensed plumber;

(ii) provide for the review and inspection of the Plumber's Apprentice's work

by a licensed plumber to ensure compliance with subparagraph (A)(i) and (ii) of this paragraph; and

(iii) upon request by the Board, provide the name and plumber's license number of the licensed plumber who is providing on-the-job training and management of the Plumber's Apprentice and who is reviewing and inspecting the Plumber's Apprentice's work on the job, or the name and plumber's license number of the licensed plumber who trained and managed the Plumber's Apprentice and who reviewed and inspected the Plumber's Apprentice's work on a job.

(19) Endorsement--A certification issued by the Board as an addition to a Master Plumber, Plumbing Inspector, or Journeyman Plumber License or a Plumber's Apprentice Registration, including a Drain Cleaner Registration, a Drain Cleaner-Restricted Registration, and a Residential Utilities Installer Registration.

(20) Executive Director--The executive director of the Texas State Board of Plumbing Examiners who is employed by the Board as the executive head of the agency.

(21) Field Representative--An employee of the Board who is:

(A) knowledgeable of the Plumbing License Law and of municipal ordinances relating to plumbing;

(B) qualified by experience and training in good plumbing practice and compliance with the Plumbing License Law;

(C) designated by the Board to assist in the enforcement of the Plumbing License Law and Board rules;

(D) licensed by the Board as a plumber; and

(E) hired to:

(i) make on-site license and registration checks to determine compliance with the Plumbing License Law;

(ii) investigate consumer complaints filed under §1301.303 of the Plumbing License Law;

(iii) assist municipal plumbing inspectors in cooperative enforcement of the Plumbing License Law; and

(iv) issue citations as provided by §1301.502 of the Plumbing License Law.

(22) Journeyman Plumber--An individual licensed under the Plumbing License Law who has met the qualifications for registration as a Plumber's Apprentice or for licensure as a Tradesman Plumber-Limited who has completed at least 8,000 hours working under the supervision of a Responsible Master Plumber, who supervises, engages in, or works at the actual installation, alteration, repair, service and renovating of plumbing, and who has successfully fulfilled the examinations and requirements of the Board.

(23) License--A document issued by the Board to certify that the named individual fulfilled the requirements of the Plumbing License Law and of the Board Rules to hold a license issued by the Board.

(24) Licensing and Registering--The process of granting, denying, renewing, reinstating, revoking, or suspending a license, registration or endorsement.

(25) Maintenance Man or Maintenance Engineer--An individual who:

(A) is an employee, and not an independent contractor or subcontractor;

(B) performs plumbing maintenance work incidental to and in connection with other employment-related duties; and

(C) does not engage in plumbing work for the general public.

(D) For the purposes of paragraph 25(B), "incidental to and in connection with" includes the repair, maintenance and replacement of existing potable water piping, existing sanitary waste and vent piping, existing plumbing fixtures and existing water heaters.

(E) An individual who erects, builds, or installs plumbing not already in existence may not be classified as a maintenance man or maintenance engineer. Plumbing work performed by a maintenance man or maintenance engineer is not exempt from state law and municipal rules and ordinances regarding plumbing codes, plumbing permits and plumbing inspections.

(26) Master Plumber--An individual licensed under the Plumbing License Law who is skilled in the design, planning, superintending, and the practical installation, repair, and service of plumbing, who is knowledgeable about the codes, ordinances, or rules and regulations governing those matters, who alone, or through an individual or individuals under his supervision, performs plumbing work, and who has successfully fulfilled the examinations and requirements of the Board.

(27) Medical Gas Piping Installation Endorsement--

(A) A certification entitling the holder of a Master or Journeyman Plumber License to install piping that is used solely to transport gases used for medical purposes including, but not limited to oxygen, nitrous oxide, medical air, nitrogen, medical vacuum.

(B) A certification entitling the holder of a Plumbing Inspector License to inspect medical gas and vacuum system installations.

(28) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement--

(A) A certification entitling the holder of a Master or Journeyman Plumber License to install a multipurpose residential fire protection sprinkler system in a one or two family dwelling.

(B) A certification entitling the holder of a Plumbing Inspector License to inspect a multipurpose residential fire protection sprinkler system.



(29) Military service member--A person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(30) Military spouse--A person who is married to a military service member who is currently on active duty.

(31) Military veteran--A person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(32) One-Family Dwelling--A detached structure designed for the residence of a single family that does not have the characteristics of a multiple family dwelling, and is not primarily designed for transient guests or for providing services for rehabilitative, medical, or assisted living in connection with the occupancy of the structure.

(33) Party--A person or state agency named or admitted as a party to a contested case.

(34) Paid Directly--As related to §1301.255(e) of the Plumbing License Law, "paid" and "directly" have the common meanings and "paid directly" means that compensation for plumbing inspections must be paid by the political subdivision to the individual Licensed Plumbing Inspector who performed the plumbing inspections or the plumbing inspection business which utilized the plumbing inspector to perform the inspections.

(35) Person--An individual, partnership, corporation, limited liability company, association, governmental subdivision or public or private organization of any character other than an agency.

(36) Petitioner--A person requesting the Board to adopt, amend or repeal a rule pursuant to §2001.021 of the Texas Government Code and §361.14 of the Board Rules.

(37) Plumbing--

(A) All piping, fixtures, appurtenances, and appliances, including disposal systems, drain or waste pipes, multipurpose residential fire protection sprinkler systems or any combination of these that: supply, distribute, circulate, recirculate, drain, or eliminate water, gas, medical gasses and vacuum, liquids, and sewage for all personal or domestic purposes in and about buildings where persons live, work, or assemble; connect the building on its outside with the source of water, gas, or other liquid supply, or combinations of these, on the premises, or the water main on public property; and carry waste water or sewage from or within a building to the sewer service lateral on public property or the disposal or septic terminal that holds private or domestic sewage.

(B) The installation, repair, service, maintenance, alteration, or renovation of all piping, fixtures, appurtenances, and appliances on premises where persons live, work, or assemble that supply gas, medical gasses and vacuum, water, liquids, or any combination of these, or dispose of waste water or sewage. Plumbing includes the treatment of rainwater to supply a plumbing fixture or appliance. The term "service" includes, but is not limited to, cleaning a drain or sewer line using a cable or pressurized fluid, or performing a camera inspection through a code-approved existing opening.

(38) Plumbing Company--A person who engages in the plumbing business.

(39) Plumbing Inspection--Any of the inspections required in §1301.255 and §1301.551 of the Plumbing License Law, including any check of multipurpose residential fire protection sprinkler systems, pipes, faucets, tanks, valves, water heaters, plumbing fixtures and appliances by and through which a supply of water, gas, medical gasses or vacuum, or sewage is used or carried that is performed on behalf of any political subdivision, public water supply, municipal utility district, town, city or municipality to ensure compliance with the adopted plumbing and gas codes and ordinances regulating plumbing.

(40) Plumbing Inspector--Any individual who is employed by a political subdivision or state agency, or who contracts as an independent contractor with a political subdivision or state agency, for the purpose of inspecting plumbing work and installations in connection with health and safety laws, ordinances, and plumbing and gas codes, who has no financial or advisory interests in any plumbing company, and who has successfully fulfilled the examinations and requirements of the Board.

(41) Plumbing License Law or PLL--Chapter 1301 of the Texas Occupations Code.

(42) Pocket Card--A card issued by the Board which:

(A) certifies that the holder has a Responsible Master Plumber License, Master Plumber License, Journeyman Plumber License, Tradesman Plumber-Limited License, Plumbing Inspector License, or a Plumber's Apprentice Registration; and

(B) lists any Endorsements obtained by the holder.

(43) Political Subdivision--A political subdivision of the State of Texas that includes a:

(A) city;

(B) county;

(C) school district;

(D) junior college district;

(E) municipal utility district;

(F) levee improvement district;

(G) drainage district;

(H) irrigation district;

(I) water improvement district;

(J) water control improvement district;

(K) water control preservation district;

- (L) freshwater supply district;
- (M) navigation district;
- (N) conservation and reclamation district;
- (O) soil conservation district;
- (P) communication district;
- (Q) public health district;
- (R) river authority; and
- (S) any other governmental entity that:
  - (i) embraces a geographical area with a defined boundary;
  - (ii) exists for the purpose of discharging functions of government; and
  - (iii) possesses authority for subordinate self-government through officers selected by it.

(44) P-Trap--A fitting connected to the sanitary drainage system for the purpose of preventing the escape of sewer gasses from the sanitary drainage system and designed to be removed to allow for cleaning of the sanitary drainage system. For the purposes of drain cleaning activities described in §1301.002(2) of the Plumbing License Law, a p-trap includes any integral trap of a water closet, bidet, or urinal.

(45) Public Water System--A system for the provision to the public of water for human consumption through pipes or other constructed conveyances. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals, but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater, at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if the individual lives in, uses as the individual's place of employment, or works in a place to which drinking water is supplied from the water system.

(46) Respondent--A person charged in a complaint filed with the Board.

(47) Responsible Master Plumber or RMP--A licensed Master Plumber who:

(A) allows the person's Master Plumber License to be used by only one plumbing company for the purpose of offering and performing plumbing work;

(B) is authorized to obtain permits for plumbing work;

(C) assumes responsibility for plumbing work performed under the person's license;

(D) has submitted a certificate of insurance as required by §1301.3576 of the Plumbing License Law and §367.3 of the Board Rules; and

(E) has completed and submitted a certificate of completion of a training program as required by §1301.3576 of the Plumbing License Law and §363.26 of the Board Rules;

(F) When used in Board forms, applications or other communications by the Board, the abbreviation "RMP" shall mean Responsible Master Plumber.

(48) Registration--A document issued by the Board to certify that the named individual fulfilled the requirements of the PLL and Board Rules to register as a Plumber's Apprentice.

(49) Rule--An agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the agency. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the agency and not affecting private rights or procedures.

(50) Supervision--The general oversight, direction and management of plumbing work and individuals performing plumbing work by a Responsible Master Plumber, or a licensed plumber designated by the RMP.

(51) System--An interconnection between one or more public or private end users of water, gas, sewer, or disposal systems that could endanger public health if improperly installed.

(52) Tradesman Plumber-Limited Licensee--An individual who has completed at least 4,000 hours working under the direct supervision of a Journeyman or Master Plumber as a registered Plumber's Apprentice, who has passed the required examination and fulfilled the other requirements of the Board, who constructs, installs, changes, repairs, services, or renovates plumbing for one-family or two-family dwellings under the supervision of a Responsible Master Plumber, and who has not met or attempted to meet the qualifications for a Journeyman Plumber License.

(53) Two-Family Dwelling--A detached structure with separate means of egress designed for the residence of two families ("duplex") that does not have the characteristics of a multiple family dwelling and is not primarily designed for transient guests or for providing services for rehabilitative, medical, or assisted living in connection with the occupancy of the structure.

(54) Water Supply Protection Specialist--A Master or Journeyman Plumber who holds the Water Supply Protection Specialist Endorsement issued by the Board to engage in customer service inspections, as defined by rule of the Texas Commission on Environmental Quality, and the installation, service, and repair of plumbing associated with the treatment, use, and distribution of rainwater to supply a plumbing fixture or appliance.

(55) Water Treatment--A business conducted under contract that requires experience in the analysis of water, including the ability to determine how to treat influent and effluent water, to alter or purify water, and to add or remove a mineral, chemical, or bacterial content or substance. The term also includes the installation and service of potable water treatment equipment in public or

private water systems and making connections necessary to complete installation of a water treatment system. The term does not include treatment of rainwater or the repair of systems for rainwater harvesting.

(56) Yard Water Service Piping--The building supply piping carrying potable water from the water meter or other source of water supply to the point of connection to the water distribution system at the building.

(b) Any term not defined in this section shall have the definition set out in §1301.002 of the Plumbing License Law.

### **§361.2 Purpose**

The purpose of these sections is to provide standards and procedures to implement and enforce the provisions of the PLL, APA, and all other laws applicable to the examination and licensing of plumbers and plumbing inspectors of Texas.

### **§361.3 Scope**

The Board shall apply these sections to all individuals engaged in plumbing work and plumbing inspection in Texas, with the exceptions Source Noted in the PLL and Board Rules.

### **§361.4 The Board**

The board shall hold meetings and conduct business in accordance with all applicable laws, these sections, and any procedures it may establish to discharge its functions. The board shall set forth in writing any such procedures so established and file them with the agency as open records.

### **§361.5 Administration**

The Board shall delegate to its employees, under the direction of the Executive Director, those functions appropriate to the daily conduct of the Board's business of carrying out the purposes of all applicable laws and of these rules.

### **§361.6 Fees**

(a) The Board shall waive the initial license, application and examination fees for military service members, military veterans and military spouses who substantially meet all of the requirements for licensure or examination by the Board.

(b) The Board has established the following fees:

(1) Initial Licenses, Endorsements and Registrations.

(A) Responsible Master Plumber License--\$420;

(B) Master Plumber License--\$75;

(C) Journeyman Plumber License--\$40;

- (D) Medical Gas Installation Endorsement (Master)--\$55;
- (E) Medical Gas Installation Endorsement (Journeyman)--\$14;
- (F) Medical Gas Installation Endorsement (Inspector)--\$27.50;
- (G) Plumbing Inspector License--\$55;
- (H) Water Supply Protection Specialist Endorsement (Journeyman)--\$14;
- (I) Water Supply Protection Specialist Endorsement (Master)--\$55;
- (J) Water Supply Protection Specialist Endorsement (Inspector)--\$27.50;
- (K) Tradesman Plumber-Limited License--\$35;
- (L) Plumber's Apprentice Registration/Application--\$15;
- (M) Residential Utilities Installer Registration/Application--\$18;
- (N) Drain Cleaner Registration/Application--\$18;
- (O) Drain Cleaner-Restricted Registration/Application--\$18;
- (P) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Master)--\$55;
- (Q) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Journeyman)--\$14;
- (R) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Inspector)--\$27.50.

(2) Examinations.

- (A) Master Plumber--\$175;
- (B) Journeyman Plumber--\$40;
- (C) Medical Gas Piping Installation Endorsement (Master)--\$80;
- (D) Medical Gas Piping Installation Endorsement (Journeyman)--\$27;
- (E) Medical Gas Piping Installation Endorsement (Inspector)--\$40;
- (F) Plumbing Inspector--\$55;
- (G) Water Supply Protection Specialist Endorsement (Journeyman)--\$27;

- (H) Water Supply Protection Specialist Endorsement (Master)--\$80;
- (I) Water Supply Protection Specialist Endorsement (Inspector)--\$40;
- (J) Tradesman Plumber-Limited License--\$36;
- (K) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Master)--\$80;
- (L) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Journeyman)--\$27;
- (M) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Inspector)--\$40.

(3) Renewals.

- (A) Responsible Master Plumber License--\$420;
- (B) Master Plumber License--\$75;
- (C) Journeyman Plumber License--\$40;
- (D) Medical Gas Piping Installation Endorsement (Master)--\$55;
- (E) Medical Gas Piping Installation Endorsement (Journeyman)--\$14;
- (F) Medical Gas Piping Installation Endorsement (Inspector)--\$27.50;
- (G) Plumbing Inspector License--\$55;
- (H) Water Supply Protection Specialist Endorsement (Journeyman)--\$14;
- (I) Water Supply Protection Specialist Endorsement (Master)--\$55;
- (J) Water Supply Protection Specialist Endorsement (Inspector)--\$27.50;
- (K) Plumbing Inspector with a Master and/or Journeyman License--\$55;
- (L) Master Plumber with Journeyman Plumber License--\$75;
- (M) Tradesman Plumber-Limited License--\$35;
- (N) Plumber's Apprentice Registration--\$15;
- (O) Residential Utilities Installer Registration--\$18;
- (P) Drain Cleaner Registration--\$18;

(Q) Drain Cleaner-Restricted Registration--\$18;

(R) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Master)--\$55;

(S) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Journeyman)--\$14;

(T) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Inspector)--\$27.50.

(4) Other Fees.

(A) Late renewal

(i) Responsible Master Plumber License:

(I) less than 90 days--one-half renewal fee--\$210;

(II) more than 90 days--renewal fee--\$420;

(ii) Master Plumber License:

(I) less than 90 days--one-half renewal fee--\$37.50;

(II) more than 90 days--renewal fee--\$75;

(iii) Medical Gas Piping Installation Endorsement (Master):

(I) less than 90 days--one half renewal fee--\$27.50;

(II) more than 90 days--renewal fee--\$55;

(iv) Medical Gas Piping Installation Endorsement (Journeyman):

(I) less than 90 days--one half renewal fee--\$7;

(II) more than 90 days--renewal fee--\$14;

(v) Medical Gas Piping Installation Endorsement (Inspector):

(I) less than 90 days--one half renewal fee--\$13.75;

(II) more than 90 days--renewal fee--\$27.50;

(vi) Journeyman Plumber License:

(I) less than 90 days--one-half renewal fee--\$20;



- (II) more than 90 days--renewal fee--\$40;
- (vii) Water Supply Protection Specialist Endorsement (Journeyman):
  - (I) less than 90 days--one half renewal fee--\$7;
  - (II) more than 90 days--renewal fee--\$14;
- (viii) Water Supply Protection Specialist Endorsement (Master):
  - (I) less than 90 days--one half renewal fee--\$27.50;
  - (II) more than 90 days--renewal fee--\$55;
- (ix) Water Supply Protection Specialist Endorsement (Inspector):
  - (I) less than 90 days--one half renewal fee--\$13.75;
  - (II) more than 90 days--renewal fee--\$27.50;
- (x) Plumbing Inspector License:
  - (I) less than 90 days--one half renewal fee--\$27.50;
  - (II) more than 90 days--renewal fee--\$55;
- (xi) Master Plumber License with Journeyman Plumber License:
  - (I) less than 90 days--one half renewal fee--\$37.50;
  - (II) more than 90 days--renewal fee--\$75;
- (xii) Plumbing Inspector License with Master and/or Journeyman Plumber License:
  - (I) less than 90 days--one half renewal fee--\$27.50;
  - (II) more than 90 days--renewal fee--\$55;
- (xiii) Tradesman Plumber-Limited License:
  - (I) less than 90 days--one half renewal fee--\$17.50;
  - (II) more than 90 days--renewal fee--\$35;
- (xiv) Plumber's Apprentice Registration:
  - (I) less than 90 days--one half renewal fee--\$7.50;

(II) more than 90 days--renewal fee--\$15;

(xv) Residential Utilities Installer Registration:

(I) less than 90 days--one half renewal fee--\$9;

(II) more than 90 days--renewal fee--\$18;

(xvi) Drain Cleaner Registration:

(I) less than 90 days--one half renewal fee--\$9;

(II) more than 90 days--renewal fee--\$18;

(xvii) Drain Cleaner-Restricted Registration:

(I) less than 90 days--one half renewal fee--\$9;

(II) more than 90 days--renewal fee--\$18;

(xviii) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Master):

(I) less than 90 days--one half renewal fee--\$27.50;

(II) more than 90 days--renewal fee--\$55;

(xix) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Journeyman):

(I) less than 90 days--one half renewal fee--\$7;

(II) more than 90 days--renewal fee--\$14;

(xx) Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement (Inspector):

(I) less than 90 days--one half renewal fee--\$13.75;

(II) more than 90 days--renewal fee--\$27.50.

(B) Instructor Certification Training (Per Day)--\$150.

(C) Duplicate Pocket Card--\$25.

(D) Returned check--\$25.

(E) Fees for a provisional license issued under §1301.358 of the Plumbing License Law are equal to the initial license fees established in paragraph (1) of this subsection.

(F) Fees for a provisional registration issued under §53.0211(c) of the Texas Occupations Code are equal to the initial registration fees established in paragraph (1) of this subsection.

(G) Transfer of License--\$500.

(H) License Verification--\$15.

(c) Methods of payment

(1) Fees paid electronically through the Texas Online website, which may be accessed from the Texas State Board of Plumbing Examiners' website, may be made in the form of credit card or check.

(2) Fees paid by mail or in person may be made in the form of money order, cashier's check, personal check, business check, or the exact amount of cash (cash payments by mail are not recommended).

(3) An individual shall pay the appropriate examination fee prior to the time of examination, or, the appropriate initial licensure or renewal fee prior to issuance of a license, registration, endorsement or renewal.

(4) The Board, under any special circumstances it finds appropriate, may:

(A) waive any requirements concerning the method or timing of payment of any fee;

(B) refund any fee; or

(C) waive payment of any fee not required by statute.

(5) Any fee paid for a license, endorsement or registration, which has been denied or revoked due to a criminal conviction under §363.15 of the Board Rules or any violation of the Plumbing License Law or Board Rules shall not be refunded.

### **§361.7 Employee Training and Education**

(a) With the approval of the Executive Director, the Board may make available to its employees funds for training and education in accordance with the Employee Training Act, §§656.041 - 656.049 of the Texas Government Code.

(b) In order to be eligible for agency-supported training and education, the employee must demonstrate in writing, to the satisfaction of the Executive Director, that the training or education is related to the duties or prospective duties of the employee.

(c) Eligible training and education expenses that are approved by the Executive Director may include, as appropriate, salary, tuition and other fees, travel and living expenses, training stipend, expense of training materials, and other necessary expenses of an instructor, student, or other participant in a training or education program.

(d) The Executive Director may determine to pay all or part of the expenses related to training on a

reimbursement basis to the employee, upon successful completion of the training.

(e) An employee who completes training and education to obtain a degree or certification for which the Board has provided all or part of the required fees must agree in writing to fully repay the Board any amounts paid for educational assistance if the employee voluntarily terminates employment with the agency within one year of course completion.

(f) The Executive Director is eligible to receive agency-supported training and education in accordance with this section subject to the approval of the Chairman of the Board.

### **§361.8 Forms and Materials**

The Board incorporates by reference any rules that may be contained in the following forms and requires the use of these forms in doing business with the agency:

- (1) Applications for Examination, Registration and Endorsements;
- (2) Application for Responsible Master Plumber;
- (3) Employer's Certification;
- (4) General Complaint;
- (5) Applications for renewals of Licenses, Registrations and Endorsements;
- (6) Military Service Member, Veteran, or Military Spouse Supplemental Information;
- (7) Supplemental Criminal History Information;
- (8) Application for Nonstandard Testing Accommodations including the Physician or Licensed Health Care Provider;
- (9) Certificate of Insurance; and
- (10) Transfer of License Affidavit.

### **§361.10 Historically Underutilized Business (HUB) Program**

The Texas State Board of Plumbing Examiners adopts the rules of the Texas Facilities Commission relating to the Historically Underutilized Business (HUB) Program and codified at 1 Texas Administrative Code §§111.20-111.33.

### **§361.11 State Vehicle Management**

(a) Each state vehicle utilized by the Board, with the exception of a vehicle assigned to a field employee, shall be assigned to the Board's motor pool and be available for checkout by Board employees who are authorized by the Board's Executive Director to use the vehicle.

(b) No state vehicle utilized by the Board may be assigned to an individual administrative or

executive employee on a regular basis, unless the Board makes a written documented finding that the assignment is critical to the needs of the mission of the Board.

(c) The Board's Executive Director shall administer policies and procedures consistent with The Office of Vehicle Fleet Management's State Vehicle Fleet Management Plan.

### **§361.12 Advisory Committees**

(a) The Board may appoint Advisory Committees as it considers necessary for the primary function of advising the Board.

(b) Advisory Committees are subject to §1301.258 of the Plumbing License Law and Chapter 2110 of the Texas Government Code and shall:

(1) be composed of a reasonable number of members not to exceed twenty-four (24) members who provide a balanced representation between:

(A) individuals regulated or directed affected by the Board; and

(B) consumers of services provided by the Board or the plumbing industry; and

(2) select from among its members a presiding officer who shall preside over the advisory committee and report to the Board; and

(3) serve without compensation or reimbursement.

(c) If the board appoints an advisory committee, it shall adopt rules that:

(1) state the purpose of the committee;

(2) describe the task of the committee and the manner in which the committee will report to the Board; and

(3) the date on which the committee will automatically be abolished (not to exceed four years from its creation) unless the Board votes to continue the committee in existence.

(d) If the Board appoints an advisory committee it shall evaluate annually:

(1) the committee's work;

(2) the committee's usefulness; and

(3) the costs related to the committee's existence, including the cost of Board staff time spent in support of the committee's activities.

(e) The Board shall report to the Legislative Budget Board the information developed in the evaluation required in subsection (d) of this section. The Board shall file the report biennially in connection with the agency's request for appropriations.

### **§361.13 Board Committees and Enforcement Committee**

(a) The Board may create committees to assist the Board in exercising its powers and duties.

(b) The presiding officer of the Board shall appoint the members of the committees. Except as provided by subsection (c) of this section, each committee member must be a member of the Board.

(c) The presiding officer may appoint only members of the agency staff to the Enforcement Committee whose duties will include following the requirements of the APA, the Plumbing License Law and the policies, guidelines and rules established by the Board and:

(1) investigating complaints or designating an employee of the Board to investigate complaints;

(2) reviewing complaint investigations to determine whether a violation of the Plumbing License Law or Board Rules has occurred;

(3) recommending the imposition of administrative penalties and issue notices of alleged violations;

(4) conducting informal conferences;

(5) negotiating proposed settlements;

(6) overseeing the preparation for contested cases;

(7) overseeing the issuance of cease and desist orders, criminal citations and the filing of injunctions; and

(8) reviewing applicants for examination, registration and licensing who have a criminal conviction history affected by §363.15 of the Board Rules.

### **§361.14 Petition for Adoption of Rules**

(a) Any person who petitions the board in writing to request the adoption, amendment or repeal of rules shall:

(1) include a brief statement summarizing the proposed action and detailing its desired effect;

(2) include a full justification of the proposed action in narrative form, citing all pertinent facts and circumstances;

(3) if proposing an amendment, refer to each existing rule to be amended by title and code number and preface the text to indicate words and punctuation to be added, changed, or deleted;

(4) if proposing a new rule, prepare the text of the new rule in the exact form that is desired to be adopted;

(5) if proposing a repeal, refer to each existing rule to be repealed by title and code number; and

(6) include the petitioner's full name, complete mailing address, and telephone number.

(b) Within 60 days of receipt, the Board will either deny the petition in writing, stating its reasons therefore, or will initiate rulemaking proceedings in accordance with Chapter 2001 of the Texas Government Code.

### **§361.15 Election of Board Officers**

(a) The governor shall designate a member of the board as the presiding officer of the Board to serve in that capacity at the pleasure of the governor.

(b) The Board shall elect a secretary from its membership.

(1) The election may be held every two years during the July Board meeting.

(2) The elected Board Secretary shall take office on the first day of September following the election held at the July Board meeting.

(3) If the office becomes vacant for any reason, a special election shall be held at the next regularly scheduled Board meeting to fill the office for the unexpired term.

## **CHAPTER 363 EXAMINATION AND REGISTRATION**

### **§363.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Application--the information submitted by an individual seeking Board approval to:

(A) obtain a license, registration, or endorsement; or

(B) take a licensing or endorsement examination administered by the Board.

(2) Directly Related to Plumbing--directly related to the duties and responsibilities of the occupation of registered and licensed individuals performing plumbing work and plumbing inspections.

### **§363.2 General Qualifications \***

(a) To be eligible to receive any license or registration issued by the Board an applicant must be:

(1) a citizen or national of the United States; or

(2) an alien or non-immigrant eligible for licensure by the State of Texas.

(b) In order to qualify for any license, registration, or endorsement, an applicant must:

(1) meet all of the requirements of the Board;

(2) submit documentation evidencing successful submittal of fingerprints for criminal history background checks, as may be required by subsection (f) of this section or the PLL, if applicable;

(3) pay the required fee; and

(4) successfully complete and pass the examination, if applicable.

(c) An applicant may qualify for a Master Plumber License, Journeyman Plumber License, Tradesman Plumber-Limited License, Plumbing Inspector License, or Plumber's Apprentice Registration.

(1) A licensed Plumbing Inspector, Master Plumber or Journeyman Plumber may obtain a Medical Gas Piping Installation Endorsement, Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement, or Water Supply Protection Specialist Endorsement.

(2) A Tradesman Plumber-Limited may obtain a Drain Cleaner Registration.

(3) A registered Plumber's Apprentice may obtain a Residential Utilities Installer Registration, a Drain Cleaner-Restricted Registration or a Drain Cleaner Registration.

(d) A Plumber's Apprentice or Tradesman Plumber-Limited Licensee applying to take an examination must submit an Employer's Certification Form (ECF) showing that the applicant has accrued the required hours of experience working in the plumbing trade.

(1) If the applicant accrued the hours through employment with multiple employers, the applicant must submit a separate ECF completed by each employer the applicant worked for.

(2) The ECF shall be completed by the Responsible Master Plumber (RMP) who was the RMP for the company at the time the applicant worked there or the licensee who supervised the applicant on the job.

(3) If currently employed, the applicant shall:

(A) submit a request for an ECF in writing; and

(B) provide an ECF to the RMP or the licensee who supervised the applicant.

(4) Once a written request for an ECF is received, the RMP or licensee shall return the completed ECF to the applicant within thirty (30) business days.

(5) Upon separation of employment, or the end of a contract, an employer shall automatically provide a completed ECF to a Plumber's Apprentice or Tradesman Plumber-Limited or send it to the Board.

(e) To receive credit for experience working in the trade, the applicant must hold either a valid



Plumber's Apprentice Registration or Tradesman Plumber-Limited License at the time the hours were worked.

(f) *Fingerprinting Requirements.* In accordance with §1301.4521 and Chapter 53 of the Occupations Code, the Board conducts reviews of individuals seeking licensure by the Board with a criminal background to evaluate their fitness and determine whether their criminal background disqualifies them from being licensed by or registered with the Board. In accordance with §411.122 of the Government Code, the Board is authorized to access criminal background records from the Texas Department of Public Safety (DPS) to conduct such reviews, including the submittal and registration with DPS of fingerprints from an individual seeking licensure with the Board, in order to obtain such records. Specifically, the Board's fingerprinting requirements are as follows:

(1) *Fingerprints required.* The submittal and registration of fingerprints with DPS is required when applying for the following license or registration types: Tradesman Plumber-Limited License.

(2) *Resubmittal of fingerprints.* The requirement to submit and register fingerprints applies to both an initial application for a license or registration, as well as applications for renewal. However, once fingerprints have been submitted and registered with DPS, an individual ordinarily will not be required to re-submit their fingerprints, including renewals of a license or registration, or when applying for a different license or registration type. The foregoing notwithstanding, re-submittal of fingerprints may be required to the extent required by DPS or its third-party fingerprint processing vendor; for example, to comply with new or enhanced fingerprint records requirements, or if additional biometric data is required to conduct criminal background checks.

(3) *Fingerprint procedures; fees.* An applicant required to submit and register their fingerprints with DPS in accordance with paragraph (1) of this subsection must follow all instructions and procedures outlined by DPS and its third-party fingerprint processing vendor. The applicant is responsible for and must make payment directly to DPS and/or its designated third-party fingerprint processing vendor, all fees associated with the criminal background fingerprinting process, which is separate from the application fee imposed by the Board.

*\* Note: this rule reflects amendments approved by the Board for adoption on May 15, 2019, but that have an anticipated effective date of August 1, 2019.*

### **§363.3 Qualifications for Applicants with Military Experience**

(a) Notwithstanding §363.2(e) of this chapter, the Board shall credit verified military service, training, or education toward the requirements, other than examination requirements, for a license or registration issued by the Board.

(b) In lieu of the standard method(s) of qualifying for a particular license, and based on the applicant's circumstances, the Board may use an alternative method that takes into consideration any combination of the following:

(1) education;

(2) continuing education;

(3) examinations (written and/or practical);

(4) letters of good standing;

(5) letters of recommendation;

(6) work experience; or

(7) discharge status from the military.

(c) This section does not apply to an applicant who:

(1) holds a restricted license issued by another jurisdiction; or

(2) has an unacceptable criminal history according to Chapter 53 of the Texas Occupations Code and §363.15 and §363.25 of this chapter.

(d) The Board shall expedite the issuance of a provisional license under this chapter to an applicant who:

(1) has verified military experience; and

(2) holds a current license issued by another jurisdiction that has license requirements that are substantially equivalent to the license requirements of the Board.

#### **§363.4 Master Plumber License**

(a) To be eligible for a Master Plumber License an applicant must:

(1) have obtained a high school diploma, or the equivalent of a high school diploma; and

(2) have held a Journeyman Plumber License issued in Texas or another state:

(A) for at least four years; or

(B) for at least one year if the applicant has successfully completed a training program approved by the United States Department of Labor, Office of Apprenticeship or another nationally-recognized apprentice training program accepted by the Board.

(b) An applicant who is licensed as a Master Plumber in another state must meet the requirements set forth in subsection (a) of this section.

#### **§363.5 Journeyman Plumber License**

(a) To be eligible for a Journeyman Plumber License an applicant must have completed forty-eight (48) hours of classroom training provided by a Board-approved instructor in a Board-approved training program meeting the requirements of subsections (f) and (g) of this section.

(b) In addition to the requirements in subsection (a) of this section, an applicant must:

(1) have at least 8,000 hours of experience working at the trade under the supervision of a RMP or a Master Plumber licensed in another state; and

(2) hold one of the following:

(A) a current Plumber's Apprentice Registration;

(B) a current Tradesman Plumber-Limited License; or

(C) a current Journeyman Plumber License issued in another state.

(c) Upon written request by the applicant, the Board may credit an applicant with up to 1,000 hours of the work experience required to take the Journeyman Plumber examination if the applicant has completed the classroom portion of a training program that is:

(1) approved by the United States Department of Labor, Office of Apprenticeship; or

(2) provided by a person approved by the Board and based on course materials approved by the Board.

(d) Notwithstanding the training required by subsection (a)(2) of this section, a registered Plumber's Apprentice may apply for and take the Journeyman Plumber examination if the apprentice has received an associate of applied science degree from a plumbing technology program that:

(1) includes a combination of classroom and on-the-job training; and

(2) is approved by the Board and the Texas Higher Education Coordinating Board.

(e) An applicant is exempt from the training required by subsection (a)(2) of this section if the applicant:

(1) has completed the classroom portion of a training program provided by a person approved by the Board and based on course materials approved by the Board;

(2) is a Plumber's Apprentice who is enrolled in good standing in a training program approved by the United States Department of Labor, Office of Apprenticeship; or

(3) holds a current Journeyman Plumber License issued in another state.

(f) The training program required by subsection (a)(2) of this section shall include:

(1) two (2) six-hour Continuing Professional Education (CPE) classes as required by §365.14(c) of the Board Rules; and

(2) the Occupational Safety and Health Administration (OSHA) 10-Hour Outreach Training class on Construction Industry Procedures, including:

(A) Introduction to OSHA;

(B) OSHA Focus on Four Hazards-fall protection, electrical, caught in between, and struck by;

(C) Personal Protective and Life Saving Equipment;

(D) Health Hazards in Construction, including hazard communication and silica;

(E) Tools, including hand tools and power tools;

(F) Excavations;

(G) Stairways and Ladders;

(H) Hazardous Materials; and

(I) Introduction to Industrial Hygiene and Blood Borne Pathogens.

(g) In addition to the classes described in subsection (f) of this section, the training required by subsection (a)(2) of this section shall include:

(1) eight (8) hours of classroom training, as follows:

(A) two (2) hours, to include:

(i) reading and understanding residential construction drawings;

(ii) learning the basics of math for plumbing; and

(iii) drawing rough in and riser diagrams;

(B) one (1) hour to review the International Residential Code chapter on Fuel Gas, including:

(i) definitions;

(ii) pipe sizing and layout; and

(iii) testing and inspections;

(C) one (1) hour to review the International Residential Code chapter on General Plumbing Requirements, including:

(i) individual water supply and sewage disposal;

(ii) structural and piping protection, including notching and boring;

(iii) trenching and backfilling;

(iv) workmanship and waterproofing penetrations; and

(v) listed, labeled and approved materials;

(D) one (1) hour to review the International Residential Code chapters on Plumbing Fixtures and Water Heaters, including:

(i) the installation of plumbing fixtures and accessories;

(ii) water heater installation and replacement, including hazards of improper installations; and

(iii) water heater safety devices and alternative methods of existing installations not to code;

(E) one (1) hour to review the International Residential Code chapter on Water Supply and Distribution, including:

(i) understanding and principals of backflow protection for potable water systems;

(ii) water supply systems, including thermal expansion control and water hammer arrestors;

(iii) water conservation and maximum flow for plumbing fixtures;

(iv) sizing and pressures of potable water systems from the meter throughout distribution to fixture connections;

(v) materials and installation of potable water piping;

(vi) demonstration of soldering and brazing according to B-828 standards;

(vii) hangers, anchors and supports; and

(viii) drinking water treatment units;

(F) one (1) hour to review the International Residential Code chapters on Sanitary Drainage and Vents, including:

(i) materials and installation of drainage systems, including proper grade and changes in direction of fittings;

(ii) preparation of piping;

(iii) standards for solvent cementing of pipe and fittings;

(iv) cast iron piping and fittings;

(v) location and installation of cleanouts;

- (vi) sumps and ejectors sizing and installation;
- (vii) understanding the principals and physics of proper venting;
- (viii) installation of different types of venting systems; and
- (ix) improper connections and prohibited venting applications;

(G) one (1) hour to review the International Residential Code chapter on Traps, including:

- (i) design and prohibited traps;
- (ii) sizing and installation of traps and trap arms; and
- (iii) trap protection; and

(2) eighteen (18) hours of classroom training in certain chapters of the Uniform Plumbing Code, International Plumbing Code, and International Fuel Gas Code (as appropriate); the Texas Accessibility Standards, the Americans with Disabilities Act; and water conservation, as follows:

(A) one (1) hour to review the chapters on General Regulations;

(B) one (1) hour to review the chapters on Plumbing Fixtures and Fixture Fittings, including:

- (i) general requirements and water conservation information for plumbing fixtures;
- (ii) commercial plumbing fixtures; and
- (iii) location and installation requirements for fixtures and fixture fittings;

(C) two (2) hours to review the chapters on Water Heaters, including:

- (i) general regulations for water heater installation and replacement, including hazards of improper installations;
- (ii) safety requirements for commercial water heaters;
- (iii) different types of water heaters available, including installations; and
- (iv) safety devices and alternative methods to bring existing installations into compliance with plumbing codes;

(D) two (2) hours to review the chapters on Water Supply and Distribution, including:

- (i) installation of potable water systems; and

- (ii) pipe sizing for water supply and distribution;
- (E) two (2) hours to review the chapters on Sanitary Drainage, including:
- (i) understanding commercial plumbing; and
  - (ii) pipe sizing for sanitary waste;
- (F) one (1) hour to review the chapters on Indirect Wastes, including:
- (i) applications accepted for indirect waste systems, both air-gap and air-break; and
  - (ii) understanding the reason for indirect waste systems;
- (G) two (2) hours to review the chapters on Vents, including:
- (i) physics and importance of proper venting;
  - (ii) different venting methods, including vent termination;
  - (iii) special venting for island fixtures, and combination waste and vent systems; and
  - (iv) pipe sizing of vents;
- (H) one (1) hour to review the chapters on Traps and Interceptors, including:
- (i) physics and importance of trap protection;
  - (ii) grease interceptor design, installation and maintenance according to the Plumbing Drainage Institute; and
  - (iii) different types of interceptors and applications according to code;
- (I) one (1) hour to review the chapters on Storm Drainage, including:
- (i) basic design, materials and installation of storm water systems;
  - (ii) hazards of improper installations; and
  - (iii) testing procedures for storm drainage systems;
- (J) two (2) hours to review the chapters on Fuel Gas Piping, including:
- (i) hazards of improperly designed or installed fuel gas piping and appliances;
  - (ii) approved materials and methods, including pipe and fittings; and

(iii) combustion air requirements;

(K) one (1) hour to review the basic installation of handicapped plumbing fixtures for commercial projects, as required by the Texas Accessibility Standards and the Americans with Disabilities Act; and

(L) two (2) hours to review new technology that promotes water and energy conservation including, rain water harvesting, solar energy, and water smart applications.

### **§363.6 Tradesman Plumber-Limited License**

(a) To be eligible for a Tradesman Plumber-Limited License an applicant must:

(1) have completed twenty-four (24) hours of classroom training provided by a Board-approved instructor in a Board-approved training program in the areas of health and safety, the latest version of all plumbing codes adopted by the Board, and water conservation;

(2) have at least 4,000 hours of experience working at the trade under the supervision of a RMP or a Master Plumber licensed in another state; and

(3) hold one of the following:

(A) a current Plumber's Apprentice Registration;

(B) a current Journeyman Plumber License issued in another state; or

(C) a current Master Plumber License issued in another state.

(b) Upon written request by the applicant, the Board may credit an applicant with up to 1,000 hours of the work experience required to take the Tradesman Plumber-Limited examination if the applicant has completed the classroom portion of a training program that is:

(1) approved by the United States Department of Labor, Office of Apprenticeship; or

(2) provided by a person approved by the Board and based on course materials approved by the Board.

(c) Notwithstanding the training required by subsection (a)(1) of this section, a registered Plumber's Apprentice may apply for and take the Tradesman Plumber-Limited examination if the apprentice has received an associate of applied science degree from a plumbing technology program that:

(1) includes a combination of classroom and on-the-job training; and

(2) is approved by the Board and the Texas Higher Education Coordinating Board.

(d) An applicant is exempt from the training required by subsection (a)(1) of this section if the applicant:

(1) has completed the classroom portion of a training program provided by a person approved by the Board and based on course materials approved by the Board;



(2) is a registered Plumber's Apprentice who is enrolled in good standing in a training program approved by the United States Department of Labor, Office of Apprenticeship; or

(3) holds a current Master or Journeyman Plumber License issued in another state.

(e) The training program required by subsection (a)(1) of this section shall include:

(1) one (1) six-hour CPE class as required by §365.14(c) of the Board Rules;

(2) the OSHA 10-Hour Outreach Training class described in §363.5(f)(2) of this chapter;  
and

(3) the eight (8) hours of classroom training described in §363.5(g)(1) of this chapter.

### **§363.7 Plumber's Apprentice Registration**

To be eligible for a Plumber's Apprentice Registration an applicant must be at least sixteen (16) years of age.

### **§363.8 Plumbing Inspector License**

(a) To be eligible for a Plumbing Inspector License an applicant must:

(1) have obtained a high school diploma, or the equivalent of a high school diploma; and

(2) hold one of the following:

(A) a current Journeyman or Master Plumber License issued in Texas or another state;

(B) a current Plumbing Inspector license issued in another state with licensing requirements substantially equivalent to the licensing requirements of the Board; or

(C) a current professional engineer or a professional architect license issued in Texas.

(b) In addition to meeting the requirements in subsection (a) of this section, an applicant who holds a Journeyman or Master Plumber License issued in another state must take and pass the Journeyman examination developed by the Board.

(c) An applicant is exempt from the licensure requirement listed in subsection (a)(2) of this section if the applicant has completed a total of 500 hours of training or experience in the plumbing industry. An applicant may receive credit toward the 500 hours as follows:

(1) 100 hours of credit for successful completion of a certification in the Uniform Plumbing Code or the International Plumbing Code, issued by the International Association of Plumbing and Mechanical Officials or the International Code Council plumbing code certification;

(2) 100 hours of credit for successful completion of a Board-approved Medical Gas Piping Installation Endorsement training program;

(3) 100 hours of credit for successful completion of a Board-approved Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement training program;

(4) 100 of hours credit for successful completion of a Board-approved Water Supply Protection Specialist Endorsement training program;

(5) 100 hours of credit for successful completion of an approved Backflow Tester Certification program;

(6) six (6) hours of credit for successful completion of any of the Board-approved CPE for Licensed Plumbers and Plumbing Inspectors courses;

(7) up to 100 hours of credit for hours attending approved, documented and verified plumbing-related training academy or educational sessions;

(8) up to 200 hours of credit for hours working in the trade or an approved, similar plumbing-related trade, as verified by former employers; or

(9) up to 200 hours of credit for documented and verified on-the-job training in the enforcement of plumbing codes under the direct supervision of a licensed Plumbing Inspector.

### **§363.9 Medical Gas Piping Installation Endorsement**

(a) To be eligible for a Medical Gas Piping Installation Endorsement an applicant must:

(1) hold a current Journeyman Plumber, Master Plumber or Plumbing Inspector License; and

(2) have successfully completed a Board-approved training program in medical gas piping installation, which is based on the standards contained in the latest edition of the National Fire Protection Association 99 Health Care Facilities Code (NFPA 99).

(b) At a minimum, the training program required by subsection (a)(2) of this section shall:

(1) consist of at least twenty-four (24) hours dedicated to classroom presentation, shop demonstration and testing of the enrollee's comprehension of the course material;

(2) address the responsibilities of an endorsement-holder as outlined in the current edition of the NFPA 99, Plumbing License Law and Board Rules;

(3) address the proper installation and testing requirements for medical gas and vacuum piping systems, as outlined in the current edition of the NFPA 99; and

(4) include at least four (4) hours of shop demonstration covering the proper assembly, purging and brazing procedures for horizontal and vertical joints.

### **§363.10 Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement**

(a) To be eligible for a Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement an applicant must:

(1) hold a current Journeyman Plumber, Master Plumber or Plumbing Inspector License;  
and

(2) have successfully completed a Board-approved training program that provides the training necessary for the proper installation of a multipurpose residential fire protection sprinkler system as required by the National Fire Protection Association Standard 13D and any other applicable codes and standards recognized by the state.

(b) The training program required by subsection (a)(2) of this section shall be at least twenty-four (24) hours in length, incorporate the training criteria included in the American Society of Sanitary Engineering Series 7000 as it relates to plumbing-based residential fire protection systems installers for one and two-family dwellings, and include:

(1) one (1) hour to review applicable standards, codes, and laws, including the Plumbing License Law, Board Rules and the fire sprinkler rules set forth in 28 Tex. Admin. Code §§34.701 *et seq.*, and their integration and identifying the enforcing authorities;

(2) four (4) hours to study definitions, to identify at a minimum the various types, specific parts, specific terminology and concepts of the system;

(3) four (4) hours to learn the acceptable type, material, location, limitation and correct installation of equipment, including but not limited to: pipe, fittings, valves, types of sprinkler heads, supports, drains, test connections, automatic by-pass valve, smoke alarm devices, and other appurtenances;

(4) two (2) hours to learn the acceptable type, configuration, and material--which may or may not be required for a water supply--including but not limited to: backflow preventers, shut off valves, water meters, water flow detectors, tamper switches, test connections, pressure gages, minimum pipe sizes, storage tanks, and wells including the ability to perform a water flow test of a city water supply;

(5) eight (8) hours to learn which rooms require sprinklers and the correct positioning of a sprinkler head based on its type, listing, temperature rating, and the building structure, including but not limited to: understanding the concepts of the area of coverage, spacing, distance from walls and ceilings, listing limitations, dead air pockets, manufacturer's requirements and obtaining knowledge of how structural features such as flat, sloped, pocket, or open joist ceilings, close proximity to heat sources and other obstructions such as ceiling fans, surface mounted lights, beams, and soffits may adversely influence the location of a sprinkler head;

(6) three (3) hours to learn critical hydraulic concepts for the installer that may adversely affect the original design plan due to field construction changes, including but not limited to: remote area sprinkler operation, flow versus pressure, elevation pressure loss, sprinkler K-factors, fixture units, minimum pipe diameters, additional pipe lengths and understand which household water appliances affect or do not affect the sprinkler hydraulics/performance; and

(7) two (2) hours to learn the required testing, maintenance and documentation, including but not limited to: the final inspection and tests normally required by the local fire official, when permits, working plans, as-built plans or hydraulic calculations are required and who provides for the system maintenance and instructions.

(c) An applicant who holds a current Master or Journeyman Plumber License issued by the Board and a current RME-General or RME-Dwelling License issued by the State Fire Marshal's Office, Texas Department of Insurance, is exempted from completing the training program required by subsection (a)(2) of this section prior to taking the Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement examination.

### **§363.11 Water Supply Protection Specialist Endorsement**

(a) To be eligible for a Water Supply Protection Specialist Endorsement an applicant must:

(1) hold a current Journeyman Plumber, Master Plumber License or Plumbing Inspector License; and

(2) complete a Board-approved training program based on the Federal Safe Drinking Water Act and the Federal Clean Water Act, on-site wastewater and site evaluations and graywater re-use, water quality training and water treatment, water utilities systems and regulations, water conservation, rainwater harvesting systems, xeriscape irrigation, fire protection systems, backflow prevention, and state laws regulating lead contamination in drinking water.

(b) At a minimum the training program required by subsection (a)(2) of this section shall be at least twenty-four (24) hours with a maximum of eight (8) hours of instruction per day and include:

(1) a six (6) hour review of the significance of cross-connections, the principles of back pressure and back siphonage, thermal expansion, the acceptable devices and/or requirements for a public water supply system including, but not limited to, approved backflow protection devices, shut-off valves, water meters, and containment vessels;

(2) a two (2) hour review of the applicable standards, codes, and laws, including but not limited to: the Plumbing License Law, Board rules, the Texas Commission on Environmental Quality rules relating to a public water supply and water reuse, as described in the Texas Water Development Board's Rainwater Harvesting Manual, and the Texas A&M AgriLife Extension Service recommendations;

(3) a four (4) hour review of the specific parts and terminology, and the concepts and components of a rainwater harvesting system, including proper sizing for all water reuse systems;

(4) an eight (8) hour review of the acceptable type, material, location, limitation, and correct installation of equipment related to the treatment and reuse of water;

(5) four (4) hours devoted to the elements of a proper customer service inspection as required by the Texas Commission on Environmental Quality; and

(6) information specific to rainwater harvesting as outlined in the latest edition of the Texas Water Development Board's Rainwater Harvesting Manual.

(c) In addition to the information described in subsection (b)(6) of this section, a training program may include the latest edition of the Uniform Plumbing Code Rainwater Harvesting Seminar Manual, or the latest edition of the International Plumbing Code or the International Green Construction Code.

### **§363.12 Residential Utilities Installer Registration**

To be eligible for a Residential Utilities Installer Registration an applicant must:

- (1) hold a current Plumber's Apprentice Registration;
- (2) have completed at least 2,000 hours working at the trade under the direct supervision of a Tradesman Plumber-Limited, Journeyman Plumber, or Master Plumber, and the supervision of a RMP, as verified by employers; and
- (3) complete a Board-approved training program.

### **§363.13 Drain Cleaner Registration**

To be eligible for a Drain Cleaner Registration an applicant must:

- (1) hold a current Plumber's Apprentice Registration;
- (2) have completed at least 4,000 hours working at the trade as a Drain Cleaner-Restricted Registrant under the supervision of a RMP, as verified by employers; and
- (3) complete a Board-approved training program.

### **§363.14 Drain Cleaner-Restricted Registration**

To be eligible for a Drain Cleaner-Restricted Registration an applicant must:

- (1) hold a current Plumber's Apprentice Registration; and
- (2) complete a Board-approved training program.

### **§363.15 Consequences to an Applicant With Criminal Convictions**

(a) The Board shall revoke any and all registrations, licenses, or endorsements held by an individual if the individual is incarcerated due to a felony conviction, felony community supervision revocation, revocation of parole or revocation of mandatory supervision. The Board shall automatically deny an application submitted by an individual who, at the time the application is submitted, is incarcerated because of a felony conviction, felony community supervision revocation, revocation of parole or revocation of mandatory supervision.

(b) The Board shall review the application of an individual that has been convicted of a felony or misdemeanor directly related to plumbing to determine whether to disqualify the individual from receiving a registration, license or endorsement, or deny the individual the opportunity to take an examination.

(c) In determining whether a criminal offense is directly related to plumbing, the Board shall consider:

- (1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license or registration to perform plumbing or plumbing inspections;

(3) the extent to which a license or registration might offer an opportunity to engage in further criminal activity of the same type as that in which the applicant had previously been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of registered and licensed individuals performing plumbing or plumbing inspections.

(d) In addition to the factors listed in subsection (c) of this section, the Board, in determining whether an applicant who has been convicted of a crime is fit for licensure, shall consider:

(1) the extent and nature of the applicant's past criminal activity;

(2) the age of the applicant when the crime was committed;

(3) the amount of time that has elapsed since the applicant's last criminal activity;

(4) the amount of time that has elapsed since the applicant's release from incarceration;

(5) the conduct and work activity of the applicant before and after the criminal activity;

(6) evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or after release;

(7) letters of recommendation signed and dated by a current employer, if the applicant is employed, or a previous employer, stating that the employer has specific and complete knowledge of the applicant's criminal history and stating the reasons that the employer is recommending that the applicant be considered fit and not a threat to the public's health, safety and welfare; and

(8) letters of recommendation signed and dated by any other person in contact with the applicant.

(e) An applicant who has been convicted of a felony shall obtain and submit to the Board:

(1) a fully-completed Supplemental Criminal History Information Form signed by the applicant;

(2) the letters of recommendation described in subsections (d)(7) and (8) of this section; and

(3) proof, in the form required by the Board, that the applicant has:

(A) maintained a record of steady employment;

(B) supported the applicant's dependents, if any;

(C) maintained a record of good conduct;

(D) paid all outstanding court costs, supervision fees, fines and restitution ordered in any criminal case in which the applicant has been convicted; and

(E) successfully completed all court-ordered or voluntary rehabilitation classes, courses or programs.

(f) An applicant who has been convicted of a misdemeanor shall obtain and submit a Supplemental Criminal History Form only if requested by the Enforcement Committee.

(g) In addition to the information listed in subsection (e) of this section, an applicant with a conviction of a sexual nature shall obtain and provide to the Board the written results of a standard, nationally-recognized testing and evaluation of the applicant, recently performed by a licensed professional therapist or counselor who is certified as a Registered Sex Offender Treatment Provider in the State of Texas, to determine the level of likelihood for the applicant to commit future crimes of a sexual nature.

(h) If required by the Board, the applicant shall meet all requirements necessary for the Board to access the applicant's criminal history record information maintained by the Department of Public Safety and the Federal Bureau of Investigation, including submitting fingerprint information and paying the required fees.

(i) The Enforcement Committee may approve, without Board approval, the application for a license, endorsement or registration of an individual who has a criminal conviction, if the Enforcement Committee finds that the criminal conviction is not directly related to plumbing.

(1) The Enforcement Committee may request an applicant with a criminal conviction to appear before the committee and present information relating to the applicant's criminal conviction.

(2) If the Enforcement Committee determines that an applicant is ineligible for a license, endorsement or registration based on the applicant's criminal conviction, the Enforcement Committee shall give timely notice of the denial to the applicant at the applicant's last known address on file with the Board. The notice shall inform the denied applicant of the applicant's right to request in writing, within twenty (20) days of the mailing of the notice of denial, a hearing before an administrative law judge of the State Office of Administrative Hearings to review the Enforcement Committee's determination.

(3) If a denied applicant fails to submit a timely request for a hearing under paragraph (2) of this subsection, the Enforcement Committee's decision is rendered final. A denied applicant may not apply for a new registration, license or endorsement before the first anniversary of the date the denial becomes final.

(4) If a denied applicant requests a hearing under paragraph (2) of this subsection, the Board shall determine the applicant's eligibility after reviewing the Proposal for Decision issued by the administrative law judge, and provide the denied applicant a written statement containing:

(A) the reason for the suspension, revocation, denial or disqualification;

(B) the judicial review procedure provided by §53.052 of the Texas Occupations Code; and

(C) the earliest date the applicant may appeal the action of the licensing authority.

(5) An applicant who is denied after a hearing held under paragraph (2) of this subsection may not apply for a new registration, license or endorsement before the first anniversary of the date the denial becomes final.

### **§363.16 Examination Schedule**

(a) The Board shall conduct examinations on a regular basis according to demand.

(b) Applications will be processed and exams will be scheduled on a first-come, first-served basis, unless an application is subject to review under Chapter 53 of the Texas Occupations Code and §363.15 of this chapter. The Board will not process incomplete applications.

(c) Once an applicant is scheduled for an exam, the Board shall provide the applicant with written notification of the time, date and place of examination.

### **§363.17 Reporting for Examination**

(a) An applicant shall report promptly at the place of the examination.

(b) If an applicant is scheduled for an examination and cannot appear, the applicant must notify the Chief Examiner in writing, postmarked no later than ten (10) business days before the scheduled examination date. An applicant who fails to appear or does not give the required notice shall forfeit the examination fee and must submit a new exam application and fee.

(c) An applicant who fails to appear for an exam due to an excused emergency may reschedule once without having to submit a new exam application and fee.

(1) An applicant must submit a written request to reschedule an exam to the Chief Examiner, postmarked no later than five (5) business days after the original examination date, that includes an explanation of the emergency that caused the applicant's failure to appear.

(2) An applicant who does not submit a request to reschedule within the required time period must submit a new exam application and fee.

(d) The following are considered excused emergencies:

(1) a death in the applicant's family;

(2) illness or hospitalization of the applicant or a member of the applicant's immediate family;

(3) an automobile accident on the day of the examination;

(4) any other unplanned event that is serious enough to prevent the applicant from appearing for the exam if approved by the Chief Examiner.

(e) Emergencies will be subject to verification by the Chief Examiner. Scheduling conflicts due to work will not be considered an excused emergency.



### **§363.18 Description of Examination**

(a) For each license and endorsement, the Board shall design and conduct a uniform, reasonable examination that includes written questions and practical applications, when appropriate.

(b) In addition to the information described in §363.16(c) of this chapter, the Board shall furnish an applicant with written information explaining the scope of the examination. The Board shall also make the information about the scope of each examination it administers accessible on its website.

### **§363.19 Non-Standard Examination Accommodations**

(a) An applicant seeking to take an examination with non-standard accommodations shall submit an Applicant Request for Non-Standard Examination Accommodations Form and a Physician or Qualified Licensed Professional Recommendation for Non-Standard Examination Accommodations Form to be used by the Chief Examiner to determine whether the applicant qualifies for non-standard examination accommodations.

(b) Due to the duties and responsibilities of registrants and licensees to protect the health and safety of the public, the Board shall not allow Examiners to provide oral versions of the written components of examinations.

(1) Examiners may give oral instructions and explanations to individuals taking an examination.

(2) An applicant who has been diagnosed by a physician or other qualified licensed professional as having a specific learning or reading disability, such as dyslexia, may request additional time to complete an examination, a separate examination area or other reasonable accommodation.

(c) The Board shall reserve the right to make all final decisions regarding reasonable examination accommodations and may require a consultation by an expert of its choosing for a second opinion, if it determines that it is necessary for a particular applicant.

### **§363.20 Test Score Requirements**

The board may set and adjust minimum passing scores as it deems appropriate for each license or endorsement category examination.

### **§363.21 Notification**

The Board shall notify applicants of their examination results within thirty (30) days after the examination is administered, and, if requested within two weeks of notification, shall provide an applicant with an analysis of the applicant's examination performance.

### **§363.22 Reexamination**

(a) An applicant that fails any single part of a multiple part examination may retake the part or parts that were failed without having to retake the entire examination.

(1) A failing score on a single part of an examination is a score of 69.9 points or less.

(2) A time limit of three (3) hours is allotted for reexamination of the part that was failed.

(3) The applicant must submit a new exam application and fee in order to retake the part that was failed.

(b) An applicant who fails any part or parts of an examination shall complete a training period before the applicant may retake the examination. The length of the required training period is determined by the number of times the applicant has failed as follows:

(1) first failure: 30-day training period;

(2) second failure: 60-day training period; and

(3) third and subsequent failures: 90-day training period.

### **§363.23 Disqualification**

(a) The Board shall disqualify an applicant from receiving a registration or deny an applicant the opportunity to be examined for a license if it discovers that the applicant furnished false information on an application or used any fraudulent means of establishing the applicant's qualifications.

(b) The Board may initiate disciplinary action against any applicant, registrant or licensee who furnishes false information on any certifications, other forms, or renewals distributed by the Board.

### **§363.24 Providers and Instructors of Endorsement Training Programs**

(a) Only a Course Provider who is approved to provide CPE courses, under §365.16 of the Board rules may provide or instruct a training program required by §§363.9-363.11 of this chapter.

(1) Once approved under §365.16 of the Board Rules, a Course Provider is automatically approved to provide the training required by §§363.9-363.11 of this chapter and is not required to submit a separate application to the Board.

(2) An approved Course Provider may utilize another governmental or industry-recognized entity to provide a portion of the course instruction so long as an approved Course Instructor is also present.

(b) Only a Course Instructor who is approved to instruct CPE courses, under §365.17 of the Board rules may instruct a training program required by §363.9 of this chapter provided that the instructor:

(1) is licensed as a Master Plumber or Journeyman Plumber; and

(2) holds the Medical Gas Piping Installation Endorsement.

(c) Only a Course Instructor who is approved to instruct CPE courses, under §365.17 of the Board rules may instruct a training program required by §363.10 and §363.11 of this chapter provided that the instructor:

- (1) is licensed as a Master Plumber, Journeyman Plumber or Plumbing Inspector; and
  - (2) holds the endorsement that corresponds to the training program the Instructor will teach.
- (d) A Course Provider or Instructor whose approval under §365.16 or §365.17 of the Board Rules is suspended or revoked for any reason, may not provide or instruct the training required by §§363.9-363.11 of this chapter.
- (e) All Course Providers and Instructors shall:
- (1) adhere to the instruction criteria approved by the Board in this section; and
  - (2) ensure that only students who receive the specified number of contact hours of instruction (excluding any time spent on breaks from instruction) receive credit for completing the training required by §§363.9-363.11 of this chapter.
- (f) The training required by §§363.9-363.11 of this chapter may be provided in increments, as appropriate.
- (1) A Course Provider or Instructor shall provide a certificate of completion to a student upon completion of the training.
  - (2) The certificate of completion shall state:
    - (A) the title of the endorsement training program;
    - (B) the names of the Course Provider and Course Instructor;
    - (C) the name and license number of the student; and
    - (D) the date that the instruction was completed.
  - (3) A Course Provider shall maintain an electronic copy or record of each certificate of completion for at least two (2) years after the date the certificate was issued.
- (g) A Course Provider shall:
- (1) notify the Board at least seven (7) days before conducting an endorsement training program or post electronic notice of the class schedule, including the dates(s), time(s) and place(s) class(es) will be held, on the provider's website at least seven (7) days before conducting a class;
  - (2) perform self-monitoring to ensure compliance with this section and reporting as required by the Board; and
  - (3) submit a course outline that includes the number of hours of instruction on each topic included in the outline to the Board for approval.
- (h) The Board may monitor endorsement training programs to ensure compliance with all applicable laws and Board rules and may deny, suspend or revoke approval of a Course Provider or Instructor who fails to comply.

(i) The Board may require a Course Provider to resubmit a previously-approved course outline for an endorsement training program at any time in order to ensure the program meets the current requirements of the plumbing codes, laws, and administrative rules applicable to the specific training program.

### **§363.25 Providers and Instructors of Training Programs for Journeyman Plumber and Tradesman Plumber-Limited License Applicants**

(a) Only a Course Provider or Course Instructor who is approved to provide or instruct CPE courses under §365.16 or §365.17 of the Board rules may provide or instruct the classroom training required by §363.5(a)(2) and §363.6(a)(1) of this chapter.

(1) Once approved under §365.16 or §365.17 of the Board rules, a Course Provider or Instructor is automatically approved to provide or instruct the training required by §363.5(a)(2) and §363.6(a)(1) of this chapter and is not required to submit a separate application for approval to the Board.

(2) A Course Provider or Instructor whose approval under §365.16 or §365.17 of the Board Rules is suspended or revoked for any reason, may not provide or instruct the training required by §363.5(a)(2) and §363.6(a)(1) of this chapter.

(b) In addition to the meeting the requirements of subsection (a) of this section, a Course Instructor must be authorized by OSHA to provide the training described in §363.5(f)(2) of this chapter. A person who is authorized by OSHA, but is not approved under §365.17 of the Board Rules, may teach the training described in §363.5(f)(2) of this chapter through an approved Course Provider so long as an approved Course Instructor is also present.

(c) Course Providers and Instructors approved to provide or instruct the training required by §363.5(a)(2) and §363.6(a)(1) of this chapter shall:

(1) adhere to the instruction criteria described in §363.5(f)-(g) and §363.6(e) of this chapter;

(2) ensure that only students who complete the specified number of contact hours of instruction (excluding any time spent on breaks from instruction) receive credit for completing the training required by §363.5(a)(2) and §363.6(a)(1) of this chapter;

(3) provide notice of intent to conduct training required by §363.5(a)(2) and §363.6(a)(1) of this chapter in the same manner required by §365.19(i) of the Board rules; and

(4) abide by the same standards of conduct described in §365.20 of the Board rules when providing the training required by §363.5(a)(2) and §363.6(a)(1) of this chapter.

(d) The training required by §363.5(a)(2) and §363.6(a)(1) of this chapter may be provided in increments, as appropriate.

(1) The Course Provider or Instructor shall provide a certificate of completion to the student for each increment completed.

(2) The certificate of completion shall state:

- (A) the names of the Course Provider and Course Instructor;
- (B) the name and registration or license number of the student;
- (C) the specific instruction and number of hours completed; and
- (D) the date that the increment of instruction was completed.

(3) The Course Provider shall maintain an electronic copy or record of each certificate of completion for at least six (6) years after the date the certificate was issued.

(e) An applicant for examination is responsible for the safekeeping of each original certificate of completion earned by the applicant until such time that the applicant:

(1) has completed the training required under §363.5(a)(2) and §363.6(a)(1) of this chapter;

(2) has met all other requirements under §363.5 or §363.6 of this chapter to qualify to take the Tradesman Plumber-Limited or Journeyman Plumber examination; and

(3) has submitted the original certificates of completion along with the appropriate examination application and other required documentation to the Board.

(f) Providing false certificates of completion or any other false information related to the training required by §363.5(a)(2) and §363.6(a)(1) of this chapter to the Board may result in:

(1) the denial of the applicant's examination application;

(2) disciplinary action, as provided by the Plumbing License Law, Board Rules or other laws of this state; or

(3) both.

### **§363.26 Training Program for Responsible Master Plumber Applicants**

(a) Before a Master Plumber acts as a Responsible Master Plumber (RMP), the Master Plumber must complete a Board-approved training program that includes instruction on the laws and rules applicable to the operation of a plumbing business in this state. The requirements of this section do not apply to a RMP who, on or before January 1, 2012, provided the Board with a Certificate of Insurance that:

(1) met the requirements of §1301.552 of the Plumbing License Law and §367.3 of the Board Rules; and

(2) was effective on January 1, 2012.

(b) The training program required under subsection (a) of this section must be a minimum of twenty-four (24) hours in length and include instruction in the following subjects applicable to the operation of a plumbing business in this state:

(1) finance;

- (2) legal;
- (3) local, state and federal rules and regulations;
- (4) insurance/bonds, including workman's compensation insurance;
- (5) OSHA requirements awareness; and
- (6) customer service.

(c) Only a Course Provider who is approved to provide CPE courses under §365.16 of the Board Rules may provide the classroom training required by this section.

(1) To provide the training required by this section, an approved Course Provider may utilize:

(A) a Course Instructor who is approved to instruct CPE under §365.17 of the Board Rules and has expertise in the subject described in subsection (b) of this section that the instructor will teach;

(B) a governmental entity, educational entity or individual with expertise in the subject described in subsection (b) that the entity or individual will teach so long as an approved Course Instructor is also present; or

(C) a combination thereof.

(2) Once approved under §365.16 or §365.17 of the Board Rules, a Course Provider or Instructor is automatically approved to provide or instruct the training required by this section and is not required to submit a separate application for approval to the Board.

(3) A Course Provider or Instructor whose approval to provide or instruct CPE courses under §365.16 or §365.17 of the Board Rules is suspended or revoked for any reason, may not provide or instruct the training required by this section.

(d) Course Providers and Instructors approved to provide or instruct the training required by this section shall:

(1) adhere to the instruction criteria in subsections (a) and (b) of this section;

(2) ensure that only students who complete the specified number of contact hours of instruction (excluding any time spent on breaks from instruction) receive credit for completing the training required by this section;

(3) provide notice of intent to conduct training required by this section in the same manner required by §365.19(i) of the Board Rules;

(4) abide by the standards of conduct described in §365.20 of the Board Rules; and

(5) adhere to the class size limitations set forth in §365.19(f) of the Board Rules.

(e) The training required by this section may be provided in increments, as appropriate.

(1) The Course Provider or Instructor shall provide a certificate of completion to the student for each increment completed.

(2) The certificate of completion shall state:

(A) the names of the Course Provider and Course Instructor;

(B) the name and license number of the student;

(C) the specific instruction and number of hours completed; and

(D) the date that the increment of instruction was completed.

(3) The Course Provider shall maintain an electronic copy or record of each certificate of completion for at least six (6) years after the date the certificate was issued.

(f) Prior to the date that the Master Plumber begins acting as a RMP, the Master Plumber shall submit to the Board:

(1) a certificate or certificates of completion of the training required by this section; and

(2) a Certificate of Insurance as required by §1301.3576 of the Plumbing License Law and §367.3 of the Board Rules.

(g) Providing false certificates of completion or any other false information related to the training required by this section to the Board may result in disciplinary action, as provided by the Plumbing License Law, Board Rules or other laws of this state.

### **§363.27 Criminal Conviction Guidelines**

(a) Licensed individuals are required to exercise independent judgment and carry out their duties and responsibilities without risking the health, safety, welfare and property of the public. It is estimated that the majority of Plumber's Apprentices are working toward licensure; therefore, the Board has determined that the duties and responsibilities listed in subsection (b) of this section apply to both licensees and registrants.

(b) After considering the factors set forth in §53.022 of the Texas Occupations Code, the Board has identified the following, non-exhaustive list of duties and responsibilities of individuals performing plumbing or plumbing inspections:

(1) entering a consumer's home or a place of business, including but not limited to:

(A) private residences;

(B) apartment complexes;

(C) schools;

- (D) child care facilities;
- (E) elder care facilities;
- (F) health care facilities;
- (G) financial institutions; and
- (H) businesses where valuable merchandise is stored and sold;

(2) making personal contact with consumers and their families, including elderly persons and minor children;

(3) engaging in contractual and financial transactions with consumers;

(4) representing the employer and taking responsibility for vehicles and tools provided by the employer;

(5) ensuring safety when working with hazardous, explosive or volatile materials;

(6) complying with laws, rules, ordinances and codes that regulate plumbing; and

(7) working with officials who are carrying out their duties to enforce laws, rules, ordinances and codes that regulate plumbing, including:

- (A) Field Representatives of the Board;
- (B) Plumbing Inspectors; and
- (C) other law enforcement officers.

(c) Due to the nature of the duties and responsibilities stated in subsection (b) of this section, the Board has determined that the following offenses are directly related to plumbing (list is not exhaustive):

(1) Any crime of a sexual nature that requires the convicted person to be registered as a sex offender under Chapter 62 of the Texas Code of Criminal Procedure, including:

- (A) Aggravated Sexual Assault;
- (B) Aggravated Rape;
- (C) Sexual Assault;
- (D) Rape;
- (E) Statutory Rape;
- (F) Indecency with a Child (including exposure);



- (G) Prohibited Sexual Conduct;
- (H) Sexual Performance by a Child;
- (I) Possession or Promotion of Child Pornography;
- (J) Aggravated Kidnapping (with the intent to commit an illegal act of a sexual nature);
- (K) Kidnapping (with the intent to commit an illegal act of a sexual nature);
- (L) Unlawful Restraint (with the intent to commit an illegal act of a sexual nature);
- (M) Burglary (with the intent to commit an illegal act of a sexual nature);
- (N) Indecent Exposure;
- (O) Public Lewdness; or
- (P) Improper Photography or Visual Recording.

(2) Any crime of a sexual nature regardless of whether the convicted person is required to be registered as a sex offender under Chapter 62 of the Texas Code of Criminal Procedure;

- (3) Capital Murder;
- (4) Murder;
- (5) Criminal Negligent Homicide;
- (6) Manslaughter;
- (7) Aggravated Kidnapping;
- (8) Kidnapping;
- (9) Unlawful Restraint;
- (10) Injury to a Child, Elderly Individual or Disabled Individual;
- (11) Burglary of a Habitation;
- (12) Burglary of a Building;
- (13) Burglary of an Automobile;
- (14) Robbery;
- (15) Theft;

- (16) Fraud;
- (17) Forgery;
- (18) Arson;
- (19) Aggravated Assault of a Police Officer (or other public official);
- (20) Aggravated Assault;
- (21) Assault;
- (22) Illegal Drug Related Crimes;
- (23) Terroristic Threat; or

(24) Any criminal violation of laws or ordinances that regulate plumbing or the practice of plumbing.

(d) The Enforcement Committee shall use the following levels of risk in determining the fitness of an applicant who has been convicted of a crime to perform the duties and discharge the responsibilities of registered and licensed individuals performing plumbing or plumbing inspections. The levels of risk are listed in order from highest to lowest. The Enforcement Committee shall consider those applicants with convictions of a sexual nature or first degree felony to be the highest risk and those applicants who have a conviction other than that of a sexual nature or first degree felony, and who have completed all required consequences of the conviction more than five years prior to the date of application to be the lowest risk.

(1) Level One - Applicants who have:

(A) a conviction of a sexual nature listed in subsections (c)(1) and (2) of this section; or

(B) a conviction for a first-degree felony.

(2) Level Two - Applicants who have a conviction for a second-degree felony.

(3) Level Three - Applicants who have a conviction other than specified in Level One or Level Two, whose conviction, incarceration, probation, parole, mandatory supervision, court costs or any other fees (including restitution) were completed less than five (5) years prior to the date of application, or are still being completed.

(4) Level Four - Applicants who have convictions other than specified in Level One and Level Two, whose conviction, incarceration, probation, parole, mandatory supervision, court costs or any other fees (including restitution) were completed more than five (5) years prior to the date of application. Written proof of completion from the court, probation or parole officer must be submitted by the applicant.

(e) Applicants with convictions that place them in more than one level of risk, shall be classified using the highest applicable level of risk.

(f) Applicants with multiple convictions will be considered an increased risk, depending on the number and types of convictions.

(g) The Enforcement Committee shall use these guidelines and follow the requirements of §363.15 of this chapter when reviewing applications for registration, examination and renewal of registrations, licenses and endorsements, to determine the fitness of applicants for licensure.

## **CHAPTER 365 LICENSING AND REGISTRATION**

### **§365.1 License, Endorsement and Registration Categories; Scope of Work Permitted**

(a) Pursuant to §1301.002 and §1301.351 of the Plumbing License Law and §361.1 of the Board Rules, the scope of plumbing work an individual may perform is dictated by the type of license, endorsement, registration or combination thereof held by the individual.

(b) An individual who holds a current Master Plumber License and meets the requirements of a Responsible Master Plumber (RMP) under §1301.3576 of the Plumbing License Law and §367.3(a) of the Board Rules:

- (1) May advertise or otherwise offer to perform or provide plumbing to the general public;
- (2) May enter into contracts or agreements to perform plumbing;
- (3) Shall obtain plumbing permits to perform plumbing work;
- (4) May perform plumbing work without supervision; and
- (5) Shall supervise plumbing work performed by other licensees or registrants.

(c) An individual who holds a current Journeyman or Master Plumber License may perform or supervise plumbing work:

- (1) under the supervision of a RMP; and
- (2) only under contracts or agreements to perform plumbing work secured by a RMP or a person who has secured the services of a RMP in accordance with §367.3(a)(2) of the Board Rules.

(d) An individual who holds a current Tradesman Plumber-Limited License may:

- (1) perform or supervise plumbing work on one or two-family dwellings:
  - (A) under the supervision of a RMP; and
  - (B) only under contracts or agreements to perform plumbing secured by a RMP or a person who has secured the services of a RMP in accordance with §367.3(a)(2) of the Board Rules; or
- (2) assist in the installation of plumbing other than for one or two-family dwellings under the on-the-job supervision of a Journeyman or Master Plumber.

(e) An individual who holds a current Plumbing Inspector License may perform plumbing inspections as an employee or independent contractor of a political subdivision or state agency for compliance with health and safety laws and ordinances.

(1) An individual who holds a current Plumbing Inspector License with a current Medical Gas Piping Installation Endorsement may perform inspections of piping that is used solely to transport gases used for medical purposes.

(2) An individual who holds a current Plumbing Inspector License with a current Water Supply Protection Specialist Endorsement may perform inspections of plumbing work associated with the treatment, use and distribution of rainwater to supply a plumbing fixture, appliance, or irrigation system.

(3) An individual who holds a current Plumbing Inspector License with a current Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement may perform inspections of multipurpose residential fire protection sprinkler systems installed in a one or two-family dwelling.

(f) An individual who holds a current Journeyman or Master Plumber License with a current Medical Gas Piping Installation Endorsement may install piping that is used solely to transport gases used for medical purposes:

(1) under the supervision of a RMP who holds a current Medical Gas Piping Installation Endorsement; and

(2) only under contracts or agreements to perform medical gas piping installations secured by a RMP who holds a current Medical Gas Piping Installation Endorsement or a person who has secured the services of a RMP, in accordance with §367.3(a)(2) of the Board Rules, who holds a current Medical Gas Piping Installation Endorsement.

(g) An individual who holds a current Journeyman or Master Plumber License with a current Water Supply Protection Specialist Endorsement may:

(1) perform Customer Service Inspections pursuant to 30 Tex. Admin. Code §290.46(j). Minimum Acceptable Operating Practices for Public Drinking Water Systems; or

(2) install, service or repair plumbing associated with the treatment, use and distribution of rainwater to supply a plumbing fixture, appliance, or irrigation system:

(A) under the supervision of a RMP who holds a current Water Supply Protection Specialist Endorsement; and

(B) only under contracts or agreements to perform, install, service, and repair plumbing associated with the use and distribution of rainwater to supply a plumbing fixture, appliance, or irrigation system secured by a RMP who holds a current Water Supply Protection Specialist Endorsement or a person who has secured the services of a RMP, in accordance with §367.3(a)(2) of the Board Rules, who holds a current Water Supply Protection Specialist Endorsement.

(3) A Water Supply Protection Specialist Endorsement shall not be used in lieu of a

Plumbing Inspector License to perform plumbing inspections required under §1301.255 and §1301.551 of the Plumbing License Law; however, a Plumbing Inspector may perform the inspection described in paragraph (1) of this subsection even if the individual does not hold a Water Supply Protection Specialist Endorsement.

(h) An individual who holds a current Journeyman or Master Plumber License with a current Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement may install a multipurpose residential fire protection sprinkler system in a one or two-family dwelling:

(1) under the supervision of a RMP who holds a current Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement; and

(2) only under contracts or agreements to perform multipurpose residential fire protection sprinkler system installations secured by a RMP who holds a current Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement or a person who has secured the services of a RMP, in accordance with §367.3(a)(2) of the Board Rules, who holds a current Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement.

(i) An individual who holds a current Plumber's Apprentice Registration may assist a licensee with the installation of plumbing:

(1) under the direct supervision of a person licensed by the Board;

(2) under the supervision of a RMP; and

(3) only under contracts or agreements to perform plumbing work secured by a RMP or a person who has secured the services of a RMP.

(j) In addition to the scope of work described in subsection (i) of this section, an individual who holds a current Plumber's Apprentice Registration and a current Residential Utilities Installer Registration may construct and install only yard water service piping and building sewers for one or two-family dwellings:

(1) under the supervision of a RMP; and

(2) only under contracts or agreements to perform plumbing work secured by a RMP or a person who has secured the services of a RMP in accordance with §367.3(a)(2) of the Board Rules.

(k) In addition to the scope of work described in subsection (d) or (i) of this section, an individual who holds a current Tradesman Plumber-Limited License or Plumber's Apprentice Registration and a current Drain Cleaner Registration may install cleanouts and remove and reset p-traps for the purposes of eliminating obstructions in building drains and sewers:

(1) under the supervision of a RMP; and

(2) only under contracts or agreements to perform plumbing work secured by a RMP or a person who has secured the services of a RMP in accordance with §367.3(a)(2) of the Board Rules.

(l) In addition to the work described in subsection (i) of this section, an individual who holds a current Plumber's Apprentice Registration and a current Drain Cleaner-Restricted Registration may

clear obstructions in sewer and drain lines through any existing code-approved opening:

(1) under the supervision of a RMP; and

(2) only under contracts or agreements to perform plumbing work secured by a RMP or a person who has secured the services of a RMP in accordance with §367.3(a)(2) of the Board Rules.

### **§365.2 Exemptions**

The following plumbing work may be performed without a license but shall be subject to inspection and approval in accordance with all applicable local, city or municipal ordinances:

(1) Plumbing work done by a property owner in the property owner's homestead;

(2) Plumbing work that is not performed in conjunction with new construction, repair or remodeling, and is performed on a property that is:

(A) located in a subdivision or on a tract of land that is not required to be platted under §232.0015 of the Local Government Code;

(B) not connected to a public water system and is located outside a municipality;

(C) located outside a municipality and connected to a public water system that does not require a license to perform plumbing; or

(D) located inside a municipality that is within a county that has fewer than 50,000 inhabitants and that:

(i) has fewer than 5,000 inhabitants; and

(ii) by municipal ordinance has authorized a person who is not licensed under this the Plumbing License Law to perform plumbing.

(3) Verification of medical gas and vacuum piping integrity and content;

(4) Work done on existing plumbing by a maintenance man or maintenance engineer that is incidental or connected to other maintenance duties, provided that such an individual does not engage in cutting into fuel gas plumbing systems, the installation of gas-fueled water heaters or plumbing work for the general public;

(5) Plumbing work done by a railroad employee on the premises or equipment of a railroad, provided such an individual does not engage in plumbing work for the general public;

(6) Plumbing work done by a person engaged by a public utility company to:

(A) lay, maintain, or operate its service mains or lines to the point of measurement;  
and

(B) install, change, adjust, repair, remove or renovate appurtenances, equipment, or appliances;

(7) Appliance installation or appliance service work, other than installation and service work on water heaters, done by bona fide appliance dealers and their employees that do not offer to perform plumbing work to the general public, in connecting appliances to existing openings with a code approved appliance connector without cutting into or altering the existing plumbing system;

(8) Irrigation work done by an individual licensed by the Texas Commission on Environmental Quality under Chapter 1903 of the Texas Occupations Code, as an irrigator or installer;

(9) Liquid Petroleum (LP) Gas service and installation work done by an individual working and licensed by the Texas Railroad Commission under Chapter 113 of the Texas Natural Resources Code as a LP Gas Installer;

(10) Water Treatment Specialists licensed by the Texas Commission on Environmental Quality under §341.034 of the Texas Health and Safety Code may engage in residential, commercial or industrial water treatment activities including making connections necessary to complete the installation of a water treatment system;

(11) Water well pump installation and service work performed by an individual licensed by the Texas Commission on Environmental Quality under Chapter 1902 of the Texas Occupations Code;

(12) Residential potable water supply or residential sanitary sewer connections performed by an organization certified by the Texas Commission on Environmental Quality to perform self-help project assistance on a self-help project, which complies with §1301.057 of the Plumbing License Law; and

(13) Water treatment installations, exchanges, services, or repairs.

#### **§365.4 Issuance of License, Registration or Endorsement**

(a) Upon verification of an applicant's qualifications, the Board shall promptly issue a license, registration or endorsement; however, the Board may refuse to issue the license, registration or endorsement and require reexamination of any applicant who has not remitted the appropriate licensing fee within ninety (90) days of completion of the examination.

(b) In addition to the applicant, a political subdivision may pay the licensing fee for an applicant who has met the qualifications for a Plumbing Inspector License.

(1) Upon receipt of payment, the Board will show the individual's license status as current.

(2) The Board will show the licensee as unaffiliated and delay the issuance of his or her pocket card until written confirmation of the licensee's current employment or contractual agreement with a political subdivision to perform plumbing inspections within that political subdivision is provided by an authorized representative of the political subdivision.

(c) Licenses, endorsements and registrations issued by the Board shall be valid throughout the state, but shall not be assignable or transferable, except as provided by §1301.406 of the Plumbing License Law and §365.23 of this chapter.

### **§365.5 Renewal of License, Registration or Endorsement**

(a) The Board shall send a written or electronic notice informing a licensee or registrant of the impending expiration of a license, registration or endorsement at least thirty-one (31) days before its expiration date to the licensee's last known mailing address, or email address if the notice is electronic, according to Board records. It is the responsibility of a licensee or registrant to renew, by its expiration date, each license, registration or endorsement held even if the licensee or registrant fails to receive the notice.

(b) A licensee or registrant may renew an unexpired license, registration or endorsement before its expiration date by meeting all renewal requirements and paying the fee required by the Board.

(c) A license, Plumber's Apprentice Registration, Residential Utilities Installer Registration, Drain Cleaner Registration, or Drain Cleaner-Restricted Registration must be renewed annually. A Medical Gas Piping Installation Endorsement, Water Supply Protection Specialist Endorsement, and Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement must be renewed once every three (3) years.

(d) A person seeking to renew a Plumbing Inspector, Master Plumber, Journeyman Plumber or Tradesman Plumber-Limited License, or a Drain Cleaner, Drain Cleaner-Restricted or Residential Utilities Installer Registration must successfully complete the required continuing professional education (CPE) course in person or via correspondence.

(e) In addition to subsection (d) of this section, a licensee seeking to renew a Medical Gas Piping Installation Endorsement must successfully complete the required medical gas CPE course in person.

(f) A Plumbing Inspector's unaffiliated status will not affect renewal if the licensee has satisfied all other renewal requirements under the Board Rules. However, the Board may continue to withhold the licensee's pocket card until proof of affiliation is provided pursuant to §365.4(b)(2) of this chapter.

(g) A licensee or registrant who is a military service member is exempt from paying a late renewal fee and entitled to an additional two (2) years, beginning on the date the individual is relieved from active duty, to complete any CPE requirements and any other requirements related to the renewal of the person's license, registration or endorsement if the licensee or registrant:

(1) is a member of the United States Armed Forces, a reserve component of the United States Armed Forces or the state military forces;

(2) is ordered to active duty by proper authority; and

(3) submits documentation acceptable to the Board, which demonstrates the person was unable to renew the license, registration or endorsement in a timely manner due to the active duty service.

(h) A licensee is considered to have fulfilled the CPE requirement for the current CPE course year if the licensee is:

(1) approved by the Board as a Course Instructor under §365.17 of this chapter or;



(2) an employee of the Board who:

(A) monitors a current CPE course for compliance with the Plumbing License Law and Board Rules; or

(B) reviews all course materials approved under §365.15 of this chapter and completes the current Course Instructor Certification Workshop conducted by the Board.

### **§365.6 Expiration of License, Registration or Endorsement**

(a) A license, registration or endorsement not timely-renewed in accordance with §365.5(c) of this chapter shall become invalid on the expiration date and remain invalid until all renewal requirements are met.

(b) An individual whose license, registration or endorsement has been expired for ninety (90) days or less may renew the license, registration or endorsement by meeting all renewal requirements and paying the Board the standard renewal fee under §361.6(a)(3) of the Board Rules plus a late fee equal to one-half the amount of the standard renewal fee for the license, registration or endorsement.

(c) An individual whose license, registration or endorsement has been expired for more than ninety (90) days, but less than or exactly two (2) years, may renew the license, registration or endorsement by meeting all renewal requirements and paying the Board the standard renewal fee under §361.6(a)(3) of the Board Rules plus an additional late fee equal to the full amount of the standard renewal fee for the license, registration or endorsement.

(d) An individual whose license, registration or endorsement has been expired for more than two (2) years may not renew and shall instead apply for a reinstatement of the license, registration or endorsement. An individual seeking a reinstatement shall follow the same application process as an applicant who has never held a license, registration or endorsement, including registering as a Plumber's Apprentice, submitting the necessary application(s), paying the fee(s) required by §361.6 of the Board Rules, and taking any applicable examinations.

(e) CPE requirements must be satisfied prior to the renewal of any expired license, Medical Gas Piping Installation Endorsement or Drain Cleaner, Drain Cleaner-Restricted or Residential Utilities Installer Registration.

### **§365.7 Duplicate Pocket Card**

(a) The Board shall issue a duplicate pocket card to replace any pocket card that is lost, destroyed, or mutilated.

(b) The licensee or registrant requesting the duplicate pocket care shall submit to the Board:

(1) an application for the duplicate stating the reasons for the request; and

(2) the appropriate fee pursuant to §361.6(4)(C) of the Board Rules.

### **§365.8 Change of Name, Address, or Employment**

(a) A licensee or registrant shall notify the Board in writing of any legal name change not later than thirty (30) days after the change becomes final. After receiving notification of a change of name, along with the appropriate fee, the Board shall update its records and issue a new pocket card reflecting the change.

(b) A Plumbing Inspector shall notify the Board in writing of each political subdivision the Plumbing Inspector is employed by, or has contracted with, for the purposes of performing plumbing inspections and any changes in contract or employment status within thirty (30) days of status change. The written confirmation of contract or employment must be provided by an authorized representative of each political subdivision.

(c) A licensee or registrant shall notify the Board in writing of any change to his or her primary place of employment upon renewal of his or her license or registration.

(d) A licensee or registrant shall notify the Board of a change of mailing address as soon as practicable and no more than thirty (30) days after the change becomes final.

### **§365.10 Application for License, Registration or Endorsement after Revocation**

(a) An individual whose license, registration or endorsement has been revoked may not apply to the Board for a new license, registration or endorsement until at least one (1) year has passed since the effective date of the revocation.

(b) An individual whose registration has been revoked shall submit a new application along with the required fee. An application for registration as a Residential Utilities Installer, Drain Cleaner or Drain Cleaner-Restricted may be submitted at the same time as an application for registration as a Plumber's Apprentice.

(c) An individual whose license or endorsement has been revoked shall follow the same application process as an applicant who has never held a license or registration, including registering as a Plumber's Apprentice, submitting the required fees, and applying for and taking the applicable examinations. An examination application may be submitted at the same time as an application for registration as a Plumber's Apprentice.

(d) An application for the type of license, registration or endorsement that was revoked shall be reviewed by the Enforcement Committee in addition to any review performed pursuant to Chapter 53 of the Texas Occupations Code and §363.15 of the Board Rules.

(1) If the committee denies the application, it shall follow the procedures set forth in §363.15 of the Board Rules.

(2) If the committee approves the application, it shall present the application to the full Board for approval.

### **§365.13 Licensing or Registration of Individuals in Default on a Guaranteed Student Loan or in Arrears on Child Support Payments**

(a) The Board shall not renew the license or registration of an individual whose name is on the list

of those who have defaulted on student loans published by the Texas Guaranteed Students Loan Corporation (TGSLC) unless:

(1) the renewal is the first renewal following the Board's receipt of a TGSLC list that includes the licensee's or registrant's name; or

(2) the licensee or registrant presents to the Board a certificate issued by TGSLC certifying that:

(A) the licensee or registrant has entered into a repayment agreement on the defaulted loan; or

(B) the licensee or registrant is not in default on a loan guaranteed by TGSLC.

(b) The Board shall not issue an initial license or registration to an applicant whose name is on TGSLC's list of individuals in default unless the applicant presents to the Board a certificate issued by TGSLC certifying that:

(1) the licensee or registrant has entered into a repayment agreement on the defaulted loan; or

(2) the licensee or registrant is not in default on a loan guaranteed by TGSLC.

(c) The Board shall not renew the license or registration of an individual who defaults on a repayment agreement unless the individual presents to the Board a certificate issued by TGSLC certifying that:

(1) the licensee or registrant has entered into another repayment agreement on the defaulted loan; or

(2) the licensee or registrant is not in default on a loan guaranteed by TGSLC or on a repayment agreement.

(d) The Board will provide the licensee or registrant identified by TGSLC as being in default with written notice of his or her default status at least thirty-one (31) days before the expiration date of the license or registration to the last known mailing address according to the Board's records.

(e) An individual informed by the Board of his or her default status according to TGSLC shall be provided an opportunity for a hearing, if requested by the licensee or registrant, in accordance with these rules.

(f) Upon receipt of a request from the Office of the Attorney General issued under §232.0135(a) of the Texas Family Code, the Board shall not renew the license or registration of the individual who is the subject of the request, or approve an application for an initial license or registration submitted by the individual who is the subject of the request until the Office of the Attorney General notifies the Board that the individual has satisfied one of the criteria set forth in §232.0135(b) of the Family Code.

(g) Upon receipt of a final order from the Office of the Attorney General suspending a license or registration for failure to pay child support, the Board shall suspend the license or registration of

the individual who is the subject of the order and record the suspension in its records.

(1) A final order issued by the Office of the Attorney General applies to each license, registration or endorsement held by the individual who is the subject of the final order.

(2) The Board may not issue an initial license or registration, or remove the suspension, until the Office of the Attorney General issues an order vacating or staying the final order suspending the license or registration.

**§365.14 Course Year for Continuing Professional Education Programs**

(a) The course year for Continuing Professional Education Programs begins on July 1st of each calendar year and ends on June 30th of the next calendar year.

(b) The authority of a Course Provider approved under §365.16 of this chapter to provide CPE courses or a Course Instructor approved under §365.17 of this chapter to teach CPE courses runs concurrently with the course year that starts on July 1st of the calendar year in which the provider or instructor is approved by the Board.

(c) A licensee or registered Drain Cleaner, Drain Cleaner-Restricted or Residential Utilities Installer shall complete at least six (6) hours of CPE before he or she may renew his or her license or registration. Paragraphs 1 and 2 of this section and Figure 1 explain how license expiration dates align with the CPE course year.

(1) An individual whose license or registration expires between January 1st and July 1st must take CPE between July 1st of the calendar year prior to the year in which the license or registration will expire and the expiration date of their license.

(2) An individual whose license or registration expires between September 1st and December 31st must take CPE between July 1st of the calendar year in which the license or registration will expire and the expiration date of their license.

Figure: 22 TAC §365.14(c)(2)

<b>License Expiration Date</b>	<b>Time Period During Which You Must Take CPE</b>
September 30	July 1 to September 30 of the year in which your license expires
October 31	July 1 to October 31 of the year in which your license expires
November 30	July 1 to November 30 of the year in which your license expires
January 31	July 1 of the previous year to January 31 of the year in which your license expires
February 28	July 1 of the previous year to February 28

	of the year in which your license expires
March 31	July 1 of the previous year to March 31 of the year in which your license expires
April 30	July 1 of the previous year to April 30 of the year in which your license expires
May 31	July 1 of the previous year to May 31 of the year in which your license expires
June 30	July 1 of the previous year to June 30 of the year in which your license expires
July 31	July 1 of the previous year to July 31 of the year in which your license expires
August 31	July 1 of the previous year to June 30 of the year in which your license expires

(d) The authority of a Publisher of Course Materials approved under §363.15 of this chapter to sell course materials begins on July 1st of the calendar year in which the materials are approved and continues until the course materials are no longer required for the renewal of an expired license or registration.

(1) The Board may authorize the use of course materials prior to July 1st for industry-related programs or conferences if the person offering the program or conference submits:

(A) a written request stating the date, time, and place the materials will be used; and

(B) a statement from the Publisher whose course materials will be used verifying that the materials will be available on the date included in the request.

(2) A request submitted pursuant to paragraph (1) of this subsection, shall be submitted no later than fifteen (15) business days before the regularly-scheduled January or April meeting of the Board.

### **§365.15 Course Materials for Continuing Professional Education Programs**

(a) The course materials are the printed materials provided to the licensees and registrants attending a CPE course for use in the classroom or in conjunction with a correspondence course and for future reference.

(1) The Board shall publish a list of the approved subjects that course materials may cover and update the list as needed.

(2) The course materials shall not advertise or promote the sale of goods, products or services.

(b) The course materials shall be comprehensive enough to support a minimum of six (6) classroom hours of study.

(1) Three (3) hours shall cover the subjects of health protection, energy conservation and water conservation.

(2) Three (3) hours shall cover subjects from the list of approved subjects published by the Board and include information concerning the Plumbing License Law, Board Rules, and current industry practices and codes.

(3) All of the information covered shall present:

(A) issues relevant to the plumbing trade in the current market;

(B) changes to the plumbing trade; or

(C) topics which increase or support the students' development of skill and competence in the plumbing trade.

(c) A Publisher of Course Materials, Course Provider or Course Instructor shall encourage the student to retain the course materials for future reference and shall not offer to buy back used course materials from a student or offer any other incentive intended to persuade a student not to retain the course materials.

(d) The Board shall annually approve course materials for the CPE course required for the renewal of a Journeyman Plumber, Master Plumber, Tradesman Plumber-Limited or Plumbing Inspector License under §1301.404 of the Plumbing License Law or the renewal of a Drain Cleaner, Drain Cleaner-Restricted or Residential Utilities Installer Registration under §1301.405 of the Plumbing License Law.

(1) A Publisher of Course Materials shall electronically submit a draft version of the course materials, and a separate table of contents, to the Board for approval.

(2) The draft submitted shall:

(A) be free of all typos and grammar, spelling and punctuation errors;

(B) include illustrations and graphics to show concepts not easily explained in words;

(C) include a statement that the most current Board forms used for doing business with licensees, registrants, and the public are available on the Board's website or by mail upon request;

(D) include a notice informing students of the provisions contained in §365.20(d)-(f) of this chapter; and

(E) prominently display in bolded 10-point type, or larger, the following disclaimer: "THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE TEXAS STATE BOARD OF PLUMBING EXAMINERS FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE TEXAS STATE BOARD OF PLUMBING EXAMINERS DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS OF THE COURSE MATERIAL. FURTHER, THE TEXAS STATE BOARD OF PLUMBING EXAMINERS IS NOT MAKING ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE TEXAS STATE BOARD OF PLUMBING EXAMINERS DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE TEXAS STATE BOARD OF PLUMBING EXAMINERS."

(e) Upon Board approval, final copies of the course materials shall be printed for distribution to students in a bound version meeting the following minimum technical specifications for printing and production:

- (1) Binding--Perfect or Metal Coiled;
- (2) Ink--Full Bleed Color;
- (3) Cover Material--80 Pound Gloss Paper; and
- (4) Page Material--70 Pound.

(f) The Board may post a copy of the table of contents of each set of approved course materials on its website.

### **§365.16 Board Approval of Course Providers for Continuing Professional Education Programs and Publishers of Course Materials**

(a) The Board may approve an individual, business or association as a Course Provider or Publisher of Course Materials.

(1) An individual wishing to become a Course Provider or Publisher of Course Materials shall submit electronically a completed application that includes:

- (A) the individual's name, address, telephone number, and email address;
- (B) the individual's social security number;
- (C) a statement disclosing whether the individual has ever been convicted of a felony;
- (D) the price to be charged for:
  - (i) the course materials; or

(ii) the courses offered by the Course Provider; and

(E) the name, address, telephone number, and email address of the individual designated by the applicant as the person responsible for answering inquiries and receiving notifications from the Board, if different from the applicant.

(2) A business or association wishing to become a Course Provider or Publisher of Course Materials shall submit a completed application, which includes:

(A) the name, address, telephone number, and email address of each officer, director, trustee, or member of the governing board of the applicant;

(B) the business or association's tax identification number;

(C) a statement from each officer, director, trustee, or member of the governing board of the applicant disclosing whether he or she has ever been convicted of a felony;

(D) a current certificate of account status issued to the applicant by the Texas Comptroller of Public Accounts;

(E) the price to be charged for:

(i) the course materials; or

(ii) the courses offered by the Course Provider; and

(F) the name, address, telephone number, and email address of the individual designated by the applicant as the person responsible for answering inquiries and receiving notifications from the Board, if different from the applicant.

(3) An individual, business or association wishing to act as a Publisher of Course Materials or Course Provider shall submit an application annually in accordance with this section.

(b) In addition to the information required by subsection (a) of this section, an applicant wishing to become a Publisher of Course Materials shall submit:

(1) an electronic draft of the course materials to be provided that complies with §365.15 of this chapter; and

(2) an example of correspondence course materials, including a sample set of 150 questions.

(c) In addition to the information required by subsection (a) of this section, an applicant wishing to become a Course Provider shall submit electronically:

(1) an example of the Certificate of Completion that will be given to a licensee or registrant who completes a course offered by the provider;

(2) a draft course schedule or plan for establishing a course schedule;

(3) a statement disclosing which publisher's course materials will be used; and



(4) a strategic plan for providing courses equitably across the state, which includes a method for compiling statistical data regarding the number of CPE courses conducted, the number of students instructed and any similar metrics required to be submitted to the Board.

(d) The Board shall review and vote on all timely-submitted applications at its annual January meeting.

(1) In the event that the January meeting is cancelled, the Board will schedule a special meeting as soon as possible for the purpose of voting on applications.

(2) An application to become a Publisher of Course Materials is deemed timely-submitted if it is complete and received no later than November 15th of the calendar year preceding the year in which the January meeting will take place.

(3) An application to become a Course Provider is deemed timely-submitted if it is complete and received no later than December 1st of the calendar year preceding the year in which the January meeting will take place.

(e) The Board may:

(1) refuse to accept an incomplete application; or

(2) deny approval of an application for:

(A) failure to comply with the provisions of this section; or

(B) failure to satisfy the Board that the applicant has the ability to provide quality course materials; or

(C) failure to satisfy the Board that the applicant has the ability to provide quality CPE courses; or

(D) inadequate coverage of the subjects required to be included in the course materials; or

(E) inadequate instruction in the subjects required to be included in course materials.

(f) The Board shall provide an applicant whose application is refused or denied a written notice detailing the deficiencies in the application or the reasons for denial no later than seven (7) business days after the incomplete application was received or the decision to deny was made.

### **§365.17 Board Approval of Course Instructors for Continuing Professional Education Programs**

(a) A Course Provider shall secure Board approval of each Course Instructor it engages to teach the CPE courses it offers.

(b) On or before March 15th of each year, a Course Provider shall submit electronically:

(1) a list of the Course Instructors it plans to utilize, including each instructor's contact

information;

(2) a copy of the credentials of each instructor not utilized by the provider in the preceding CPE course year;

(3) documentation confirming that each instructor has:

(A) completed the training required by §365.20(b) of this chapter;

(B) enrolled in the training described by §365.18(c) of this chapter; and

(C) enrolled in the training required by §365.20(a) of this chapter; and

(4) a copy of the certificate of authorization as an OSHA Construction Trainer for any individual it will utilize to teach the 10-Hour Outreach Training described in §363.5(f)(2) of the Board Rules.

(c) The Board shall review and vote on the lists submitted under subsection (b) of this section at its annual April meeting.

(1) In the event that the April meeting is cancelled, the Board will schedule a special meeting as soon as possible for the purpose of voting on Course Instructors.

(2) The Board may approve additional Course Instructors at any regularly-scheduled meeting provided that the information required by subsection (b) of this section is submitted no later than twenty (20) business days before the date of the meeting.

### **§365.18 Publishers of Course Materials for Continuing Professional Education Programs**

(a) A Publisher of Course Materials shall:

(1) have legal ownership of, or obtain a license to use, all copyrighted content included within the course materials;

(2) secure access to distribution facilities sufficient to ensure prompt distribution of course materials;

(3) have the technology necessary to receive orders via facsimile or electronic mail;

(4) provide a statewide toll free telephone number for placing orders; and

(5) ship any ordered material within ten (10) business days after the receipt of payment in full.

(b) A Publisher of Course Materials shall provide the materials in a form suitable for a correspondence course, as needed. Course materials provided for a correspondence course shall be made available for at least three (3) years, or as necessary for renewal of an expired license.

(c) A Publisher of Course Materials shall conduct training for approved Course Instructors in the use of course materials. The training shall take place at least once a year during the period between

Board approval of the course materials in January and the beginning of the CPE course year on July 1st.

(d) A Publisher of Course Materials shall not sell course materials to a Course Provider or student for a price that is different from the price stated in the application submitted under §365.16(a) of this chapter.

(e) A publisher's failure to comply with this section or any other applicable provision of the Plumbing License Law or Board Rules constitutes grounds for disciplinary action against the publisher, including revocation of approval to publish course materials, or the denial of future applications for approval as a Publisher of Course Materials.

### **§365.19 Course Providers of Continuing Professional Education Programs**

(a) A Board-approved Course Provider may offer a CPE course required for the renewal of a license, endorsement or registration. A Course Provider may not offer a correspondence course during the CPE course year that begins on July 1st of the calendar year in which the provider is first approved by the Board.

(b) A Course Provider shall only allow Board-approved Course Instructors to teach the CPE courses it offers. A Course Provider shall notify the Board as soon as practicable, and no later than five (5) days, after any change in an instructor's employment status with the Course Provider.

(c) A Course Provider shall present a CPE course in one of the following formats:

(1) a single day consisting of six (6) clock hours of instruction in the classroom;

(2) two (2) days that fall within the same seven (7) day period, each consisting of three (3) clock hours of instruction in the classroom; or

(3) a Board-approved correspondence format.

(d) A Course Provider shall not count time allotted for breaks toward the six (6) clock hours of instruction required by subsection (c) of this section.

(e) A Course Provider shall spend a minimum of three (3) clock hours covering the subjects of health protection, energy conservation and water conservation.

(1) All instruction provided shall be based on the course materials described in §365.15 of this chapter and any other materials approved by the Board.

(2) In addition to the course materials, Course Providers may utilize videos, films, slides or other appropriate types of illustrations and graphic materials so long as they relate to a subject covered by the course materials.

(f) A Course Provider shall limit the number of students for any CPE course to forty-five (45). A Course Provider may allow a Course Instructor to admit four (4) additional students, for a maximum of forty-nine (49), regardless of when the students apply for admittance, if the additional students:

(1) are currently on active duty as members of the United States Armed Forces, a reserve component of the United States Armed Forces or the state military forces; and

(2) present valid identification to the Course Instructor confirming the active duty status required by paragraph (1) of this subsection.

(g) In addition to the price to be charged a licensee or registrant enrolled in a course offered by the provider, a Course Provider that is not also a Publisher of Course Materials may impose a fee for the course materials that is less than or equal to the cost it incurs to purchase the materials from a Board-approved publisher.

(h) A Course Provider shall not advertise or promote the sale of any goods, products or services during the instructional portion of a CPE course, or allow a third party to advertise or promote the sale of any goods, products or services during the instructional portion of a CPE course.

(1) If a Provider allows a third party access to its students before or after class, or during a break, the third party shall not expend more than ten dollars (\$10) per student in connection with any food, drink, or promotional item provided to the students.

(2) A Provider may not allow two or more third party vendors to provide food or drink at a single CPE course.

(i) At least seven (7) days before conducting a course, a Course Provider shall give notice to the Board via electronic mail of its intent to conduct the course or post notice of the course schedule on the Course Provider's website.

(1) The notice shall contain the time(s) and place(s) where the course(s) will occur and the name of the Course Instructor scheduled to teach each course.

(2) A Course Provider shall give notice even if attendance at a course is limited to a specific group or organization.

(3) A Course Provider that schedules two (2) or more courses on the same date and time shall hold each course at a separate location or in separate spaces within the same location.

(j) A Course Provider shall establish a system that allows it to receive immediate notification from a Course Instructor in the event the Course Instructor is unable to provide instruction for a scheduled course.

(1) A Course Provider shall provide a substitute Course Instructor in order to avoid cancelling the scheduled course.

(2) If cancellation of the course is unavoidable, the Course Provider shall:

(A) immediately notify each student affected by the cancellation;

(B) reschedule the cancelled course as soon as possible; and

(C) notify the Board of the cancellation within forty-eight (48) hours.

(k) A Course Provider shall furnish a certificate of completion of CPE to each licensee and registrant who completes a CPE course it offers.

(1) The certificate of completion shall state:

- (A) the name of the Course Provider and Course Instructor;
- (B) the name and license or registration number of the student;
- (C) the course year; and
- (D) the date the instruction was completed.

(2) Within forty-eight (48) hours of issuing a certificate of completion, a Course Provider shall, at its own expense and in a format approved by the Board, electronically submit certification of each student's completion of CPE requirements.

(A) The Board may provide training to the Course Provider in the submission method selected, including the use of any computer software.

(B) The Board may charge a fee to recover its costs for computer software used to facilitate the submission and training in the use of the software to the Course Provider.

(l) At least once per CPE course year, a Course Provider shall perform self-monitoring of each of its Course Instructors to ensure compliance with the Plumbing License Law, Board Rules, and any reporting requirements adopted by the Board.

(m) A Course Provider shall submit a report detailing its implementation of the strategic plan required by §365.16(c)(4) of this chapter to the Board as follows:

(1) A Course Provider receiving Board approval for the first time shall submit quarterly reports no later than March 15th, June 15th, September 15th and December 15th of the calendar year in which it received approval.

(2) A Course Provider that is re-approved shall submit a report no later than September 15th of the calendar year in which it was re-approved; the report shall cover the implementation for the preceding CPE course year.

(3) The requirements of this subsection and §365.16(c)(4) of this chapter do not apply to a Course Provider that:

(A) is a business that offers CPE courses to its employees only, and not to the general public; or

(B) is an individual who will not employ a Course Instructor other than himself or herself.

(n) The Board shall annually monitor each approved Course Provider to ensure the quality of the instruction provided and the equitable provision of course across the state of Texas.

(1) To assist with this task, the Board may post a survey on its website that allows licensees and registrants who have completed a CPE course to provide feedback about a Course Provider or Instructor.

(2) If a Course Provider administers student surveys, the Board may request a copy of the completed surveys to assist with this task. A Course Provider shall maintain a paper or electronic copy of each completed student survey for at least two (2) years after the survey was administered.

(o) A Course Provider's failure to comply with this section constitutes grounds for disciplinary action against the provider, including revocation of authority to provide CPE courses, or the denial of future applications for approval as a Course Provider. The Board shall investigate a complaint against a Course Provider in the same manner it investigates complaints against licensees and registrants.

### **§365.20 Course Instructors for Continuing Professional Education Programs**

(a) A Course Instructor shall:

(1) hold a current Journeyman, Master Plumber or Plumbing Inspector License issued by the Board;

(2) successfully complete a Course Instructor Certification Workshop conducted by the Board; and

(3) successfully complete training in the course materials required by §365.18(c) of this chapter.

(b) In addition to the training required in subsection (a) of this section, a Course Instructor shall attend a Board-approved training program consisting of a total of 160 hours.

(1) The program shall be presented in four (4) units as follows:

(A) forty (40) hours covering the basic educational techniques and instructional strategies necessary to plan and conduct effective training programs;

(B) forty (40) hours covering the basic techniques and strategies necessary to analyze, select, develop, and organize instructional material for effective training programs;

(C) forty (40) hours covering the basic principles, techniques, theories, and strategies for establishing and maintaining effective relationships with students, co-workers, and other personnel in the classroom, industry, and community; and

(D) forty (40) hours covering the basic principles, techniques, theories, and strategies for communicating effectively using instructional media.

(2) A Course Instructor shall complete one of the units described in paragraph (1) of this subsection every twelve (12) months such that all four (4) units (160 hours) are completed within a four-year period.

(c) A Course Instructor shall not advertise or promote the sale of goods, products, or services in his

or her capacity as a Course Instructor.

(d) A Course Instructor shall comply with the Plumbing License Law and Board Rules, including the standards of conduct set forth in §367.2 of the Board Rules.

(1) In addition, a Course Instructor has a responsibility to his or her students and employer to:

(A) be well-versed in and knowledgeable of the course materials and ensure that classroom presentations are based only on the course materials and other materials approved by the Board;

(B) maintain an orderly and professional classroom environment;

(C) ensure that only students who receive the required number of clock hours of instruction (excluding any time spent on breaks from instruction) receive credit for attending a CPE course;

(D) notify the Course Provider immediately, if the Course Instructor is unable to provide instruction for a CPE course that the instructor was scheduled to instruct, to allow the Course Provider to make every effort to provide a substitute Course Instructor to avoid cancelling the course; and

(E) coordinate with the Course Provider to develop an appropriate method for handling disorderly and disruptive students.

(2) A Course Instructor shall report to the Course Provider and the Board, any non-responsive or disruptive student who attends a CPE course. The Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

(e) The Board shall randomly monitor Course Instructors for quality of instruction and compliance with the PLL and Board Rules. The Board will charge a fee to recover its costs for conducting the workshop required by subsection (a)(2) of this section.

(f) A Course Instructor's failure to comply with this section constitutes grounds for disciplinary action against the instructor, including revocation of approval to instruct CPE courses, or the denial of future applications for approval as a Course Instructor. The Board shall investigate a complaint against a Course Instructor in the same manner it investigates complaints against licensees and registrants.

(g) At the beginning of each CPE course, the Course Instructor shall announce where the notice informing the students of the contents of subsections (d)-(f) of this section can be found in the course materials.

### **§365.21 Continuing Professional Education Programs for the Medical Gas Piping Installation Endorsement**

(a) A licensed Journeyman Plumber, Master Plumber or Plumbing Inspector who also holds a Medical Gas Piping Installation Endorsement shall complete a minimum of two (2) hours of CPE

before he or she may renew his or her endorsement. A licensee may not use a single medical gas CPE course to fulfill the continuing education requirement for more than one renewal period.

(b) A medical gas CPE course shall be based on the most current edition of the National Fire Protection Association 99 Health Care Facilities Code (NFPA 99), and include comprehensive instruction on any updates to or changes from the previous edition of the code.

(c) The course materials for a medical gas CPE course shall include either a softbound copy of the current edition of the NFPA 99 or a hardbound copy of the NFPA 99 Handbook, a 50-question exercise covering the most-recent changes and updates to the NFPA 99 and the fundamentals of medical gas piping installation, and a notice informing students of the provisions contained in §365.20(d)-(f) of this chapter.

(1) The course materials shall not advertise or promote the sale of goods, products or services.

(2) A Course Provider or Course Instructor shall not offer to buy back used course materials from a student or offer any other incentive intended to persuade the student not to retain the course materials.

(3) In addition to the fee charged for a medical gas CPE course, a Course Provider may charge students a fee for the course materials that is less than or equal to the cost it incurs to purchase the materials from the NFPA.

(4) A Course Provider shall not require a student to purchase a softbound copy of the current edition of the NFPA 99 or a hardbound copy of the NFPA 99 Handbook if the student has previously completed a medical gas CPE course with the same provider that utilized the same course materials. As a substitute, the Course Provider may use any written material designed to supplement the NFPA 99 or the handbook.

(d) Only an individual, business or association approved as a Course Provider in accordance with §365.16 of this chapter may provide a medical gas CPE course. A Course Provider offering a medical gas CPE course is subject to all of the provisions of §365.19 of this chapter except subsections (c) and (e).

(e) A licensed Journeyman Plumber, Master Plumber or Plumbing Inspector may teach a medical gas CPE course if the licensee:

(1) holds a current Medical Gas Piping Installation Endorsement; and

(2) is approved as a Course Instructor in accordance with §365.17 of this chapter.

(f) A Course Provider shall present a medical gas CPE course in a single day consisting of at least two (2) clock hours of instruction in the classroom.

### **§365.22 Licensing Procedures for Military Spouses**

(a) The Board may issue an initial license or registration to an applicant who is a military spouse and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license or registration.



(b) The Board may reinstate the license or registration of an applicant who is a military spouse if the license or registration was current at some point during the five (5) years preceding the date the application is submitted.

(c) After reviewing the credentials of an applicant who meets the criteria set forth in subsections (a) or (b) of this section, the Executive Director may waive any prerequisite for obtaining a license or registration. The Executive Director may also waive a prerequisite if the applicant holds a current license issued by another jurisdiction that has a reciprocity agreement with Texas for the license.

(d) In addition to any required application(s), an individual who meets the criteria set forth in subsection (a) or (b) of this section, must submit proof that his or her spouse is currently serving on active duty.

(e) In lieu of the standard method(s) of demonstrating competency for a particular license, and based on the applicant's circumstances, the Board may use alternative methods when reviewing an application submitted by an individual who meets that criteria set forth in subsection (a) or (b) of this section. The alternative method(s) may take into consideration any combination of the following:

- (1) education;
- (2) continuing education;
- (3) examinations (written and/or practical);
- (4) letters of good standing;
- (5) letters of recommendation;
- (6) work experience; or
- (7) other relevant information approved by the Executive Director.

(f) Any information requested in connection with an application reviewed using the method described in subsection (e) of this section shall be submitted in a form and manner prescribed by the Board.

(g) The Board shall process an application submitted by an individual who meets the criteria in subsection (a) or (b) of this section and issue the corresponding license or registration as soon as practicable.

### **§365.23 Transfer of License**

(a) The Board may only transfer an unexpired license that is issued under the Plumbing License Law and has been held continuously for at least thirty five (35) consecutive years. (b) The Board shall transfer a license to a person who:

- (1) meets the requirements set forth in §1301.406(a) of the Plumbing License Law; and

(2) submits the following:

(A) an application that complies with §1301.406(b) of the Plumbing License law;

(B) the non-refundable application fee set forth in §361.6(a)(4)(F) of the Board Rules; and

(C) a notarized Transfer of License Affidavit that is signed by the transferor or a valid will executed by the transferor.

(c) A transfer under this section may not take place before the date of the transferor's retirement or death.

## **CHAPTER 367 ENFORCEMENT**

### **§367.1 Authority**

(a) The enforcement authority granted to the Board under Chapter 1301 of the Texas Occupations Code, and any associated rules, may be used to enforce the Plumbing License Law, Board Rules, and Board orders.

(b) The enforcement authority granted to municipalities under §1301.503 and §1301.551 of the Texas Occupations Code and to political subdivisions under §1301.255, and any associated rules, may be used to enforce the Plumbing License Law, Board Rules, and applicable municipal ordinances or bylaws and adopted codes.

(c) The enforcement authority granted to licensed Plumbing Inspectors under §§1301.255, 1301.503 and 1301.551 of the Texas Occupations Code, and any associated rules, may be used to enforce the Plumbing License Law, Board Rules, and applicable municipal ordinances or bylaws and adopted codes.

(d) The enforcement authority granted to a Field Representative employed by the Board under §1301.203 of the Texas Occupations Code, and any associated rules, may be used to enforce the Plumbing License Law and Board Rules.

### **§367.2 Code Requirements**

(a) To protect the health and safety of the citizens of this state, the Board adopts the following plumbing codes:

(1) the 2012 Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials; and

(2) the 2012 International Plumbing Code, as published by the International Code Council and the codes incorporated by reference within the 2012 International Plumbing Code, including:

(A) the 2012 International Fuel Gas Code; and

(B) the 2012 International Residential Code.

(b) To ensure the proper design, installation, and maintenance of plumbing systems within its jurisdiction, a political subdivision may adopt a plumbing code with any amendments necessary to address local concerns provided that the amendments do not substantially vary with the rules or laws of this state.

(c) Plumbing must be installed in accordance with all applicable plumbing codes adopted by the political subdivision in which the plumbing is being installed.

(1) Plumbing installed by an individual licensed under the PLL in an unincorporated area of the county or other area where no plumbing code has been adopted must be installed in accordance with a plumbing code adopted under subsection (a) of this section.

(2) A plumbing installation that was started prior to the Board's adoption of the plumbing codes listed in subsection (a) of this section may be completed under the requirements of the codes in effect at the time permits for the installation were issued or work on the installation commenced.

(3) In addition to all applicable plumbing codes, Liquefied Petroleum Gas (LP-Gas) piping must be installed in accordance with all applicable rules adopted by the Texas Railroad Commission.

(d) Any piping connecting a plumbing fixture, including a water closet, to a potable water supply shall be installed to prevent the back flow of nonpotable substances into the potable water system in accordance with the applicable plumbing code and state laws. Water closet fill valves (ball cocks) shall be of the antisiphon, integral vacuum breaker type with the critical level (the air inlet portion of the vacuum breaker) installed at least one (1) inch above the flood level rim of the fixture (the inlet of the water closet overflow tube).

(e) Plumbing installed in compliance with a code adopted under subsection (a) or (b) of this section must be inspected by a Plumbing Inspector licensed under the PLL and Board Rule §367.4.

(f) A licensee or registrant shall not install, and a person shall not require a licensee or registrant to install, plumbing that is not in compliance with the Plumbing License Law or any other laws of this state, Board Rules, or any applicable plumbing codes.

### **§367.3 Standards of Conduct - Licensees and Registrants**

(a) Offer to Perform Services. All licensees and registrants:

(1) shall accurately and truthfully represent to any prospective client or employer, his or her capabilities and qualifications to perform the services to be rendered;

(2) shall not offer to perform, nor perform, technical services for which he or she is not qualified by education or experience, without retaining the services of another who is so qualified;

(3) shall not evade responsibility to a client or employer;

(4) shall give the customer an invoice or completed contract document on completion of the plumbing job, regardless of whether he or she charged a fee for performing the services; and

(5) for the purposes of paragraph (4) of this subsection, the customer is the person to whom

the plumbing or technical services were provided even if the services were provided pursuant to a contract with a third party but not limited to a home warranty company, general contractor, or a company established to perform inspections.

(b) Conflicts of Interest. All licensees and registrants:

(1) shall not agree to perform services if any significant financial or other interest exists that would:

- (A) conflict with the obligation to render a faithful discharge of such services; or
- (B) impair independent judgment in rendering such services;

(2) shall withdraw from employment when it becomes apparent that it is not possible to faithfully discharge the duty and performance of services owed the client or employer, but then only upon reasonable notice to the client or employer; and

(3) shall not accept remuneration from any person other than the client or employer for a particular project, nor have any other financial interest in other service or phase of service to be provided for the project, unless the client or employer has full knowledge and so approves.

(c) Representations. All licensees and registrants:

(1) shall not indulge in advertising that is false, misleading, or deceptive;

(2) shall not misrepresent the amount or extent of prior education or experience to any employer or client;

(3) shall, when providing estimates for costs or completion times of a proposed project, represent to a prospective client or employer as accurately and truthfully as is reasonably possible the costs and completion time of the proposed project; and

(4) shall not hold out as being engaged in partnership or association with any person unless a partnership or association exists in fact.

(d) Compliance with Laws, Rules, Local Ordinances, and Board Orders. All licensees and registrants shall comply fully with:

(1) the Plumbing License Law and all other state laws regulating plumbing work;

(2) all rules adopted by the Board;

(3) all Board orders;

(4) the ordinances, bylaws and other local rules regulating plumbing adopted by a political subdivision; and

(5) when applicable, the plumbing codes adopted by the Board under §367.2(a) of this title.

#### **§367.4 Standards of Conduct - Plumbing Inspectors**

(a) In addition to complying with the requirements of §367.3 of this title, a Plumbing Inspector shall not:

(1) have any financial, or advisory interest in any plumbing company; and

(2) represent or indicate in any manner that the Plumbing Inspector is employed by or a representative of the Board or the State of Texas unless, in fact, the Plumbing Inspector is employed by the Board or the State of Texas.

(b) A Plumbing Inspector shall not perform a plumbing inspection unless and until he or she has submitted proof of affiliation with a political subdivision in a form specified by the Board. An affiliation is established if the inspector is employed by or under contract with a political subdivision to perform plumbing inspections or employed by a qualified plumbing inspection company under contract with a political subdivision to perform plumbing inspections.

(c) A Plumbing Inspector shall only accept compensation for performing a plumbing inspection from the political subdivision with jurisdiction over the jobsite where the inspection is performed or a qualified plumbing inspection business under contract with a political subdivision. A political subdivision may contract with a qualified plumbing inspection business to perform an inspection only if the business utilizes a licensed Plumbing Inspector to perform the inspection. This subsection does not apply to an inspection subject to §1301.255 of the PLL.

(d) A Plumbing Inspector shall consistently and equitably, to all persons enforce the Plumbing License Law, Board Rules, and plumbing codes adopted under §367.2(a) of this title, and all local ordinances regulating plumbing codes adopted by the political subdivision(s) within the Plumbing Inspector's jurisdiction.

(e) A Plumbing Inspector shall include his or her Plumbing Inspector License number on any document produced in connection with an inspection, including but not limited to:

(1) a green tag or other document used to show plumbing work has passed inspection;

(2) a notice of correction or other document used to show plumbing work has failed inspection; or

(3) any correspondence, including but not limited to emails.

### **§367.5 Responsibilities of RMP-General**

(a) In addition to obtaining the certificate of insurance required by §367.6 of this title, a Master Plumber shall complete the training program required by §363.26 of the Board Rules in order to initially qualify as a RMP. This subsection does not apply to a Master Plumber who meets the requirements of §363.26(a) of the Board Rules.

(b) A Master Plumber may act as the RMP of record for only one person at a time. A RMP wishing to be removed or added as a RMP of record shall submit to the Board written notification of the change, in a form specified by the Board, within ten (10) business days after the effective date of the change.

(c) The RMP of record shall be knowledgeable of and responsible for all contracts and agreements

to perform plumbing work secured and permits obtained under his or her Master Plumber License. A RMP of record is not absolved of these responsibilities even if:

- (1) the job of obtaining a permit is delegated to another person; or
- (2) the RMP did not personally draft or sign the contract or agreement.

(d) The RMP of record is responsible for the general supervision and management of plumbing work performed under his or her license and individuals performing plumbing work pursuant to contracts secured under his or her license, regardless of whether the individuals are employees or subcontractors. This includes:

- (1) ensuring that all permits are obtained and inspections are requested in accordance with all applicable plumbing codes;
- (2) ensuring that all individuals performing plumbing work under the RMP's license hold a current applicable license or registration for the work being performed;
- (3) ensuring that a licensee is present and providing direct supervision at all job sites where one or more registrants are engaged in plumbing; and
- (4) ensuring that all service vehicles display the information required by §367.10 of this title.

(e) A RMP acting in accordance with subsection (d) of this section has fulfilled his or her responsibility to the client and employer to ensure that the plumbing work performed under the RMP's license will protect public health and safety by meeting the requirements of all applicable plumbing local and state codes, ordinances, rules regulations and laws regulating plumbing.

### **§367.6 Responsibilities of RMP-Insurance Required**

(a) A Responsible Master Plumber shall at all times maintain insurance that:

- (1) meets the requirements set forth in §1301.552 of the PLL; and
- (2) includes coverage for all types of plumbing that will be performed under the RMP's license, including, but not limited to:
  - (A) LP-Gas plumbing;
  - (B) medical gas plumbing; and
  - (C) multipurpose residential fire protection sprinkler systems.

(b) A Master Plumber may not act as a RMP of record unless the Master Plumber has uploaded to the RMP's online account a valid certificate of insurance form approved by the Board.

(c) Upon written request, the RMP or owner of the plumbing company shall furnish the name of the insurance carrier and name, address, and telephone number of the insurance agent with whom the RMP is insured to any customer within 30 days of the request. For the purposes of this

subsection, the customer is the person to whom the plumbing services were provided even if the services were provided pursuant to a contract with a third party but not limited to a home warranty company, general contractor, or a company established to perform inspections.

### **§367.7 Responsibilities of RMP-Medical Gas Piping Systems**

(a) A person may not offer to install pipe used solely to transport gases for medical purposes unless the person has secured the services, in accordance with §367.9(b) of this title, of at least one RMP who holds a current Master Plumber License with a current Medical Gas Piping Installation Endorsement issued by the Board.

(b) The RMP with the Medical Gas Piping Installation Endorsement shall be responsible for the general supervision of the installation and ensuring that:

(1) all pipe used solely to transport gases for medical purposes is installed by the company; and

(2) all medical gas pipe assembly, brazing, and installation of required pipe markings is performed only by a licensee who holds a current Medical Gas Piping Installation Endorsement issued by the Board.

### **§367.8 Responsibilities of RMP-Multipurpose Residential Fire Protection Sprinkler Systems**

(a) A person may not offer to install a multipurpose residential fire protection sprinkler system unless the person has secured the services, in accordance with §367.9(b) of this title, of at least one RMP who holds a current Master Plumber License with a current Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement issued by the Board.

(b) The RMP with the Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement shall be responsible for the general supervision of the installation and ensuring that:

(1) the system is installed by a licensed Journeyman or Master Plumber with a current Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement;

(2) any other person who assists with the installation of a multipurpose residential fire protection sprinkler system is registered or licensed by the Board and is assisting only under the direct supervision of the endorsement holder who is on the job installing the system;

(3) the system has been designed by a licensed Master Plumber with a current Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement; and

(4) the system is installed, tested and inspected in accordance with the requirements of the latest edition of the National Fire Protection Association (NFPA) standard 13D and all applicable local ordinances and state laws and rules regulating the installation of multipurpose residential fire protection sprinkler systems.

(c) Upon final completion of the installation, the RMP with the Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement shall be responsible for ensuring that:

(1) the owner of the system has been provided:

(A) documentation that includes the RMP's name, license number, company name and contact information;

(B) a copy of the plans or drawings of the system, as installed; and

(C) instructions for the operation, maintenance and care of the system, in accordance with the latest edition of NFPA standard 13D and the material manufacturers' recommendations.

(2) a warning sign is affixed in a visible location that is adjacent to the main shutoff valve; and

(3) that the warning sign:

(A) is typed in a font size of at least 1/4 inch;

(B) identifies the RMP as the installer and includes the RMP's name, license number, company name and contact information;

(C) states, "WARNING: The water system for this home is a multipurpose system which supplies water to fire sprinklers that require certain flows and pressures to fight a fire. Devices that restrict the flow or decrease the pressure or automatically shut off the water to the fire sprinkler system, such as water softeners, filtration systems, and automatic shutoff valves, shall not be added to this system without a review of the fire sprinkler system by a fire protection sprinkler specialist. DO NOT REMOVE THIS SIGN"; and

(D) includes the Board's name and telephone number at the bottom.

(d) A Master Plumber who holds a Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement and designs a multipurpose residential fire protection sprinkler system must obtain a seal.

(1) The Master Plumber with the endorsement is responsible for the security of the seal.

(2) The seal shall:

(A) be in the shape of a circle that is at least one and one half inch in diameter;

(B) include words, "State of Texas" at the top of the seal;

(C) include the words, "Licensed Master Plumber" at the bottom of the seal; and

(D) include the name and license number of the Master Plumber with the endorsement positioned horizontally in the center of the seal.

(3) The seal must be clearly and legibly affixed to each original plan designed by the Master Plumber with the endorsement, and each copy of the plan.

(4) The Master Plumber with the endorsement must sign and date the plan below the affixed



seal.

(5) By affixing the seal and signing the plan, the Master Plumber with the endorsement assumes responsibility for ensuring that the system as designed meets the requirements of the latest edition of the NFPA standard 13D and all applicable local ordinances and state laws and rules regulating the installation of multipurpose residential fire protection sprinkler systems.

### **§367.9 Advertising; Offering to Perform Plumbing**

(a) A person or company shall not advertise, contract for or otherwise offer or agree to perform plumbing work for or provide plumbing services to the public unless the person or company has secured the services of at least one RMP holding a current Master Plumber License.

(b) A person or company has secured the services of a RMP if:

(1) the RMP is an employee of the person or company; or

(2) the RMP is the owner of the plumbing company that will contract for and perform plumbing work under his or her license.

(c) Notwithstanding subsection (b) of this section, a licensee who contracts for or otherwise agrees to perform plumbing work is not in violation of §1301.351(a-2) of the PLL if the licensee has a written subcontracting agreement with a person or company that has secured the services of a RMP in accordance with subsection (b) of this section.

(d) The agreement required in subsection (c) of this section shall:

(1) be signed by the licensee contracting for, or otherwise offering to perform plumbing and the RMP of record for the plumbing company that will perform the plumbing work;

(2) provide a description of all plumbing work to be performed pursuant to the agreement;

(3) include the price for all plumbing work to be performed; and

(4) contain the information required under §1301.302 of the PLL and §367.10 of this title.

### **§367.10 Display of RMP Name and License Number**

(a) The RMP of record shall display his or her certificate of licensure in his or her place of business in a conspicuous location.

(b) Both the RMP of record and owner of a plumbing company shall ensure that the RMP's license number and the company name are permanently displayed on both sides of all service vehicles owned or operated by the RMP or the company and used in conjunction with plumbing work.

(1) For the purposes of this subsection, a magnetic sign is not a permanent sign.

(2) The letters and numbers shall be at least two (2) inches high and shall be in a color sufficiently different from the body of the vehicle so that the letters and numbers shall be plainly legible at a distance of not less than one hundred (100) feet.

(c) Both the RMP of record and owner of a plumbing company shall ensure that the first page of each written or electronic proposal, invoice or contract for plumbing services includes, in at least twelve (12) point font:

- (1) the first and last name of the RMP of record;
- (2) the license number of the RMP of record;
- (3) the words "regulated by the Texas State Board of Plumbing Examiners";
- (4) the Board's mailing address and telephone number; and

(5) for the purposes of this subsection, the terms "proposal", "invoice" and "contract" include any and all documents used to define the scope and cost of the work to be performed for a consumer. This would include items such as service invoices, billing invoices, receipts or any document written or electronic which defines the services and cost of the plumbing services provided to the consumer. The consumer need not sign the document for it to be considered a contract.

(d) Both the RMP of record and owner of a plumbing company shall ensure that all advertisements for plumbing services, regardless of the type of media used, clearly display or verbally state the company name and license number of the RMP of record.

(1) For the purposes of this subsection, the term media includes but is not limited to:

- (A) newspapers;
- (B) telephone directories;
- (C) printed materials such as flyers and other handouts;
- (D) business cards;
- (E) signs and billboards;
- (F) radio;
- (G) television; and
- (H) the Internet.

(2) For the purposes of this subsection, uniforms or other clothing displaying a plumbing company name or logo and a sign affixed to the contractor's permanent business location are not considered an advertisement.

### **§367.11 License or Registration Required**

(a) An individual shall not engage in plumbing work requiring a license, registration or endorsement under the Plumbing License Law without a current license, registration or endorsement issued by the Board.

(b) An individual shall not perform a plumbing inspection without a current affiliated Plumbing Inspector License issued by the Board.

(c) A person shall not employ or enter into a subcontract with an individual to engage in plumbing work requiring a license, registration or endorsement under the Plumbing License Law if the individual does not hold the appropriate license, registration or endorsement required for the type of work performed.

(d) A political subdivision shall not employ or contract a person who does not hold a Plumbing Inspector License issued by the Board currently affiliated with that political subdivision having jurisdiction or contract with a person who does not employ at least one licensed Plumbing Inspector to perform plumbing inspections.

(e) A person shall not use the certificate of licensure, pocket card or license or registration number of another licensee or registrant.

(f) Licensees and registrants shall not allow another person to use their certificate of licensure, pocket card or license or registration number.

### **§367.12 On-Site License and Registration Checks**

(a) A licensee or registrant shall carry his or her pocket card at all times he or she is present at a jobsite or engaged in plumbing work.

(b) A licensee or registrant shall cooperate with a Field Representative conducting a check in accordance with this section.

(c) Pursuant to the authority granted under §1301.259 of the Plumbing License Law, an enforcement officer employed by the Texas Department of Licensing and Regulation may also check licenses and registrations and report non-compliance to the Board.

(d) In addition to initiating disciplinary actions against unlicensed or unregistered individuals or those without a current license or registration, the Board may refer non-compliant individuals to local authorities for enforcement and disposition.

### **§367.13 Filing Complaints**

(a) The Board shall only accept a complaint that is submitted in writing in a format specified by the Board.

(b) A complaint may be submitted via mail, electronic mail, facsimile or in person.

(c) A complaint shall contain:

(1) the complainant's name and contact information;

(2) a description of the alleged violation;

(3) the name of the municipality and all other political subdivisions in which the conduct that is the subject of the complaint occurred;

(4) the name and contact information of any known witnesses or other sources of pertinent information; and

(5) any evidence in the possession of the complainant, including but not limited to:

(A) estimates, contracts or invoices;

(B) cancelled checks;

(C) photographs of any plumbing work that is the subject of the complaint;

(D) written communications between the complainant and respondent; and

(E) websites, business cards, or other advertisements used by the respondent.

(d) For the purposes of subsection (c) of this section, contact information may include, but is not limited to, name, address, telephone number, email address, business name, business address, business telephone number, and website.

(e) The Director of Enforcement may refuse to accept a complaint that does not contain sufficient information to determine whether the Board has jurisdiction over the complaint.

(f) The Board may accept anonymous complaints. Anonymous complaints may not be investigated if insufficient information is provided, the allegations are vague, appear to lack factual foundation, or cannot be proved for lack of a witness or other evidence.

### **§367.14 Processing Complaints**

(a) The Director of Enforcement will review a complaint submitted in accordance with §367.13 of this title (relating to Filing Complaints) to determine whether the Board has jurisdiction.

(b) If it is determined that a complaint is within the Board's jurisdiction the Director of Enforcement will:

(1) assign a complaint number;

(2) assign an investigation priority number; and

(3) appoint a Field Representative to investigate the complaint.

(c) If it is determined that a complaint is not within the Board's jurisdiction, the Director of Enforcement will notify the complainant of that determination, in writing.

(d) The investigation priority number for purposes of subsection (b)(2) of this section will range from Priority 1 to Priority 3, with a lower number indicating a more serious violation deserving of investigation before investigation of matters with a higher number, determined as follows:

(1) Priority 1 - Complaints alleging bodily injury or the imminent threat of harm to the public's health, safety or economic welfare, or the environment. The following matters will be classified as Priority 1:

(A) Combustible fuel gases. Complaints alleging or involving combustible fuel gases, such as improperly installed fuel gas lines, fuel-gas-fired appliances or water heaters, gas leaks, explosions, or unlicensed, unsupervised or unpermitted plumbing work involving combustible fuel gas which has not otherwise been subjected to and passed an inspection by a Plumbing Inspector;

(B) Medical gas. Complaints alleging or involving improperly installed, or unpermitted medical gas plumbing, or unlicensed, unsupervised or un-credentialed individuals installing medical gas plumbing which has not otherwise been subjected to and passed an inspection by a Plumbing Inspector;

(C) Contamination of potable water; illness or disease. Complaints alleging or involving cross-connections or other incursions of sewage or substances of unknown origin into the potable water supply. Complaints alleging or involving illness or disease attributable to a plumbing system or suspected of being transmitted by a plumbing system;

(D) Uninhabitable primary residence or business. Complaints alleging or describing the ongoing substantial impairment of the enjoyable use of a building used as a primary residence or the facility of a business and used for its day-to-day operations, due to the plumbing system, and arising from the alleged violation;

(E) Major environmental spills. Complaints alleging substantial release of effluent from a plumbing system and contamination or threatened contamination of a freshwater body; and

(F) Habitual offender. Complaints alleging a violation by a person having a recent history of past violations and for whom expedient injunctive relief may be required to obtain compliance.

(2) Priority 2 - Complaints which allege the occurrence of economic damages, but not bodily injury, and that do not allege an ongoing condition which poses an imminent threat of harm to the public's health, safety or economic welfare, or the environment. The following matters in particular will be classified as Priority 2:

(A) Harmful condition resolved. Complaints alleging a harmful condition of a plumbing system that, at one time, may have posed the threat of bodily injury or economic harm, and may have actually caused economic harm, but has since been resolved, typically by the alleged offender, or a subsequent plumber who remedied the potentially harmful condition;

(B) Economic injury only, with no ongoing threat of harm. Complaints alleging economic harm, but not bodily injury, and for which the nature of the violation never posed the threat of such bodily injury; and, which no longer poses an imminent threat of further economic harm. For example, evading responsibility to a client (thereby requiring the consumer to obtain replacement services), misrepresentation of services provided, general dissatisfaction with workmanship but not affecting the function of the plumbing system, improper billing practices, or the improper retention of money or materials;

(C) Unlicensed work inspected by a Plumbing Inspector. Complaints alleging unlicensed plumbing work for which a plumbing permit is nevertheless obtained and passes an inspection by a Plumbing Inspector, indicating the plumbing system is reasonably safe for use;

(D) Unsupervised work by a registrant, without inspection. Complaints alleging plumbing work performed by a Plumber's Apprentice that was performed without the requisite level

of supervision, and has not otherwise been subjected to and passed an inspection by a Plumbing Inspector;

(E) Failure to obtain plumbing permit by a licensee. Complaints alleging work performed by a licensee fit to perform the work but for which a plumbing permit was not obtained as required by the local authority having jurisdiction, and a plumbing inspection never conducted to ensure compliance with applicable plumbing codes; and

(F) Requests from local authorities or for interagency assistance. Complaints made by, or requests for assistance from, a local authority having jurisdiction such as a Plumbing Inspector or building official on behalf of a municipality or utility district, a Fire Marshall, or another representative of a governmental unit.

(3) Priority 3 - Complaints not classified as Priority 1 or Priority 2 will be classified as Priority 3. The following matters in particular will be classified as Priority 3:

(A) Unsupervised work by a registrant, with inspection. Complaints alleging work performed by a Plumber's Apprentice that was performed without requisite supervision, but was subjected to and passed an inspection by a Plumbing Inspector;

(B) Late permit by a licensee. Complaints alleging work performed by a licensee who failed to timely obtain a permit, but which was thereafter permitted and inspected by a Plumbing Inspector;

(C) No proof of violation. Complaints alleging a violation within the Board's jurisdiction but that fail to allege a factual basis for the alleged violation or otherwise indicate an inability to obtain credible evidence to support the alleged violation; and

(D) Class B Violations. Any matter alleging only a violation which is classified as a Class B violation for purposes of the Board's penalty schedule, adopted by Board Rule §367.17 of this title.

(4) A complaint alleging multiple violations will be assigned the lowest applicable investigation priority number.

(5) The Director of Enforcement may conduct an initial investigation of the complaint for purposes of determining the appropriate investigation priority number, prior to appointing a Field Representative to formally investigate the matter.

(6) The Director of Enforcement may re-classify the complaint and assign a different investigation priority number at any time within their sole discretion, when investigation of the complaint indicates it should be reassigned, either as a higher priority, or a lower priority, in accordance with the criteria set forth in subsection (d) of this section.

### **§367.15 Investigating Complaints**

(a) Purpose and Reference to Applicable Law. This section implements the Board's processes and procedures for investigating complaints alleging violations of the PLL or Board Rules in accordance with §1301.304 of the PLL. The Board will investigate complaints from the public validly filed in accordance with Board Rule §367.13. The Board may also open a complaint

investigation on its own initiative. This section also implements the Board's investigative procedures for prioritizing the investigation of complaints in accordance with §1301.303(e) of the PLL.

(b) The Board may utilize its Field Representatives, Director of Enforcement or Enforcement Committee, as appropriate, to investigate an alleged violation of the Plumbing License Law or Board Rules by a person who:

(1) is registered or licensed under the PLL;

(2) is the owner of a company subject to the PLL;

(3) performs plumbing without holding a registration or license under the PLL; or

(4) advertises or otherwise offers to perform plumbing work without holding a license under the PLL.

(c) Prioritization of Complaints. Field Representatives will prioritize the investigation of complaints filed with the Board above their other enforcement activities and duties. Specifically, complaints will be investigated based on the investigation priority number they are assigned in accordance with Board Rule §367.14(b)(2) of this title, as follows:

(1) Priority 1 complaints will be investigated before any other complaints, and will be investigated in order based upon the potential for harm to the public's health or safety, from greatest to least, as determined in the sole discretion of the Field Representative to whom the complaint is assigned, in consultation with the Director of Enforcement.

(2) Priority 2 complaints will be investigated before any Priority 3 complaints, and will be investigated in order based upon the potential for harm to the public's health or safety, from greatest to least, as determined in the sole discretion of the Field Representative to whom the complaint is assigned, in consultation with the Director of Enforcement.

(3) Priority 3 complaints will be investigated when there are not Priority 1 or Priority 2 cases open and pending and requiring active investigation by the Field Representative to whom they are assigned, except as provided by paragraph (5) of this subsection.

(4) The Field Representative will not conduct on-site license and registrations checks for so long as a Priority 1 or Priority 2 complaint to which they have been assigned is open and pending and requires active investigation by the Field Representative, except as provided by paragraph (6) of this subsection.

(5) The Field Investigator may investigate a complaint having a higher investigation priority number contemporaneously with the investigation of a lower investigation priority number; provided, the complaints arise from the same area or will otherwise result in gains in administrative efficiency without imposing substantial delays in investigating complaints with a lower investigation priority number that would expose the public to additional risk of harm, as determined in the sole discretion of the Field Representative, in consultation with the Director of Enforcement.

(6) The Field Investigator may conduct on-site license and registration checks

contemporaneously with and en route to investigating a complaint; provided the Field Representative determines that said checks will not impose substantial delays in investigating complaints filed with the Board and will not expose the public to additional risk of harm, as determined in the sole discretion of the Field Representative, in consultation with the Director of Enforcement.

(d) Cooperation Required. Licensees and registrants must cooperate with the Board and its Field Representatives during the investigation of a complaint.

(e) Complaint Statistics. The Director of Enforcement will maintain an electronic or hard copy case file for each written complaint alleging a violation of the Plumbing License Law or Board Rules filed with the Board and determined to be within the Board's jurisdiction in accordance with Board Rule §367.14 of this title (relating to Processing Complaints). The files are subject to the agency's record retention schedule and must include:

- (1) the source of the complaint;
- (2) the complaint and all documents submitted under §367.13(c)(5) of this title;
- (3) the date the complaint is received by the agency;
- (4) the investigation priority number assigned pursuant to §367.14(b)(2) this title;
- (5) the evidence collected during the investigation of the complaint;
- (6) the geographic area, including the name of any municipality and the county in which the conduct that is the subject of the complaint occurred;
- (7) the name of each person contacted in relation to the complaint;
- (8) a summary of the results of the review or investigation of the complaint; and
- (9) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.

(f) The Director of Enforcement will review the statistical information available in the complaint files described in subsection (e) of this section to identify geographical areas of concern where enforcement activities should be focused and make recommendations to the Enforcement Committee and the Executive Director for addressing such areas utilizing the resources available to the agency.

(g) Following the investigation of a complaint, the Director of Enforcement will refer the findings of the investigation with recommendations for disposition of the complaint to the Enforcement Committee.

### **§367.16 Enforcement Committee; Complaint Review**

(a) The Enforcement Committee shall pursue expeditious resolution of complaints by voluntary agreed settlement, whenever appropriate.



(b) The Enforcement Committee may close a complaint if it concludes:

- (1) the Board lacks jurisdiction over the complaint;
- (2) no violation of the PLL, Board Rules or a Board order has occurred;
- (3) there is insufficient evidence of a violation; or

(4) the respondent has voluntarily come into compliance with the PLL, Board Rules, or Board order.

(c) The Enforcement Committee may close a complaint and issue a warning if:

- (1) it concludes that a violation may have occurred;
- (2) the respondent has not received any prior warnings; and

(3) the respondent has not committed a previous violation of the PLL, Board Rules or Board orders.

(d) If the Enforcement Committee determines that a violation of the PLL, Board Rules or a Board order has occurred, it may recommend:

- (1) issuing a Cease and Desist Order pursuant to §1301.5045 of the PLL;
- (2) imposing an administrative penalty pursuant to Subchapter N of the PLL;

(3) suspending, revoking or refusing to renew the respondent's license, endorsement or registration pursuant to §1301.451 and §1301.452 of the PLL;

(4) reprimanding the respondent pursuant to §1301.451 and §1301.452 of the PLL; or

(5) pursuing any other disciplinary action allowed under the Plumbing License Law and Board Rules that justice may require.

(e) The Enforcement Committee may offer an informal conference to a respondent, in accordance with the requirements of the Administrative Procedure Act, if it will assist the committee with determining:

- (1) whether a violation occurred;
- (2) the seriousness or the effect of a violation;
- (3) the most appropriate disciplinary action;
- (4) whether to offer a settlement agreement; or

(5) the amount of restitution to be paid by a respondent pursuant to §1301.5071 of the Plumbing License Law, instead of, or in addition to other disciplinary actions.

### **§367.17 Administrative Penalty**

(a) If the Enforcement Committee decides to pursue an administrative penalty, a Notice of Alleged Violation must be issued to the Respondent. This notice will include a brief summary of the alleged violation, state the amount of the administrative penalty pursued, and inform the Respondent of the Respondent's right to a hearing before the State Office of Administrative Hearings on the occurrence of the violation or the amount of the penalty. There is a rebuttable presumption that the notice is received three (3) days after it was mailed.

(b) Not later than the 20th day after the Notice of Alleged Violation is received by the Respondent, the Respondent, in writing, must:

(1) agree to settle the matter without a formal hearing before the State Office of Administrative Hearings and accept the determination and settlement penalty recommended by the Enforcement Committee; or

(2) make a request for a formal hearing before the State Office of Administrative Hearings on the occurrence of the violation, the amount of the penalty, or both.

(c) If, within twenty (20) days of receipt, the Respondent fails to respond to the Notice of Alleged Violation and either accept the Enforcement Committee's determination and recommended administrative penalty, sanction, or both, or make a written request for a hearing on the determination, the Enforcement Committee may propose entry of a default order against the Respondent unless otherwise provided by applicable law.

(d) Where the Respondent fails to answer to the Notice of Alleged Violation, the Enforcement Committee may present to the Board a proposed Default Order containing findings of fact and conclusions of law. The Board may grant the relief recommended in the proposed Default Order, or such other relief as may be justified by the evidence presented by the Enforcement Committee.

(e) If the Respondent agrees to settle the matter without a formal hearing and accepts the determination and amount of penalty recommended by the Enforcement Committee, the Respondent must pay the penalty to the Board according to an agreed schedule, or if there is no agreed schedule, not later than sixty (60) days following the date that the Notice of Alleged Violation was issued.

(f) The Enforcement Committee must report the proposed agreement to the Board stating a summary of the facts or allegations against the Respondent and the amount of the recommended administrative penalty. The Board may approve the proposed agreement and its recommended penalty by order. If the Respondent subsequently violates the Board's Order adopting the agreement between the Respondent and the Enforcement Committee by failing to pay the penalty timely, the Board may:

(1) refuse to renew the Respondent's license or registration;

(2) refuse to issue a new license or registration to the Respondent, under §1310.451 of the Plumbing License Law;

(3) revoke the Respondent's license or registration; and

(4) may sue the Respondent to collect the penalty owed under §1301.712 of the Plumbing License Law.

(g) The Enforcement Committee must set a formal hearing on the matter as a contested case before an administrative law judge at the State Office of Administrative Hearings if:

(1) the Respondent requests a formal hearing as required by subsection (b)(2) of this section;

(2) the parties do not agree to settle the matter as stated in subsection (e) of this section;

(3) the Board declines to approve the proposed agree in subsection (f) of this section; or

(4) the Respondent attends at the time and place prescribed in the notice required by subsection (d) of the section.

(h) Following the hearing, the administrative law judge must issue a proposal for decision to the Board containing findings of facts and conclusions of law. While the administrative law judge may recommend a sanction, findings of fact and conclusions of law are inappropriate for sanction recommendations, and sanction recommendations in the form of findings of fact and conclusions of law are an improper application of applicable law and these rules. Sections 1301.451, 1301.701, and 1301.706 of the Plumbing License Law provide that the Board must impose the appropriate sanction. In all cases, the Board has the discretion to impose the sanction that best accomplishes the Board's legislatively-assigned enforcement goals. The Board is the ultimate arbiter of the proper penalty.

(i) The Board may impose an administrative penalty alone or in addition to other sanctions permitted under the Plumbing License Law.

(j) In determining the proper administrative penalty, the Board will apply the factors to be considered set forth in §1301.702(b) of the Plumbing License Law.

(k) The following table contains guidelines for the assessment of administrative penalties in disciplinary matters. This table is for standard violations under normal circumstances and does not necessarily include every possible violation of the Plumbing License Law or Board Rules. The table is divided into two classes of violations. Class A violations are those violations with greater potential to jeopardize public health, safety, welfare, property, or environment. Class B violations are those with less immediate potential to jeopardize public health, safety, welfare, property, or environment.

Figure: 22 TAC §367.17(k)

<b>CLASS A VIOLATIONS</b>			
<b>Number</b>	<b>Description</b>	<b>References</b>	<b>Penalty</b>
1.	Employing a person to engage in plumbing work without the proper endorsement	§1301.452(a)(5); §367.11(c)(2)	\$2,000 (+\$2,000 if work required a Med Gas Endorsement)

2.	Advertising to perform or provide plumbing without securing the services of a Responsible Master Plumber (RMP)	§1301.351(a-2); §367.9(a)	\$2,500
3.	Evading responsibility to an employer	§367.3(a)(3)	\$2,500
4.	Failing to verify a Certificate of Insurance (COI) on the Board's website before issuing a permit	§1301.552	\$2,500
5.	Falsely claiming that a person is a licensed or registered plumber or using the license or registration number of another	§1301.452(a)(3) and (4); §367.11(e)	\$3,000
6.	Falsely claiming that a person has secured the services of a RMP; using the license number of a RMP who is not an owner or employee of the company	§1301.452(a)(3) and (4); §367.9(b); §367.11(e)	\$3,000
7.	Performing a plumbing inspection while having a financial or advisory interest in a plumbing company	§1301.353; §367.4(a)(1)	\$4,000
8.	Performing a plumbing inspection without the proper license	§1301.351(b); §367.11(b)	\$4,000
9.	Engaging in plumbing without the proper license, registration or endorsement	§1301.351(a); §367.11(a)	\$4,000 (+\$1,000 if work involved natural gas)
10.	Employing an unlicensed or unregistered person	§1301.452(a)(5); §367.11(c)(1)	\$4,000
11.	Failing to supervise	§1301.351(a)(2); §367.5(d)	\$4,000
12.	Misrepresenting services provided or services to be provided	§1301.452(a)(3); §367.3(c)	\$4,000
13.	Making a false promise with the intent to induce a person to contract	§1301.452(a)(4); §367.3(a)	\$4,000
14.	Evading responsibility to a client	§367.3(a)(3)	\$4,000
15.	Contracting or otherwise offering to perform plumbing without securing the services of a RMP	§1301.351(a-2); §367.9(a)	\$5,000
16.	Allowing illegal use of a RMP license	§367.11(f); §367.5(b)	\$5,000
17.	Failing to maintain insurance while acting as a RMP	§1301.351(a-1); §1301.3576(1); §1301.552; §367.6(a)	\$5,000
18.	Willfully, negligently, or arbitrarily violating a municipal rule or ordinance	§1301.452(a)(2); §367.3(d)	\$5,000
19.	Failing to provide a six-hour continuing professional education course	§1301.404; §1301.405; §365.19(c); §365.20(d)(1)	\$5,000
20.	Violating a Cease and Desist Order	§1301.5045	Penalty equal to the penalty for whatever activity the Order covered

<b>CLASS B VIOLATIONS</b>			
1.	Engaging in plumbing without direct supervision	§1301.351(a); §365.1(i); §367.11(a)	\$1,000
2.	Failing to include the Board's contact information or the name and license number of the RMP on a written proposal, estimate, invoice, or contract	§1301.302; §367.10(c)	\$1,000
3.	Failing to permanently display RMP license number or company name on both sides of a service vehicle	§367.10(b)	\$1,000
4.	Failing to display or state RMP license number in an advertisement for plumbing	§367.10(d)	\$1,000
5.	Failing to include inspector license number on an inspection report	§367.4(e)	\$1,000
6.	Failing to provide a COI to the Board	§1301.3576(1); §367.6(b)	\$1,000
7.	Failing to provide insurance information to a customer upon request	§367.6(c)	\$1,000
8.	Failing to provide an invoice or completed contract upon completion of the job	§1301.302; §367.3(a)(4)	\$2,000
9.	Refusing to fill out an Employer Certification Form	§363.2(d)	\$2,000
10.	Obtaining or attempting to obtain a license, registration or endorsement through error, fraud, or the provision of false information to the Board	§1301.452(a)(1); §363.23(b)	\$2,000
11.	Requiring a person who obtains a permit to pay a registration or administrative fee	§1301.551(g)	\$2,000

(l) The amounts specified in the table in subsection (k) of this section are guidelines only. The Board retains the right to increase or decrease the amount of an administrative penalty based on the circumstances in each case. In particular, the Board may increase the amount of administrative penalties when the Respondent has committed multiple violations (e.g., some combination of different violations).

(m) Because it is the policy of the Board to pursue expeditious resolution of complaints when appropriate, administrative penalties in uncontested cases may be less than the amounts specified in the table in subsection (k) of this section. Among other reasons, this may be because the Respondent admits fault, takes steps to rectify matters, timely responds to Board concerns, or identifies mitigating circumstances, and because settlements avoid additional administrative costs to the Board.

(n) The cost of preparing the transcript of an administrative hearing is not an administrative penalty. Yet in all cases where the Board has determined that a violation occurred, the Board assesses the cost of the transcript of the administrative hearing to the Respondent.

(o) Based on the proposal for decision, including the findings of fact and conclusions of law, the Board must issue an Order stating its decision in the contested case and a notice to the Respondent of the Respondent's right to judicial review of the Order.

(p) When the Default Order adopted under subsection (d) of this section or the Order adopted under subsection (o) of this section includes the imposition of an administrative penalty:

(1) not later than the 30th day after the date that the Default Order or Order becomes final:

(A) the Respondent must pay the penalty to the Board; or

(B) the Respondent must file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both, in accordance with §1301.707 or §1301.708 of the Plumbing License Law.

(2) after all opportunities for judicial review have passed and it is determined that the Respondent owes the penalty and fails to pay the penalty timely:

(A) the Board is authorized to refuse to renew the Respondent's license or registration and refuse to issue a new license or registration to the Respondent, under §1301.707 of the Plumbing License Law; and

(B) the Attorney General may sue the Respondent to collect the penalty under §1301.712 of the Plumbing License Law.

### **§367.18 Reprimand; Probation; Suspension; Revocation**

(a) In accordance with §1301.452 of the PLL, upon a determination that a violation of the PLL, an order issued by the board, or a board rule has occurred, the Board, pursuant to §1301.451 of the PLL, shall revoke, suspend, or refuse to renew a license, endorsement, or registration or shall reprimand a holder of a license or registration.

(b) For the purposes of this section, a reprimand means any disciplinary action, other than the probation, suspension or revocation of a license, endorsement or registration.

(c) A person whose license, endorsement, or registration has been revoked pursuant to this section may not apply for a new license, endorsement, or registration before one year from the date of final revocation.

(d) The Board may place on probation a person whose license, endorsement, or registration is suspended. If a license, endorsement, or registration suspension is probated, the board may require the person:

(1) to report regularly to the agency on matters that are the basis of the probation;

(2) to limit practice to the areas prescribed by the board; or

(3) to continue or review professional education until the person attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(e) If the Enforcement Committee or the Board determines that probation is appropriate to deter future violations of the Plumbing License Law and Board Rules by the respondent, probation shall be administered consistently under the following guidelines:

(1) for violations with greater potential to jeopardize public health, safety, welfare, property, or environment (as listed in the Board's Administrative Penalty Schedule for Class A violations), the term of the probation may not be less than one year or more than five years; and

(2) for violations with less potential to jeopardize public health, safety, welfare, property, or environment (as listed in the Board's Administrative Penalty Schedule for Class B violations), the term of the probation may not be less than six months or more than one year.

(f) Probation by voluntary agreed settlement between a respondent and the Enforcement Committee may meet such terms that both parties deem fair and which in the interest of justice may require.

### **§367.19 Failure to Request a Hearing After Notice of Intent to Deny or Revoke**

(a) If the Enforcement Committee proposes to deny an application for examination or registration or revoke or suspend a license, registration, or endorsement, pursuant to §1301.451 of the Plumbing License Law, the Enforcement Committee shall give timely written notice of the denial or revocation to the applicant to the last known address provided to the Board by the applicant.

(b) The language of the notice shall include:

(1) a summary of the allegations against the applicant;

(2) the applicant's right to be represented by an attorney on the matter;

(3) the applicant's right to request a hearing on the matter before SOAH;

(4) the applicant's request for a hearing must be made no later than twenty (20) days after the receipt of the notice; and

(5) the applicant's failure to request a hearing within twenty (20) days after the receipt of the notice results in the Enforcement Committee's decision to deny or revoke becoming final and judicial appeal of the denial or revocation being waived by the applicant.

(c) Any individual whose application for examination or registration has been denied or whose license, registration or endorsement has been revoked may re-apply to the Board after a waiting period of at least one year from the date that the denial or revocation became final. The Enforcement Committee shall be delegated the authority of making the initial review of the re-application. If the Committee decides to deny the re-application it shall proceed as defined in subsection (a) of this section.

(d) If the committee makes a decision to approve the applicant's request, it must be presented for approval before the Board members, at a regularly scheduled Board meeting to approve the applicant's request, if approved, then the applicant is to follow the same licensing or registration procedures required of a first-time licensee or registrant.

### **§367.20 Informal Conference**

(a) Purpose and Reference to Applicable Law. It is the policy of the Board to resolve contested cases efficiently by informally disposing of matters by agreement and voluntary settlement whenever possible, to the extent such settlement is aligned with and will advance the Board's regulatory functions. This section implements the Board's processes and procedures for effectuating informal disposition of contested cases, including procedures for conducting Informal Settlement Conferences, pursuant to §1301.5071 of the PLL. For the foregoing reasons, and in order to advance the State's policy goals expressed in Chapter 2009 of the Government Code (Governmental Dispute Resolution Act) and Chapter 154 of the Civil Practice and Remedies Code to resolve disputes as fairly and expeditiously as possible, contested cases that the Board determines are capable of being resolved by informal disposition and voluntary settlement will be referred to an Informal Settlement Conference to seek such resolution.

(b) Referral to Informal Settlement Conference (ISC). In the event an individual makes a timely request for an adjudicative hearing in accordance with §1301.704 of the PLL and Board Rule §367.19(f), prior to the Board docketing the matter at SOAH and setting such hearing, the Director of Enforcement will determine whether to refer the matter to an Informal Settlement Conference in accordance with this section. In making such determination, the Director of Enforcement will consider:

(1) whether the complainant or the respondent has requested an ISC in accordance with subsection (d) of this section;

(2) if an ISC is requested by the respondent, whether the request appears to have been brought in bad faith or for purposes of delay rather than to resolve the matter;

(3) the extent to which the contested case involves factual matters in dispute;

(4) the extent to which a complainant or other party has suffered damages that may be compensated through the payment of restitution, in accordance with §1301.5071 of PLL; and

(5) in cases in which the Board seeks to suspend or revoke a license, registration or endorsement, the extent to which probationary restrictions might present a viable alternative to suspension or revocation.

(c) Non-referral to Informal Settlement Conference. The following contested cases are ineligible for and will not be referred to an ISC:

(1) cases in which the Board is seeking denial of an application for a license, registration or endorsement, or to take an examination; and



(2) cases concerning a determination, following a request for preliminary review of an individual's criminal background, that an individual is ineligible for licensure.

(d) Request for Informal Settlement Conference. A complainant or the respondent may request to refer an eligible matter to an Informal Settlement Conference by making a written request delivered to the Board. A request for an ISC is a factor to be considered by the Director of Enforcement in determining whether to refer the contested case to an ISC, but will not automatically result in referral to an ISC.

(e) Notice of Informal Settlement Conference. If a contested case is referred to an ISC, the respondent will be provided with at least thirty (30) days' written notice of the ISC. The Board will contact the respondent and any other party invited to attend for purposes of attempting to set the date and time for the ISC by agreement.

(f) Submission of Informal Settlement Conference Materials. At least ten (10) days in advance of the Informal Settlement Conference, the respondent must:

(1) submit all documentary evidence to be considered by the Board at the Informal Settlement Conference not already contained in the investigation report submitted by the Board's Field Investigator and reviewed by the Board in initiating the contested case;

(2) submit any written accounts or witness statements of the respondent, or any third parties, relevant to the matter, that the respondent would like the Board to consider, signed and dated, and sworn under oath or made by unsworn declaration in accordance with Chapter 132 of the Civil Practice and Remedies Code; and

(3) to the extent respondent is represented by an attorney, a letter of representation from the attorney asserting said representation.

(g) Appearance at an Informal Settlement Conference. Appearance at an Informal Settlement Conference may be in person or by phone. The Board may conduct the Informal Settlement Conference by video conferencing to the extent it is determined by the Executive Director or Director of Enforcement to be technically feasible and allowable.

(h) Appearance by the Board. An Informal Settlement Conference is not a meeting of the members of the Board, and will not be attended by Board members. The Executive Director and/or the Director of Enforcement will attend and will preside over the Informal Settlement Conference. An attorney on the Board's staff will also attend the Informal Settlement Conference. The Field Investigator who investigated the complaint may attend, in addition to any other Board staff whose appearance may be helpful, as determined by the Executive Director or the Director of Enforcement.

(i) Invitation of the Complainant or Third Parties. The Board may invite the complainant or a third party with information relevant to the investigation to attend the Informal Settlement Conference.

(j) Format; Record. At the Informal Settlement Conference, members of Board staff will review the materials submitted by the respondent in accordance with subsection (f) of this section. Board staff will question the respondent concerning any matters deemed relevant to investigating and resolving the matter. The respondent will be given an opportunity to be heard by Board staff to present their case. The Respondent should be prepared to identify any defenses or mitigating factors weighing in favor of a lesser penalty or other form of discipline sought by the Board. A record of the proceeding may be taken as determined in the discretion of the Executive Director or Director of Enforcement, including by audio or video recording. To the extent a record is made, the Board will notify the respondent of that fact. A copy will be provided to the

respondent, upon written request. Admissions made by the respondent at the ISC may be used at a formal adjudicative hearing at SOAH, if applicable.

(k) Proposed Settlement; Agreed Final Order. To the extent Board staff and the respondent agree in principle to a proposed resolution of the contested case that includes payment of restitution, action on the respondent's license or registration, the payment of an administrative penalty or any other disciplinary action, or combination of disciplinary actions, the Board will prepare an Agreed Final Order capturing the terms of the proposed settlement, to be presented to the Board for consideration and possible adoption. To the extent restitution payments are proposed, the amount of the restitution will be included in the Agreed Final Order, and the payee of the restitution payments will be specifically named, and their last known address listed, in such Agreed Final Order.

### **§367.21 Contested Case; State Office of Administrative Hearings**

(a) A contested case shall mean any action that is referred by the Enforcement Committee or the Board to SOAH.

(b) Respondent means:

(1) a person in a contested case charged with a violation of the Plumbing License Law or Board Rules; or

(2) an applicant who has been denied a license, registration or endorsement by the Enforcement Committee.

(c) The Board shall provide for a hearing at SOAH, when requested by a respondent, after issuing a formal complaint that:

(1) charges an individual with any violation of the Plumbing License Law or Board Rules; or

(2) would prevent an otherwise qualified individual from obtaining an initial registration, renewing a license, registration, or endorsement, or taking an examination.

(d) The Board shall conduct the hearing in accordance with all applicable provisions of the:

(1) Administrative Procedure Act;

(2) State Office of Administrative Hearings Rules;

(3) Plumbing License Law; and

(4) Board Rules.

(e) The Board may serve the notice of hearing on the respondent at his or her last known address as shown by the Board's records.

### **§367.22 Failure to Attend Hearing and Default**

(a) Default. If the party who does not have the burden of proof fails to appear at a contested case hearing at

the State Office of Administrative Hearings (SOAH), the administrative law judge must issue a default proposal for decision that can be adopted by the Board.

(b) Failure to issue default proposal for decision. If the administrative law judge grants a default but does not issue a default proposal for decision and instead issues a default order dismissing the case and returning the file to the Plumbing Board for informal disposition on a default basis in accordance with §2001.056 of the Texas Government Code, the Board may issue a final order deeming the allegations in the complaint as true and imposing the sanctions requested in the complaint.

(c) Failure to prosecute: If an applicant for licensure fails to appear at a contested case hearing at the SOAH, the administrative law judge must dismiss the case for want of prosecution, any relevant application will be withdrawn, and the Board may not consider a subsequent application from the party until the first anniversary of the date of dismissal of the case at SOAH. If the administrative law judge dismisses the case and returns the file to the board for informal disposition on a default basis in accordance with §2001.056 of the Texas Government Code, the Board will issue a final order referring to this rule and advising the applicant that his or her application was withdrawn and that he or she may reapply for licensure one year after the date of the dismissal of the case at the SOAH.

(d) Applicants for licensure bear the burden to prove fitness for licensure.

(e) Contesting a final order issued following a default or dismissal for failure to prosecute. In the event that the respondent wishes to contest a final order issued following a default or dismissal for failure to prosecute, the respondent must timely file a motion for rehearing as provided by Chapter 2001 of the Texas Government Code and this motion must show the following:

(1) the failure to timely file a written answer or appear at the SOAH hearing was caused by fraud, accident, or wrongful act or mistake of the Board;

(2) the failure to timely file a written answer or appear at the SOAH hearing was not the result of respondent's fault or negligence nor of respondent's representative if any;

(3) the respondent has a meritorious defense; and

(4) the motion for rehearing must be supported by affidavits and documentary evidence of the above and show a prima facie case for a meritorious defense.