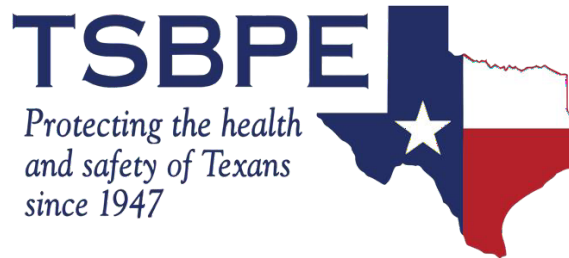


# TEXAS STATE BOARD OF PLUMBING EXAMINERS

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## Administrative Rules

January 2025



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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**

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 committee appointed by the presiding officer of the board created to assist the board in exercising its powers and duties.
- (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 the Plumbing License Law and 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 complaint filed with the Board against a person whose activities are subject to the jurisdiction of the Board.
- (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--Approved courses/programs required for a licensee or registrant.
- (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 or licensee 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.
    - (iii) Direct supervision may include remote virtual audio-visual, real-time communication for repair and replacement of existing fixtures, not involving gas appliances, on one and two family dwellings performed only by licensees and registrants with:
      - (I) 4000 hours of documented experience;
      - (II) a current Residential Utilities Installer registration; and
      - (III) a current Drain Cleaner registration.
  - (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 Registered Plumber's Apprentice's work by a licensed plumber, however, the Responsible Master Plumber must:
    - (i) provide for the training and management of the Registered Plumber's Apprentice by a licensed plumber;
    - (ii) provide for the review and inspection of the Registered 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 Registered Plumber's Apprentice and who is reviewing and inspecting the Registered 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 Registered Plumber's Apprentice and who reviewed and inspected the Registered 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 related to plumbing;
  - (B) qualify 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 complaints; and
    - (iii) assist municipal plumbing inspectors in cooperative enforcement 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 license, registration, certification, or endorsement 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. It does not include cutting into fuel gas plumbing systems and the installation of gas fueled 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 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.
- (38) Plumbing Company--A person who engages in the plumbing business.
- (39) Plumbing Inspection--Any of the inspections required in 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 the Plumbing License Law and the Board Rules; and
  - (E) 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 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, or successfully completed a career and technology education program, 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.

### **§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.

### **§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--\$300;
    - (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--\$300;
  - (B) Master Plumber License--\$75;
  - (C) Journeyman Plumber License--\$40;
  - (D) Plumbing Inspector License--\$55;
  - (E) Plumbing Inspector with a Master and/or Journeyman License--\$55;
  - (F) Master Plumber with Journeyman Plumber License--\$75;
  - (G) Tradesman Plumber-Limited License--\$35;
  - (H) Plumber's Apprentice Registration--\$15;
  - (I) Residential Utilities Installer Registration--\$18;
  - (J) Drain Cleaner Registration--\$18;
  - (K) Drain Cleaner-Restricted Registration--\$18.
- (4) Other Fees.
- (A) Late renewal
    - (i) Responsible Master Plumber License:
      - (I) less than 90 days--one-half renewal fee--\$150;
      - (II) more than 90 days--renewal fee--\$300;
    - (ii) Master Plumber License:
      - (I) less than 90 days--one-half renewal fee--\$37.50;
      - (II) more than 90 days--renewal fee--\$75;
    - (iii) Journeyman Plumber License:
      - (I) less than 90 days--one-half renewal fee--\$20;
      - (II) more than 90 days--renewal fee--\$40;
    - (iv) Plumbing Inspector License:
      - (I) less than 90 days--one half renewal fee--\$27.50;
      - (II) more than 90 days--renewal fee--\$55;
    - (v) 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;

(vi) 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;

(vii) Tradesman Plumber-Limited License:

- (I) less than 90 days--one half renewal fee--\$17.50;
- (II) more than 90 days--renewal fee--\$35;

(viii) Plumber's Apprentice Registration:

- (I) less than 90 days--one half renewal fee--\$7.50;
- (II) more than 90 days--renewal fee--\$15;

(ix) Residential Utilities Installer Registration:

- (I) less than 90 days--one half renewal fee--\$9;
- (II) more than 90 days--renewal fee--\$18;

(x) Drain Cleaner Registration:

- (I) less than 90 days--one half renewal fee--\$9;
- (II) more than 90 days--renewal fee--\$18;

(xi) Drain Cleaner-Restricted Registration:

- (I) less than 90 days--one half renewal fee--\$9;
- (II) more than 90 days--renewal fee--\$18.

(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 Board adopts by reference the rules of the Texas Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter B (relating to Historically Underutilized Business Program). These rules were promulgated by the Texas Comptroller of Public Accounts under Government Code §2161.002.

### **§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**

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

### **§361.13 Board Committees**

The Board may create committees to assist the Board in exercising its powers and duties. The presiding officer of the Board shall appoint the members of committees.

### **§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.

**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, endorsement, and/or renewal 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) and Federal Bureau of Investigations 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: Master Plumber license, Tradesman Plumber-Limited License, and Journeyman Plumber 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.

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

To be eligible for a Master Plumber License an applicant must have held a Journeyman Plumber License issued in Texas or another state:

- (1) for at least four years; or
- (2) 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.

#### **§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 an approved instructor in an 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 an approved person and based on approved course materials.
- (d) 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 if the applicant:
  - (1) has completed the classroom portion of a training program provided by an approved person and based on approved course materials;
  - (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 shall include:
  - (1) two (2) six-hour Continuing Professional Education (CPE) classes as required by 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 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 approved training provided by an approved instructor in an approved training program in the areas of health and safety, the latest version of all plumbing codes adopted by the Board, and water conservation. The training hours must include:
    - (A) one (1) six-hour apprentice continuing professional education class;
    - (B) the OSHA 10-Hour Outreach Training class; and
    - (C) the eight (8) hours of training on residential plumbing installation;
  - (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, an applicant may be credited up to 1,000 hours of the work experience required to take the Tradesman Plumber-Limited examination if the applicant has completed a training program that is:
- (1) approved by the United States Department of Labor, Office of Apprenticeship; or
  - (2) provided by an approved person and based on approved course materials.
- (c) 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 an approved person and based on approved course materials;
  - (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) An applicant that has successfully completed a high school career and technology education program as provided by 1301.3542 of the Texas Occupations Code is exempt from requirements in subsection (a) of this section.

### **§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 hold one of the following:
- (1) a current Journeyman or Master Plumber License issued in Texas or another state;
  - (2) a current Plumbing Inspector license issued in another state with licensing requirements substantially equivalent to the licensing requirements of the Board; or
  - (3) a current professional engineer or a professional architect license issued in Texas.
- (b) An applicant who holds a Journeyman or Master Plumber License issued in another state must take and pass the examination developed by the Board.
- (c) An applicant is exempt from the licensure requirement listed in subsection (a) 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) One-hundred (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) One-hundred (100) hours of credit for successful completion of an approved Medical Gas Piping Installation Endorsement training program;
- (3) One-hundred (100) hours of credit for successful completion of an approved Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement training program;
- (4) One-hundred (100) of hours credit for successful completion of an approved Water Supply Protection Specialist Endorsement training program;
- (5) One-hundred (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 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 Endorsement**

- (a) To be eligible for a Medical Gas Piping Installation Endorsement an applicant must:
  - (1) hold a current Texas Journeyman Plumber, Master Plumber, or Plumbing Inspector License; and
  - (2) have successfully completed an 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), or may demonstrate the successful completion of the Professional Qualification Standard for Medical Gas Systems Personnel Series 6000, Standard 6010, latest edition, recognized by the American Society of Sanitation Engineers (ASSE).
- (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 an 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 Texas Administrative 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 an 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, 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 an 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 an 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 an 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 agency.
- (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 agency may approve, without Board approval, the application for a license, endorsement, or registration of an individual who has a criminal conviction, if the staff finds that the criminal conviction is not directly related to plumbing.
- (1) The agency may request an applicant with a criminal conviction to appear before the staff and present information relating to the applicant's criminal conviction.
  - (2) If the agency review determines that an applicant is ineligible for a license, endorsement, or registration based on the applicant's criminal conviction, the agency 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 determination.
  - (3) If a denied applicant fails to submit a timely request for a hearing under paragraph (2) of this subsection, the agency 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) The Board will not process incomplete applications.
- (c) An applicant shall receive notification of written or practical examination with 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 agency 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 agency, 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 agency.
- (e) Emergencies will be subject to verification by the agency. 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) 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 agency 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 an approved CPE Course Provider may provide or instruct a training program.
- (b) Only a Course Instructor who is approved to instruct CPE courses may instruct a training program provided that the instructor:
  - (1) is licensed as a Master Plumber, Plumbing Inspector, or Journeyman Plumber; and
  - (2) holds the endorsement that corresponds to the training program the Instructor will teach.
- (c) A Course Provider or Instructor whose approval is suspended or revoked for any reason, may not provide or instruct any training.
- (d) All Course Providers and Instructors shall:
  - (1) adhere to the approved instruction criteria;
  - (2) ensure that only students who complete a course or training receive credit; and
  - (3) provide a certificate of completion to a student upon completion of the training.
- (e) The certificate of completion shall state:
  - (1) the title of the endorsement training program;
  - (2) the names of the Course Provider and Course Instructor;
  - (3) the name and license number of the student; and
  - (4) the date that the instruction was completed.
- (f) 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;
  - (3) submit a course outline that includes the number of hours of instruction on each topic included in the outline to the executive director for approval; and
  - (4) 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) 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.
- (h) The executive director 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) An approved CPE Course Provider or Course Instructor may provide instruction in plumbers professional training related to health and safety, the latest version of all plumbing codes adopted by the board, and water conservation.
- (b) An approved Course Instructor must be authorized by OSHA to provide OSHA instruction. A person who is an OSHA authorized construction trainer, but is not an approved instructor, may teach OSHA instruction through an approved Course Provider, so long as an approved Course Instructor is also present.
- (c) Approved Course Providers and Instructors shall:
  - (1) teach the approved material;
  - (2) ensure that only students who complete the course receive credit;
  - (3) provide notice of intent to conduct training required by posting the course schedule on the provider's website or sending electronic notice to the at least seven (7) days before instruction;
  - (4) abide by the same standards of conduct required of approved continuing professional education providers;
  - (5) provide a certificate of completion to the student. 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; and
  - (6) maintain an electronic copy or record of each certificate of completion for at least six (6) years after the date the certificate was issued.
- (d) An applicant for examination is responsible for the safekeeping of each original certificate of completion earned by the applicant.
- (e) Providing false certificates of completion or any other false information related to the training required by 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.
- (f) A Course Provider or Instructor whose approval is suspended or revoked for any reason may not provide instruction.

**§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) Criminally 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 agency 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 agency 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 agency 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) The scope of plumbing work that an individual may perform is dictated by the type of license, endorsement, or registration held.
- (b) An individual who holds a current Master Plumber License and meets the requirements of a Responsible Master Plumber (RMP):
  - (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.
- (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; 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 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 Texas Administrative 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 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. A Plumbing Inspector may perform a Customer Service Inspection 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 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) 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.
- (k) 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.
- (l) 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.

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

- (a) Before the expiration of a license, registration, or endorsement, a holder must:
  - (1) submit a completed renewal application form;
  - (2) obtain the required number of continuing education hours and/or training; and
  - (3) pay the required fee(s).
- (b) Renewal application forms not completed by the licensee, registrant or endorsement holder's annual expiration date are considered late and are subject to late fees.
- (c) Late renewal applications will have an unlicensed period from the expiration date of the previous license, registration or endorsement to the issuance date of the renewed license, registration or endorsement. Plumbing work that requires a license, registration or endorsement issued under this chapter shall not be performed during the unlicensed period.

**§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 required fee.

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

- (a) A licensee or registrant shall notify the Board in writing of any legal name change, or change of physical or email address, not later than thirty (30) days after the change becomes final.
- (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.

**§365.14 Continuing Professional Education and Training Requirements**

- (a) A licensee, drain cleaner registrant, drain cleaner-restricted registrant, residential utilities installer registrant or endorsement holder has twelve (12) months to obtain at least six (6) hours of continuing education or training required for a timely annual renewal.
- (b) A person whose license, drain cleaner registration, drain cleaner-restricted registration, residential utilities installer registration or endorsement has been expired for less than two (2) years must complete at least six (6) hours of continuing education or training for each year the license, drain cleaner registration, drain cleaner-restricted registration, residential utilities installer registration or endorsement was expired.
- (c) Continuing education and training program courses may be taken in person, via correspondence course or virtually by means of telecommunications equipment, as applicable.

**§365.15 Curriculum Minimum Standards**

- (a) Curriculum must:
  - (1) directly relate to the technical, legal or ethical aspects of plumbing, including grounds for discipline and professional responsibility;
  - (2) keep licensees, registrants and endorsement holders informed of innovations, best practices and significant developments affecting the plumbing profession;
  - (3) be tailored to registrants, if for use in a training program;
  - (4) be tailored to licensees and endorsement holders, if for use in a continuing education course;
  - (5) be structured to engage students by allowing them the opportunity to apply the content and skills being taught;
  - (6) be based on the Plumbing License Law and Board Rules in effect at the time of approval;
  - (7) be based on the currently adopted plumbing code(s) in effect at the time of approval or later edition(s);
  - (8) be based on current Occupational Safety and Health Administration (OSHA) regulations in effect at the time of approval;
  - (9) meet or exceed the water saving performance standards in Section 372.002 of the Texas Health and Safety Code in effect at the time of approval;
  - (10) meet or exceed the energy efficiency performance standards in Section 388.003 of the Texas Health and Safety Code in effect at the time of approval; and
  - (11) be comprehensive enough to support a course or training at least one (1) hour in length.

- (b) The Executive Director will approve continuing professional education and training courses and associated materials that meet the minimum curriculum standards.
- (c) Course materials are valid for two (2) years from the stated effective date or the date they are approved, whichever is later.
- (d) The following curriculum is approved for continuing education and training credit without the need for an individual or organization to submit any type of application or application fee:
  - (1) Occupational Safety and Health Administration (OSHA) Outreach Training Program's 10 or 30 hour Construction Card course;
  - (2) Occupational Safety and Health Administration (OSHA) Outreach Training Program's 7.5 or 15 hour Disaster Site Worker Card course;
  - (3) Occupational Safety and Health Administration (OSHA) Outreach Training Program's Occupational Safety and Health Standards for the Construction Industry course (#510);
  - (4) Occupational Safety and Health Administration (OSHA) Outreach Training Program's Excavation, Trenching and Soil Mechanics course (#3015);
  - (5) Occupational Safety and Health Administration (OSHA) Outreach Training Program's Introduction to OSHA for Small Businesses (#7510);
  - (6) American Red Cross Cardiopulmonary Resuscitation (CPR) certification course;
  - (7) American Red Cross Automated External Defibrillator (AED) certification course;
  - (8) American Red Cross First Aid certification course;
  - (9) NFPA 99, Medical Gas Systems (2021): Training Preparation for ASSE Series 6000 certification and recertification courses; and
  - (10) ASSE Series 12000 certification and recertification courses in Infection Control.
- (e) It is the responsibility of licensees, registrants and endorsement holders to ensure that they are taking a bona fide course though these organizations taught by instructors authorized by these organizations and to submit an official certificate of completion or similar documentation to the Board in order to receive credit.

**§365.19 Course and Training Providers**

- (a) A Course Provider may offer a course or training program required for the renewal of a license, endorsement or registration.
- (b) A Course Provider shall only allow approved Course Instructors to teach the courses and training programs it offers.
- (c) A Course Provider shall present courses and training programs in segments that are at least one (1) hour in length.
- (d) 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 course or training program. A Course Provider may incorporate materials or presentations by a manufacturing representative into their courses; however, those presentations may not contain gratuitous advertising as only educational and informative portions of the presentation will be counted towards the number of credit hour(s) given.



- (e) 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.
- (f) 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.
- (g) If cancellation of the course is unavoidable, the Course Provider shall:
  - (1) immediately notify each student affected by the cancellation;
  - (2) offer to refund or reschedule the cancelled course; and
  - (3) notify the Board of the cancellation within forty-eight (48) hours.
- (h) A Course Provider shall furnish a certificate of completion of CPE to each licensee, endorsement holder, and registrant who completes a course or training program 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; and
    - (C) the date the instruction was completed.
  - (2) Within three (3) business days of issuing a certificate of completion, a Course Provider shall electronically submit certification of each student's completion of any CPE requirements.

**§365.20 Course Instructors for Continuing Professional Education and Training Programs**

- (a) A Course Instructor must hold a current Journeyman, Master Plumber or Plumbing Inspector License issued by the Board that is in good standing in order to teach general continuing education or training programs.
- (b) A Course Instructor must:
  - (1) hold a current medical gas piping endorsement issued by the Board that is in good standing in order to teach continuing education or training programs on:
    - (A) how to install pipe to transport gas for medical purposes;
    - (B) how to install a vacuum used for medical purposes;
    - (C) how to inspect medical gas piping installations;
    - (D) how to verify medical gas and vacuum piping integrity; and
    - (E) material from NFPA 99; Health Care Facilities Code.
  - (2) hold a current multipurpose residential fire protection sprinkler specialist endorsement issued by the Board that is in good standing in order to teach continuing education or training programs on:
    - (A) how to design, install or inspect a multipurpose residential fire protection sprinkler system; or
    - (B) material from NFPA 13; Standard for the Installation of Sprinkler Systems,
  - (3) hold a current water supply protection specialist endorsement issued by the Board that is in good standing in order to teach continuing education or training programs on:
    - (A) how to perform Texas Commission on Environmental Quality (TCEQ) customer service inspections to identify potential contaminant hazards, and illegal lead materials, and to prevent cross-connections;

- (B) how to install, service and repair plumbing associated with the treatment, use and distribution of rainwater to supply a plumbing fixture or appliance;
  - (C) material from American National Standard Institute/NSF International Standard 60 for Drinking Water Treatment Chemicals; and
  - (D) material from American National Standards Institute/NSF International Standard 61 for Drinking Water System Components.
- (c) The Executive Director will approve an instructor to teach continuing education or training programs who meets the minimum qualifications, submits a complete application and pays the required application fee.
  - (d) A Course Instructor must comply with the Plumbing License Law and Board Rules, including the standards of conduct for licensees and registrants.
  - (e) A Course Instructor has a responsibility to teach approved material that meets curriculum standards and to report students' successfully completed hours no later than three (3) business days after the course ends.
  - (f) The Board will randomly monitor Course Instructors for quality of instruction and compliance with the Plumbing License Law and Board Rules.

**§365.21 Continuing Professional Education and Training 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 or demonstrate successful completion of a national certification 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 course shall include an authorized copy of the current edition of the NFPA 99 or an authorized 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.
  - (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) A Course Provider shall not require a student to purchase a copy of the current edition of the NFPA 99 or 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 may provide a medical gas CPE course.

- (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.
- (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 Service Members, Military Veterans and Military Spouses**

- (a) Military service members, military veterans and military spouses who held a license issued by the Texas State Board of Plumbing Examiners in the five years preceding their application date will be issued the same license type as that which was previously held.
- (b) Military service members, military veterans and military spouses who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirement for the license in this state will be issued the same license type as that which is held in the other jurisdiction.
- (c) The Board will identify which out-of-state licenses held by military service members, military veterans and military spouses have substantially equivalent licensing requirements on a case-by-case basis by comparing the out-of-state jurisdiction's requirements at the time the out-of-state license was issued to the Board's current requirements.
- (d) Military service members, military veterans and military spouses who do not qualify for a license under Subsection (a) or (b) of this section may request that the Executive Director review the military service member's, military veteran's or military spouse's alternative credentials, including training, education and experience for the purposes of granting prerequisites to obtaining a license.
- (e) The Board shall process an application submitted by a military service member, military veteran, or military spouse as soon as practicable. Applicants deemed qualified will be issued a license and information on the requirements to renew the license in 12 months.
- (f) Licensing and examination fees payable to the Board are waived for military service members, military veterans and military spouses as provided by Chapter 55 of the Texas Occupations Code. Late fees incurred while on active duty are waived for military service members.
- (g) Military spouses who do not wish to obtain a Texas plumbing license may apply, at no cost, for their out-of-state license to be recognized instead by submitting:
  - (1) proof of Texas residency, including, but not limited to, a copy of the permanent change of state order for the military service member to whom the spouse is married;
  - (2) a copy of the spouse's military identification card; and
  - (3) a copy of the out-of-state license showing that it is current and in good standing at the same time of their application.
- (h) A military spouse's application for out-of-state recognition will be presumed to show their intent to practice in Texas.
- (i) If the Board determines that the jurisdiction where the military spouse is currently licensed has licensing requirements that are substantially equivalent to the requirements for a Texas license as provided for by Subsection (c) of this section, then the military spouse may engage in plumbing in Texas for a maximum of three (3) years from the date of recognition without a Texas license.

- (j) Military spouses approved to use their out-of-state license to engage in plumbing in Texas pursuant to Section 55.0041 of the Texas Occupations Code must comply with Chapter 1301 of the Texas Occupations Code and all other applicable laws and regulations.
- (k) Military service members and military veterans who do not hold a current out-of-state license or who have not held a Texas license in the five (5) years preceding their application may have their military experience credited toward license eligibility and apprenticeship requirements by submitting evidence of:
  - (1) verified military service (DD Form 214 or equivalent);
  - (2) training in plumbing or a related field; and
  - (3) education in plumbing or a related field.
- (l) Military service members and military veterans who do not hold a current out-of-state license or who have not held a Texas license in the five (5) years preceding their application must not have a restricted license in another jurisdiction or an unacceptable criminal history to be eligible to sit for an examination for licensure.

**§365.23 Transfer of License**

The Board shall transfer a license to a person who:

- (1) meets the requirements set forth in the Plumbing License Law; and
- (2) submits the following:
  - (A) the required application;
  - (B) the required fee; and
  - (C) a notarized Transfer of License Affidavit that is signed by the transferor or a valid will executed by the transferor.

**§365.24 Continuing Education and Training Exemptions**

The following are exempt from Continuing Professional Education and Training requirements:

- (1) a military service member on active duty who submits documentation establishing active duty status during the period in which the military service member is claiming an exemption;
- (2) a Board employee who reviews submitted course materials to determine if the materials meet the minimum standards for curriculum or who monitors courses to ensure compliance with the plumbing license law and Board rules; and
- (3) a course instructor approved for the period in which they are claiming an exemption.
- (4) an employee, contractor, or volunteer of a high school or institution of higher education, who provides at least 18 hours annually of instruction or training for a career and technology education program, may renew any license or endorsement if the person completes six (6) hours of continuing education or training at least every three (3) years.

**§365.25 Temporary License**

- (a) The agency may issue temporary licenses to qualified, out-of-state plumbing professionals to work in Texas if the Governor of Texas issues a disaster proclamation, or in an event determined by the Executive Director;

- (b) Temporary license holders may only engage in the activities authorized by the license type during the disaster recovery period and only in the designated disaster area; and
- (c) An emergency license expires 30 days after issuance.

## **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 and plumbing inspectors under §1301.503 and §1301.551 of the Texas Occupations Code and to political subdivisions under §1301.255, and any associated rules, shall 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, shall 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 2018 Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials; and
  - (2) The 2018 International Plumbing Code, as published by the International Code Council and the codes incorporated by reference within the 2018 International Plumbing Code, including:
    - (A) the 2018 International Fuel Gas Code; and
    - (B) the 2018 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 Rules.
- (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 including 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.

**§367.4 Standards of Conduct - Plumbing Inspectors**

- (a) 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 by the board, 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;
  - (3) a notice of correction or other document used to show plumbing work has failed inspection;
 or

- (4) any correspondence, including but not limited to emails.

### **§367.5 Responsibilities of RMP-General**

- (a) 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.
- (b) 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.
- (c) 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.
- (d) A RMP acting in accordance with subsection (c) 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 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 including 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 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 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) A licensee who contracts for or otherwise agrees to perform plumbing work is not in violation of the PLL if the licensee has a written subcontracting agreement with a person or company that has secured the services of a RMP.
- (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 the PLL and board rules.

### **§367.10 Display of RMP Name and License Number**

- (a) Display of License Number on Service Vehicle. Both the RMP of record and owner of a plumbing company shall ensure that the RMP's license number and the company name are displayed on both sides of all service vehicles owned or operated by the company, or otherwise used in conjunction with providing plumbing work by, or on behalf of, the company. The license number must be preceded by the letters "M", "MPL", or "RMP". The letters and numbers must be placed on the body of the vehicle and must be of a contrasting color, and at least two inches in height.
- (b) Disclosure of Licensure and Regulatory Oversight on Contracts. 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-point font:
  - (1) the first and last name of the RMP of record;
  - (2) the license number of the RMP of record;
  - (3) the phrase "regulated by the Texas State Board of Plumbing Examiners"; and
  - (4) the Board's mailing address, phone number, and website address ([tsbpe.texas.gov](http://tsbpe.texas.gov)).
  - (5) For the purposes of this subsection, the terms "proposal," "invoice" and "contract" include any and all documents used to define the scope and/or cost of the work to be performed for a consumer. This would include items such as written estimates, 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.
- (c) Disclosure of Licensure on Advertisements. Both the RMP of record and owner of a plumbing company shall ensure that all advertisements by a plumbing company designed to solicit plumbing business state the license number of the RMP of record, regardless of the type of media used. This includes business cards, "flyers," referral coupons, or other handouts. The following advertising does not require disclosure of the license number:
  - (1) nationally-placed, or interstate television advertising; provided, a statement is included indicating that license numbers for local providers are available upon request;
  - (2) Internet advertising by a franchisor on behalf of its franchisees; provided, a statement is included indicating that license numbers for local providers are available upon request;
  - (3) advertisements that do not contain a visual component, such as radio advertisements or solicitations by phone call; provided, the solicitor must include a statement indicating that the plumbing company complies with state licensing requirements. The license number of the RMP of record must be made available upon request;
  - (4) promotional items of nominal value such as ball caps, T-shirts or other clothing (including company uniforms);
  - (5) signs located on or adjacent to the plumbing company's permanent business location; or
  - (6) telephone book listings or other company information aggregated by a third party for which the plumbing company does not possess editorial control or influence over the content, and does not otherwise participate in the dissemination or promotion of such content.

### **§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. The plumbing inspector must be affiliated with the political subdivision having jurisdiction.
- (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) 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 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. The Board will investigate complaints from the public validly filed in accordance with Board Rules. 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 staff 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 Rules 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 a 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. 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;
  - (3) the date the complaint is received by the agency;
  - (4) the investigation priority number assigned;
  - (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 to identify geographical areas of concern where enforcement activities should be focused and make recommendations to 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 and staff will review the findings of the investigation with recommendations for disposition of the complaint.

### **§367.16 Complaint Review**

- (a) The staff shall pursue expeditious resolution of complaints by voluntary agreed settlement, whenever appropriate.
- (b) The staff 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 staff 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 staff 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 staff may offer an informal conference to a respondent, in accordance with the requirements of the Administrative Procedure Act, if it will assist the staff 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 agency 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 agency staff; 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 agency's determination and recommended administrative penalty, sanction, or both, or make a written request for a hearing on the determination, the staff 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 staff 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.
- (e) If the Respondent agrees to settle the matter without a formal hearing and accepts the determination and amount of penalty recommended by staff, 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 staff 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 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 staff 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 agreement 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. 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.

| <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);<br>§367.11                          | \$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);<br>§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)<br>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)<br>and (4); §367.9(b);<br>§367.11(e) | \$3,000   |
| 7.                        | Performing a plumbing inspection while having a financial or advisory interest in a plumbing company   | §1301.353;<br>§367.4(a)(1)                           | \$4,000   |
| 8.                        | Performing a plumbing inspection without the proper license  | §1301.351(b);<br>§367.11(b)                          | \$4,000   |
| 9.                        | Engaging in plumbing without the proper license, registration or endorsement   | §1301.351(a);<br>§367.11(a)                          | \$4,000 (+\$1,000 if work involved natural gas)           |
| 10.                       | Employing an unlicensed or unregistered person   | §1301.452(a)(5);<br>§367.11                          | \$4,000   |
| 11.                       | Failing to supervise   | §1301.351(a)(2);<br>§367.5(d)                        | \$4,000   |
| 12.                       | Misrepresenting services provided or services to be provided   | §1301.452(a)(3);<br>§367.3(c)                        | \$4,000   |
| 13.                       | Making a false promise with the intent to induce a person to contract  | §1301.452(a)(4);<br>§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);<br>§367.9(a)                         | \$5,000   |

|                           |   |   |  |
|---------------------------|---|---|--|
| 16.                       | Allowing illegal use of a RMP license   | §367.11(f);<br>§367.5(b)                                  | \$5,000  |
| 17.                       | Failing to maintain insurance while acting as a RMP   | §1301.351(a-1);<br>§1301.3576;<br>§1301.552;<br>§367.6(a) | \$5,000  |
| 18.                       | Willfully, negligently, or arbitrarily violating a municipal rule or ordinance  | §1301.452(a)(2);<br>§367.3(d)                             | \$5,000  |
| 19.                       | Failing to provide a six-hour continuing professional education course  | §1301.404;<br>§1301.405;<br>§365.19(c);<br>§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 |
| 21.                       | Failing to cooperate with the Board and its field representatives during the investigation of a complaint.  | Rule 367.15(d)  | \$3000   |
| 22.                       | Failing to cooperate with a field representative conducting an on-site license or registration check.   | Rule 367.12(b)  | \$3000   |
| 23.                       | Failure to meet the statutory requirement that requires a municipality or other political subdivision, that requires a plumbing contractor to obtain a permit before the person performs the plumbing, to accept permit applications, collect required fees, and issue the required permits by telephone, fax, or e-mail. | §1301.551   | \$2,500  |
| <b>CLASS B VIOLATIONS</b> |   |   |  |
| 1.                        | Engaging in plumbing without direct supervision   | §1301.351(a);<br>§365.1(i);<br>§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;<br>§367.10(b)                                  | \$1,000  |

|     |   |                                |         |
|-----|---|--------------------------------|---------|
| 3.  | Failing to permanently display RMP license number or company name on both sides of a service vehicle  | §367.10(a)                     | \$1,000 |
| 4.  | Failing to display or state RMP license number in an advertisement for plumbing   | §367.10(c)                     | \$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);<br>§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;<br>§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);<br>§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) Upon a determination that a violation of the PLL, an order issued by the board, or a board rule has occurred, the Board 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 staff 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 staff 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 staff proposes to deny an application for examination or registration or revoke or suspend a license, registration, or endorsement, staff 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 staff'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 staff shall be delegated the authority of making the initial review of the re-application. If the staff decides to deny the re-application it shall proceed as defined in subsection (a) of this section.

#### **§367.20 Informal Settlement 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 Rules, 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 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.
- (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.