

BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

**FIRE ALARM BURGLAR ALARM AND LOCKSMITH
ADVISORY COMMITTEE**

MINUTES OF OCTOBER 7, 2003

PUBLIC SESSION

The notice of this special meeting was prepared in the Office of the Board and mailed to the Secretary of State, the Star Ledger, the Trenton Times and the Courier Post.

CALL TO ORDER

The special meeting of the Fire Alarm, Burglar Alarm and Locksmith Advisory Committee was called to order by Chairman Robert Shoremount at 9:30 a.m. in the Essex Room, Seventh Floor, 124 Halsey Street, Newark, New Jersey. All parties were duly notified of the date, time and location of this meeting and pertinent material was provided to meeting participants.

Advisory Committee members recited the Pledge of Allegiance prior to the roll call of members.

ROLL CALL

Committee Members Present:

Martin Arnold
Robert Boyer, Vice Chairman
Keith Eaves
Charles Okun
Richard Rible
Robert Shoremount, Chairman
Jon Sprague
Barry S. Starer

Others Present:

Anthony Miragliotta, Deputy Director
Joseph Cantalupo, Board of Examiners of Electrical Contractors
Barbara A. Cook, Executive Director
Charles Manning, Regulatory Analyst
George DeLuca, Administrative Analyst
Sally Barletta, Senior Clerk Transcriber
Joseph Donofrio, Deputy Attorney General

Committee members Richard Aicher, Edward Bagniewski, Arthur Fucetola, William Hartung, and Leo Selb were unable to attend.

Members of the Public:

Eugene R. George, Jr.

GENERAL ANNOUNCEMENTS

Regulatory Analyst Charles Manning was introduced to the Advisory Committee. Mr. Manning attended the meeting in place of Regulatory Analyst Maryann Sheehan.

REVIEW OF PUBLIC COMMENTS FOR PROPOSED RULES, N.J.A.C. 13:31A, FIRE ALARM, BURGLAR ALARM, AND LOCKSMITH LICENSEES AND BUSINESSES

COMMENT: Mr. Coltri expressed concern regarding the exemption from licensure provided for licensed professional engineers pursuant to N.J.A.C. 13:31A-1.1(c)6. The provision authorizes licensed professional engineers to perform alarm work when the alarm system is part of a larger project. The commenter believes that an engineer, who is trained in specialized electronics and radio frequency compatibility, may be called upon to provide services that exceed the authority granted in the exemption. A licensed professional engineer should be permitted to survey, design, prepare specifications, supervise installation, and evaluate the installed system to assure that design specifications are attained, without the security system being part of another project. The commenter noted that the security system itself is a significant technical design that should stand alone from its association with other projects. The design, specifications and investigation of malfunctions in a complex system are the type of services that can be supplied by a licensed professional engineer. The commenter noted further that many in the alarm installation business do not have detailed training in computer programming, electronic devices and radio spectrum engineering and, therefore, cannot provide a licensed professional engineer's level of expertise.

RESPONSE: The licensure exemption provided for licensed professional engineers in N.J.A.C. 13:31A-1.1(c)6 is derived from the exemption provided for such individuals in the Act at N.J.S.A. 45:5A-2(f). N.J.S.A. 45:5A-2(f) provides that "installation" for purposes of an "alarm business" does not include "any survey, design or preparation of specifications for equipment or for a system that is prepared by an engineer licensed pursuant to ... N.J.S.A. 45:8-27 et seq., ... if the survey, design, or preparation of the specifications is part of a design for construction of a new building or premises or a renovation of an existing building or premises, which renovation includes components other than the installation of a burglar alarm, fire alarm or electronic security system...." The Act further provides that "installation" shall not include the design or preparation of specifications for the equipment or system to be installed that are within the practice of professional engineering. The Committee cannot expand the scope of the exemption provided in the Act by authorizing a professional engineer to perform services other than those listed in N.J.S.A. 45:5A-2(f). The Committee disagrees with the commenter's contention regarding the skill of alarm installers

and notes that licensed alarm installers will indeed be qualified to perform the various functions associated with the installation, servicing and maintenance of burglar alarm, fire alarm and electronic security systems. The Committee believes that if licensed professional engineers wish to perform installation, servicing and maintenance of alarm systems beyond the limitations imposed pursuant to N.J.S.A. 45:5A-2(f), such persons must apply for a burglar alarm and/or fire alarm license from the Committee.

COMMENT: Mr. Coltri observed that the definitions of “burglar alarm business” and “fire alarm business” in N.J.A.C. 13:31A-1.2 involve the installation, servicing and maintenance of the systems, but noted that a licensed professional engineer may also be called upon to provide some of these services, irrespective of whether the alarm system is part of a larger project. The commenter noted that an engineer may be asked to evaluate a specific problem with a system and propose solutions. The engineer should be allowed to perform this function and to adjust operating parameters, radio frequency devices, computer programs and other technical specifics of a complex system. The commenter also noted that the functions included in the definitions of “installation” and “commissioning” provided in N.J.A.C. 13:31A-1.2 are also functions which may be performed by a licensed professional engineer. The commenter noted that a professional engineer is required, under the rules of the State Board of Professional Engineers and Land Surveyors, to maintain responsible charge of a project, which would include conducting or supervising system tests to ensure the system is performing properly.

RESPONSE: The Committee does not disagree with the commenter’s assertion that, as a licensed professional engineer, he would be required under professional rules of conduct to maintain control of a project, including conducting or supervising system tests. The Committee believes that a licensed professional engineer’s performance of such activities in connection with an alarm installation would be appropriate. Such activities, however, must be limited to the scope of the exemption provided in N.J.S.A. 45:5A-2(f). If a licensed professional engineer wishes to perform functions or activities associated with alarm installation, other than those listed in N.J.A.C. 13:31A-1.2 and N.J.S.A. 45:5A-2(f), he or she must obtain a burglar alarm and/or fire alarm license from the Committee.

COMMENT: Mr. Ficke observed that it is his belief that the New Jersey Burglar and Fire Alarm Association (the Association) was the driving force behind the passage of the Act and the creation of the Committee. The intent of the Association’s actions, the commenter believes, was to drive small alarm dealers out of business.

RESPONSE: The Committee disagrees with the commenter’s assertion and notes that the New Jersey Legislature was responsible for passage of the Act. The intent of the Act was the promotion of the health, safety and welfare of New Jersey consumers and not, as the commenter suggests, harming small businesses.

COMMENT: Mr. Ficke questioned where an applicant for waiver of the burglar alarm or fire alarm examination could obtain the 40 hours of technical training required pursuant to N.J.A.C. 13:31A-3.3(a), noting that if the Association is the only entity providing such training an apparent conflict of interest would arise. In addition, the commenter believes that subsection (c) of N.J.A.C. 13:31A-3.3, which provides a waiver of the alarm examination and the 40 hours of technical training for any applicant engaged in the alarm business for one year on a full-time basis, is discriminatory and that its sole purpose is to drive small alarm dealers out of business. The commenter believes that an applicant should be able to present proof of having passed a certain number of final inspections in order to establish his or her eligibility for the waiver of the examination and technical training requirements. In the alternative, the commenter believes that an applicant for a waiver of the examination and the technical training should be allowed to present proof of having reported income from a burglar or fire alarm business to the Federal Internal Revenue Service, in order to show the existence of a legitimate business.

RESPONSE: Applicants seeking waiver of the examination pursuant to N.J.A.C. 13:31A-3.3(a) may obtain the 40 hours of required training from various sources, including vocational schools, community colleges and private business associations. The Committee anticipates that other training resources will become available in the future, following final promulgation of the rules. The Committee notes that it has not approved any providers of the 40 hours of training at this time.

The Committee disagrees with the commenter's assertion that the 40 hours of training required for waiver of the examination pursuant to N.J.A.C. 13:31A-3.3(a) is discriminatory toward small business owners. The requirement is imposed upon applicants pursuant to N.J.S.A. 45:5A-27(a)4, which provides that the waiver of the examination shall be based upon proof of having completed 40 hours of technical training. The Act further provides that the examination and technical training may both be waived only if an applicant has been engaged in the alarm business for at least one year. N.J.S.A. 45:5A-27(a)4 does not authorize the Committee to use final inspections or the reporting of income from an alarm business to qualify an applicant for waiver of the examination.

COMMENT: Mr. Ficke objected to the requirement that applicants for licensure complete certain educational requirements, noting that other licenses, including a State driver's license or a Federal pilot's license, may be obtained by passing an examination alone. The commenter also inquired as to who will develop the written examination utilized by the Committee.

RESPONSE: N.J.S.A. 45:5A-27 provides that applicants for alarm licensure shall, in addition to passing a licensure examination, meet qualifications established by the Committee regarding experience and training. The Committee does not believe that the commenter's comparison of the Committee-issued license to a driver's license and/or pilot's license is inaccurate. Unlike the other licenses referenced by

the commenter, a Committee-issued license allows an individual to hold himself or herself out to the general public as qualified to perform regulated services in exchange for a fee. The burglar alarm and the fire alarm examinations will be developed, in consultation with the Committee, by an independent entity chosen by the Committee.

COMMENT: Mr. Ficke requested an explanation regarding the discrepancy in the amount of general liability insurance required to be maintained by a locksmith business license holder pursuant to N.J.A.C. 13:31A-2.6 (\$500,000) and an alarm business license holder pursuant to N.J.A.C. 13:31A-3.5 (\$1,000,000).

RESPONSE: N.J.S.A. 45:5A-32(a)4 requires a business providing locksmithing or alarm services to maintain liability insurance in an amount determined by the Board. Pursuant to this authority and based on industry standards, the Committee has proposed differing requirements for the maintenance of general liability insurance for locksmithing businesses in N.J.A.C. 13:31A-2.6 and alarm businesses in N.J.A.C. 13:31A-3.5. In practice, the value associated with projects performed by alarm companies, which often entail building-wide installations, is much greater than the value of projects performed by locksmithing businesses, which are often limited to smaller components within a premise. Such differing project values result in differing levels of risk to licensees, and as such, the Committee believes that different levels of liability insurance are, therefore, justified.

COMMENT: Mr. Ficke believes that the new rules make no provision for a small business owner such as himself to continue to service his existing customers.

RESPONSE: The Committee disagrees with the commenter's assertion and notes that the fee schedule set forth at N.J.A.C. 13:31A-1.4 establishes different fees for small businesses.

COMMENT: Mr. Pritchard, on behalf of the New Jersey Burglar Alarm and Fire Alarm Association (the Association), believes that the use of the disjunctive word "or" throughout N.J.A.C. 13:31A-3.1, 3.2 and 3.3 creates a potential ambiguity in the rules. The commenter noted that as currently written, the rules are unclear as to whether an applicant can fulfil the requirements for fire alarm licensure by complying with the requirements for burglar alarm licensure. Specifically, the commenter noted that, as written, it is unclear whether an applicant for licensure under N.J.A.C. 13:31A-3.1(a)6 who completes the burglar alarm examination will have successfully completed the examination requirement necessary to obtain a fire alarm license. In addition, the commenter referred the Committee to N.J.A.C. 13:31A-3.3(c), which provides that an applicant for the examination exemption may submit proof of having been engaged in the "burglar alarm or fire alarm business." The Association believes that the provision may

be interpreted to allow an applicant for fire alarm licensure to use his or her experience in the installation, servicing or maintenance of burglar alarms to qualify for the examination exemption. The Association also pointed out that N.J.A.C. 13:31A-3.4(a)7, which provides that an applicant for an alarm license must present evidence of having completed the technical training required in N.J.A.C. 13:31A-3.1, fails to differentiate between the training required for a burglar alarm license and a fire alarm license. The Association believes that the competencies and disciplines applicable to the installation, service and maintenance of burglar alarms and electronic security systems differ from the competencies and disciplines applicable to the installation, service and maintenance of fire alarms. The Association, therefore, recommends that the new rules be amended to separate the requirements for burglar alarm and fire alarm licensure into separate rules.

RESPONSE: The Committee does not believe that it is necessary to separate the requirements for burglar alarm and fire alarm licensure into separate rules and notes that the Committee proposed the rules in one subchapter for the sake of brevity in light of the fact that most of the requirements for both licenses are the same. The Committee believes that the requirements applicable to each discipline are clear. In its review of the Association's comments, however, the Committee has determined that some minor amendments to the rules are necessary in order to clarify the Committee's intention with regarding to the experience and training required of burglar alarm and fire alarm applicants. Specifically, the Committee believes that experience obtained in the installation, servicing and maintenance of burglar alarm systems is comparable to experience obtained in the installation, servicing and maintenance of fire alarm systems, and as such, applicants for licensure should be able to use experience and training in one discipline to satisfy the experience and training requirements of the other discipline, provided that the applicant is taking a licensure examination. In such cases, the Committee feels confident that an applicant's knowledge in the specific field he or she is seeking licensure in will be assured by passage of the field-specific examination. However, in cases where an applicant is applying for licensure and seeking waiver of the examination under N.J.A.C. 13:31A-3.3, the Committee believes that the experience obtained by the licensee must be field-specific because no independent confirmation of the applicant's knowledge in the field of licensure will be provided.

Based on the forgoing, Committee has amended N.J.A.C. 13:31A-3.1(a)6 on adoption to clarify that the examination taken by the applicant must be in the field in which licensure is sought. In addition, the Committee has amended N.J.A.C. 13:31A-3.3(c) on adoption to clarify that the experience obtained by applicants for licensure who are also seeking waiver of the examination must have been obtained in the field in which the applicant is seeking to be licensed. In light of the Committee's determination that applicants seeking licensure by way of examination do not need field-specific training or experience, the Committee has not amended N.J.A.C. 13:31A-3.1(a)7 and 3.4(a)7 as suggested by the commenter.

COMMENT: The Association requested a clarification of new rule N.J.A.C. 13:31A-3.5(a)3, which requires burglar alarm and fire alarm business license holders to maintain an emergency service telephone number which is answered on a 24-hour per day basis. The Association inquired whether the telephone number must be answered by a person or whether an electronic or other mechanical means of answering the telephone, such as an answering machine, would be sufficient to satisfy the requirements of the rule.

RESPONSE: N.J.A.C. 13:31A-3.5(a)3 provides that an alarm business must maintain an emergency service number which is attended to on a 24-hour basis. The phrase "attended to" is defined to mean that the number is answered on a 24-hour basis. The rule does not specify whether the telephone number must be answered by a person or whether an electronic or mechanical means of answering the telephone may be employed by a business. The Committee intended to allow business license holders flexibility in complying with the requirements of the rule, and believes that N.J.A.C. 13:31A-3.5(a)3, as proposed, authorizes the use of electronic or mechanical means to answer the 24-hour telephone number.

COMMENT: The Association believes that the use of the word "qualifying licensee" in N.J.A.C. 13:31A-3.7(d) may be ambiguous and that the rule should be amended to refer to either the "business licensee" or "business qualifier."

RESPONSE: The Committee agrees with the commenter's observation and notes that N.J.A.C. 13:31A-3.7(d), as well as N.J.A.C. 13:31A-2.8(d), should have referred to "business qualifier" as that term is defined in N.J.A.C. 13:31A-1.2, and has amended the rules accordingly on adoption.

COMMENT: The Association believes that N.J.A.C. 13:31A-3.5(c), which provides that a business license holder must provide the Committee with the specified information concerning any person employed in connection with the burglar alarm or fire alarm business, is overly broad because it can be read to require the business license holder to submit the required information for all person employed by the business, whether or not the employee performs installation, service or maintenance of alarms. Mr. Sansone also inquired whether all office employees of a company will need to be fingerprinted and registered with the Committee. The Association recommends that subsection (c) be rewritten to expressly refer to "employee" because use of the term, which is already defined in N.J.A.C. 13:31A-1.2, will eliminate any confusion regarding which persons are intended to be included within the ambit of the rule.

RESPONSE: The Committee disagrees with the commenter's assertion that N.J.A.C. 13:31A-3.5(c) is overly broad and notes that the Committee intended the requirements of the rule to apply to all persons employed by an alarm business, irrespective of whether the person performs installation, servicing or maintenance of alarm systems. The Committee believes that because all persons employed by an

alarm business could theoretically have access to confidential client information, requiring all persons employed by such a business to be subject to a criminal history background check is reasonable. In addition, the Committee believes that mandatory background checks of all alarm company personnel is authorized by N.J.S.A. 45:5A-35, which imposes the criminal history background check requirement upon any person employed “in connection with an alarm business.” Therefore, the Committee declines to accept the commenter’s suggestion to amend N.J.A.C. 13:31A-3.5(c).

COMMENT: The Association recommends that N.J.A.C. 13:31A-3.6(b), which provides that any person employed by a licensee to perform unsupervised work must satisfy the specified requirements, be amended to refer to “fire alarm business licensee or burglar alarm business licensee,” instead of the generic reference to “licensee,” in order to clarify the intended meaning of the rule.

RESPONSE: The Committee disagrees with the commenter’s suggestion that the reference in N.J.A.C. 13:31A-3.6(b) is unclear and notes that the term “licensee” is defined in N.J.A.C. 13:31A-1.2 to include persons engaged in the burglar alarm or the fire alarm business. The Committee, therefore, declines to amend N.J.A.C. 13:31A-3.6(b) as suggested by the commenter.

ADOPTION OF PROPOSED NEW RULES, N.J.A.C.13:31A, FIRE ALARM, BURGLAR ALARM, AND LOCKSMITH LICENSEES AND BUSINESSES

Motion was made by Robert Boyer, seconded by Martin Arnold and passed by a vote of seven (7) for and one (1) opposed to adopt the Regulations as proposed with the exception of the requirement set forth at N.J.A.C. 13:31A-2.6(a)3, which provides that a locksmith business license holder engaged in the provision of electronic security system services must maintain an emergency service number that is attended to on a 24-hour basis.

The Advisory Committee will formerly present the Proposed Rules for its adoption to the Board of Examiners of Electrical Contractors.

A subcommittee was created to represent the Committee, consisting of the following members:

Robert Shoremount, Chairman (Alarm business)
Robert Boyer, Vice Chairman (Alarm business)
Keith Eaves (Alarm and Locksmith business)
Barry Starer (Locksmith business)
Martin Arnold (Locksmith business)

FOR THE ADVISORY COMMITTEE'S INFORMATION

Web-site Correspondence on Department of Community Affairs (DCA) Certification Exemption for Fire Alarm Contractors

The Committee briefly discussed the correspondence with regard to the DCA Certification Exemption for Fire Alarm Contractors. The correspondence, stating terms of the exemption from certification, was posted for use by alarm contractors when securing permits or inspections.

Review for Proposed Advisory Committee meeting Dates for CY 2004

The proposed meeting dates are as follows:

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| January 20 | July 20 |
| February 17 | August 17 |
| March 16 | September 21 |
| April 20 | October 19 |
| May 18 | November 16 |
| June 15 | December 14 |

Motion was made by Martin Arnold, seconded by Charles Okun and passed unanimously to accept the proposed meeting schedule for CY2004. All meetings will be held on the third Tuesday of each month except for the December meeting which will be held on the second Tuesday due to the Christmas holiday.

Division of Law Billing Report for Third Quarter, FY 2003

The Committee reviewed the Billing Report provided by the Division of Law for the third quarter of the fiscal year 2003. The report indicated that 39.7 hours for Deputy Attorney General and Paralegal services were accrued during the quarter.

Division of Law Billing Report for Fourth Quarter, FY 2003

The Committee reviewed the Billing Report provided by the Division of Law for the fourth quarter of the fiscal year 2003. The report indicated that 25.8 hours for Deputy Attorney General and Paralegal services were accrued during the quarter.

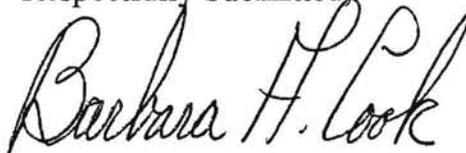
PUBLIC COMMENT

The Advisory Committee thanked Eugene R. George, Jr., a member of the Greater Philadelphia Locksmiths Association, for attending the meeting.

ADJOURNMENT

Having no further business, motion was made by Jon Sprague, seconded by Richard Rible and passed unanimously to adjourn the Public Session at 2:30 p.m. The next meeting of the Advisory Committee has been tentatively scheduled to be held on November 18, 2003.

Respectfully Submitted

A handwritten signature in black ink that reads "Barbara A. Cook". The signature is written in a cursive style with a large, stylized initial "B".

Barbara A. Cook
Executive Director

BAC:gd/sb