

State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration (HVACR)  
Contractors

Meeting # 31 - Tuesday, November 10, 2015 - Public Meeting - Minutes

The Minutes of the Board meeting held on November 10, 2015 have not been formally approved and are subject to change or modification by the Public Body at its next scheduled meeting.

The notice of the November 10, 2015 meeting has been mailed to the Star Ledger, Camden Courier Post, and Trenton Times newspapers, and has also been posted on the Bulletin Board at the Office of the Secretary of State, Trenton, New Jersey.

The Board meeting of November 10, 2015 was called to order at 9:00 am with the following Members in attendance:

Michael K. Maloney, Chairman, Mechanical Inspector 2

Dominic D. Demico, Jr. - Mechanical Inspector 1

Paul J. Mitchell - Master HVACR Contractor 3 - Board Secretary

Mary Pranzatelli - Public Member 2

Thomas C. Pitcherello  
Executive Branch of State Government Representative

Kevin S. Clark - Master HVACR Contractor 1

William C. Barham – Master HVACR Contractor 2

Daniel G. Danko, Jr. - HVACR Journeyman - Vice-Chairman

Board Complement: (9):  
As of this meeting date, one (1) vacancy remains for a Public Member  
with the resignation of Mr. Griffith.

Attendees:

Joseph A. Donofrio, Counseling Deputy Attorney General (DAG)

Rosemarie Baccile, Acting Executive Director

Kerrie Shahan, Government Representative

Public Session Visitors:

Louis Abruzzese, RSES

Mike Bergen, RSES

Keith Konopka, Licensed HVACR Contractor # 334

David Castner, SMW 22

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1. CALL TO ORDER

2. ROLL CALL

3. ON-LINE LICENSING APPLICATIONS UPDATE - As of October 28, 2015

Licensed Master HVACR Contractors by Grandfathering: 19HC00 6876 00

Application Review: 12,389

Completed: 9,153

Deficiency Cue: 3,203

Licensed Master HVACR Contractors BY EXAM: 163

Applications Pending: 163

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Applications on file for Master HVACR Contractors were reviewed by the Board Members in Executive Closed Session.

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4. APPROVAL OF THE OCTOBER 6, 2015 MINUTES

A motion was made by Dominic D. Demico, Jr. and seconded by Daniel G. Danko, Jr. to approve the minutes of this meeting.

A vote was taken and the motion unanimously passed.

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5. DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF EXAMINERS OF HEATING, VENTILATING, AIR CONDITIONING  
AND REFRIGERATION CONTRACTORS

Credit Toward Licensure for Education, Training, and Experience Received While  
Serving as a Member of the Armed Forces

Adopted New Rule: N.J.A.C. 13:32A-2.7 CITE 47 N.J.R. 2385 (a)

Proposed: November 17, 2014 at 46 N.J.R. 2261(a)

Adopted: March 3, 2015

Filed: August 21, 2015, as R.2015 d.155, without change

Effective Date: September 21, 2015

Expiration Date: April 15, 2020

The official comment period ended January 16, 2015. The Board received no comments on the notice of proposal.

DAG Donofrio clarified that this rule is now adopted, and applicants who have the requisite training from the military and present their qualifications may apply for the Master HVACR license.

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6. INQUIRY – LETTERS MAY 29, 2015 & OCTOBER 6, 2015 AND EMAIL AUGUST 27,  
2015 – LOU ABRUZZESE, CAMDEN COUNTY CHAPTER OF RSES-THE HVACR  
TRAINING AUTHORITY

Requests a written basis for the HVACR test questions including the JTA (Job Task Analysis) used to formulate the test question areas.

Offers assistance with SME (Subject Matter Experts) if Board would like to review or update current JTA or competency list.

6. INQUIRY – LETTERS MAY 29, 2015 & OCTOBER 6, 2015 AND EMAIL AUGUST 27, 2015 – LOU ABRUZZESE, CAMDEN COUNTY CHAPTER OF RSES-THE HVACR TRAINING AUTHORITY

“Did the Legislature intend the HVAC Contractor to deliver and be responsible for a Complete Mechanical System?

- Does the HVAC Contractors Authority and Responsibility for Electrical work stop at the disconnect on outdoor unit and switch for indoor unit?
- Can plumbers install warm air heat under a Plumbing permit?
- Do Plumbers need a separate Electrical permit for their power and line voltage controls for Hydronic systems?
- With the new HEAT PUMP Domestic Hot Water Heaters replacing the less efficient Direct Resistance DHW, Does a plumber need to get an HVAC permit as well for this Heat Pump?
- Can HVAC contractors install Heat Pump DHW under an HVAC Permit?
- Is it the Boards intention to demand a separate Plumbing Permit to connect this unit’s 2 pipes, in order for them to deliver a complete job to the customer? “

On November 10, 2015, Member Thomas C. Pitcherello advised the Board that on a date prior to this meeting, he had a general code related conversation with a representative of RSES, Mike Bergen, and Mr. Pitcherello noted that there were no decisions were made as a result of that conversation with Mr. Bergen. Messrs. Louis Abruzzese and Mike Bergen, both of RSES, were present for this meeting of the Board on November 10, 2015.

At this meeting, a new document dated November 10, 2015 was presented to the Board Members by Mike Bergen. All of the documents submitted thus far were copied for Board review prior to this meeting. Chairman Michael Maloney advised Messrs. Louis Abruzzese and Mike Bergen, both of RSES, that the Board developed the HVACR examination in November of 2014. DAG Donofrio noted that RSES does not have an HVACR program approved by the U.S. Department of Labor. DAG Donofrio also established that RSES does not prepare or educate students to the extent that they meet the qualifications for the Board HVACR examination.

Chairman Maloney advised Messrs. Louis Abruzzese and Mike Bergen that the Board is acknowledging their receipt of the RSES correspondence dated November 10, 2015 in addition to the correspondence submitted prior to the Agenda outlined above, and that the HVACR Members will be taking this letter under advisement. Messrs. Louis Abruzzese and Mike Bergen requested that the Board respond in writing to their concerns. Chairman Maloney and DAG Donofrio advised that a response would be prepared.

7. LETTER OCTOBER 2, 2015 – DANIEL R. O'BRIEN, T/A ACADEMY ELECTRICAL CONTRACTORS, ELECTRICAL LICENSE# 6441

Mr. O'Brien requests clarification on why he needs an HVACR license to run gas piping for the generators he is installing as a licensed electrical contractor.

On November 10, 2015, the Board confirmed in a motion made by Dominic D. Demico, Jr. and seconded by Paul J. Mitchell, that based on existing Statutes and Regulations:

- A Master Plumber's license or a Master HVACR license is required for gas piping;
  - Mr. O'Brien may hire a Master HVACR Contractor for the gas piping work, or he may hire a subcontractor for that work. A vote was taken and the motion unanimously passed.
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Revisiting from October 6, 2015 ►

8. LETTER OCTOBER 6, 2015 – DAVID INDURSKY, LICENSED MASTER HVACR CONTRACTOR# 3550, ECON MECHANICAL CORP. –“WAIVER REQUEST”/BONAFIDE REPRESENTATIVE REGULATIONS

On October 6, 2015:

DAG Donofrio advised that “Waivers from Regulatory Requirements; Application N.J.A.C. 13:45C-2.1 Applicability; scope,” a general waiver provision, applies to the professional boards whereby the waiver is granted with the assurance that the applicant/licensee agrees to remain in full compliance with existing Statutes /Regulations and meet all supervisory requirements.

On October 6, 2015, the Board discussed this inquiry and concluded in a motion made by Daniel G. Danko, Jr. and seconded by Paul J. Mitchell, to approve Mr. Indursky's request for a waiver and allow him to represent both entities provided that:

- the time limit of one year applies for this approval;
- the assurance that his companies are both registered with the Secretary of State in Trenton, NJ;
- the assurance that the licensee is in compliance with all supervisory requirements as they pertain to these businesses.

Mr. Indursky was present and agreed to submit his documents from the Secretary of State showing these entities have been properly filed in Trenton, NJ.

A vote was taken and the motion unanimously passed.

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8. LETTER OCTOBER 6, 2015 – DAVID INDURSKY, LICENSED MASTER HVACR CONTRACTOR# 3550, ECON MECHANICAL CORP. –“WAIVER REQUEST”/BONAFIDE REPRESENTATIVE [BFR] REGULATIONS

Updating file/ November 10, 2015

Mr. Indursky supplied copies of his New Jersey business registration certificate for both Encon Service Company and Econ Mechanical Corporation with a copy of his HVACR license in compliance with the Board’s October 6, 2015 decision to allow him to represent both Encon Service Company and Encon Mechanical Corporation as the BFR.

On November 10, 2015 the Board acknowledged receipt of the business documents for Mr. Indursky and made them part of the licensee’s file. It is noted that this approval is for a one-year period and the licensee must notify the Board at the time of the expiration [October 6, 2016] as to his bona fide representative status at that time.

9. LETTER OCTOBER 17, 2015 – JO-LEO W. CARNEY-WATERTON, ESQ.  
– N.J.S.A. 45:16A-26

DAG Joseph Donofrio advised the Board that a legal argument is now being raised by some is that all HVACR technicians were prohibited from working on any projects after March 1, 2014, until they received their new HVACR licenses from the Board.

- Requests the Boards’ thoughts on the matter
- Requests the Board prepare a letter

On November 10, 2015, DAG Donofrio advised that this matter represents an HVACR contractor who is suing a general contractor for services rendered however where the contractor was not paid by the general contractor. A Judge ruled in this matter.

DAG Donofrio advised that he is in receipt of the Judge’s order but there is no indication that the allegations are supported by the Judge’s decision. DAG Donofrio stated that he will be drafting a response in this matter.

### DISCIPLINARY MATTERS

On November 10, 2015, the Board reviewed the below disciplinary matters with DAG Donofrio. The investigations that are concluded are so noted.

These matters have been filed at the Board and are appropriately reported this date in Open Session:

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### ADMINISTRATIVE ACTION

10. CONSENT ORDER – Filed September 1, 2015  
by Rosemarie S. Baccile, Acting Executive Director

OSIRIS RAFAEL TEJEDA, APPLICANT# 184 3827  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

This matter was opened to the New Jersey State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration (HVACR) Contractors (“Board”) upon receipt of an application for licensure as a HVACR contractor from Osiris Rafael Tejada (“applicant”). The applicant indicated on his application he arrested and charged with Burglary (N.J.S.A. 2C:18-2); two counts of Aggravated Arson (N.J.S.A. 2C:17-1(a)); Arson (N.J.S.A. 2C:17-1(b)); Conspiracy to Commit Aggravated Arson (N.J.S.A. 2C:5-2; 2C:17-1(a)) Conspiracy to Commit Theft By Deception (N.J.S.A. 2C:5-2; 2C:20-4); Risk of Injury/Damage (N.J.S.A. 2C:17-2A); and Aggravated Assault.

On January 9, 2006, the applicant pled guilty in Bergen County Superior Court to two (2) counts of Aggravated Arson (N.J.S.A. 2C:17-1(a)) and one (1) count of Aggravated Assault (N.J.S.A. 2C:12-1(b)(8)). The remaining charges were dismissed. Mr. Tejada was sentenced to five (5) years in prison, a three (3) year period of parole supervision, and aggregate restitution payments of \$80,076.28.

On March 3, 2015, the applicant appeared before the Board for an Investigative Inquiry.

- Prior to the issuance of a license, the applicant shall submit too, and cooperate fully with a psychological evaluation by a licensed mental health professional, at his own expense.
- The Board reserves the right to enter a subsequent order;

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ADMINISTRATIVE ACTION

10. CONSENT ORDER – Filed September 1, 2015  
by Rosemarie S. Baccile, Acting Executive Director

OSIRIS RAFAEL TEJEDA, APPLICANT# 184 3827  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

- Prior to the issuance of a license, the applicant shall provide documentary proof to the Board indicating that he successfully completed and has been discharged from his parole requirements;
- The applicant shall obey all the laws of the State of New Jersey;
- The applicant hereby consents to the entry of an order of automatic suspension of his license as a HVACR contractor, without prior notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable demonstrating that the applicant has violated this order;  
The applicant shall have the right to apply for a hearing regarding removal of the automatic suspension on five (5) days' notice, but such event shall be limited to showing that he has not violated this order.

11. CONSENT ORDER – Filed September 24, 2015  
by Rosemarie S. Baccile, Acting Executive Director

PETER O'REILLEY, APPLICANT# 187 2273  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

This matter was opened to the New Jersey State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration (HVACR) Contractors ("Board") upon receipt of an application for licensure as a HVACR contractor from Peter O'Reilly ("applicant"). The applicant indicated on his application he had been convicted of criminal offenses. Mr. O'Reilly provided information and documentation concerning his criminal history.

Mr. O'Reilly appeared at an investigative inquiry into the matter held by the Board and provided testimony relating to his arrests. Having considered all of the available information, including the testimony of the applicant during the investigative inquiry, the Board has determined that the applicant may be licensed subject to the conditions outlined in this order.

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11. CONSENT ORDER – Filed September 24, 2015  
by Rosemarie S. Baccile, Acting Executive Director

PETER O'REILLEY, APPLICANT# 187 2273  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

The applicant shall be granted a HVACR license subject to the conditions and restrictions in this order.

The applicant hereby consents to the entry of an order of automatic suspension of his license as a HVACR contractor, without prior notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable demonstrating that the applicant has violated this order or has engaged in acts constituting, or has been convicted of, any offense or crime whether in the State of New Jersey or elsewhere.

The applicant shall have the right to apply for a hearing regarding removal of the automatic suspension on five (5) day notice.

12. CONSENT ORDER – Filed October 6, 2015  
by Rosemarie S. Baccile, Acting Executive Director  
STEVEN BESANCENEY, APPLICANT# 186 3299  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

This matter was opened to the New Jersey State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration (HVACR) Contractors ("Board") upon receipt of an application for licensure as a HVACR contractor from Steven Besancene (applicant). The applicant indicated on his application he had been convicted of an offense and provided information and documentation

Specifically, the applicant was arrested and originally charged with N.J.S.A. 2C:33-2.1b (Prowling in a Public Place with the Purpose of Obtaining or Selling Controlled Substances). On March 26, 2010, the applicant pled guilty in the Municipal Court of Woodbridge, New Jersey to a downgraded charge of a municipal ordinance violation (prohibited acts) and paid associated fines.

Having considered all of the available information, the Board has determined that the applicant may be licensed subject to the conditions outlined in this order.

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12. CONSENT ORDER – Filed October 6, 2015  
by Rosemarie S. Baccile, Acting Executive Director  
STEVEN BESANCENEY, APPLICANT# 186 3299  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

- The applicant shall be granted a HVACR license subject to the conditions and restrictions in this order.
- The applicant shall abstain from any and all mood altering or intoxicating substances.
- The applicant shall continue in treatment with Narcotics Anonymous.
- The applicant may seek modification of the terms of this order not sooner than October 1, 2016.
- The applicant shall have the right to apply for a hearing regarding removal of the automatic suspension on five (5) days' notice, but such event shall be limited to showing that the evidence of a relapse or recurrence of drug or alcohol abuse or that other information submitted was false.

13. CONSENT ORDER – Filed October 6, 2015  
by Rosemarie S. Baccile, Acting Executive Director  
HERBERT SPICER, APPLICANT# 181 6025  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

This matter was opened to the New Jersey State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration (HVACR) Contractors ("Board") upon receipt of an application for licensure as a HVACR contractor from Herbert Spicer ("applicant"). The applicant indicated on his application he had been convicted of a criminal offense. Mr. Spicer provided information and documentation concerning his criminal history.

On April 9, 2001, the applicant pled guilty in Ocean County to one count of second degree Aggravated Assault with a Deadly Weapon (N.J.S.A. 2C:12-1b(2)). The applicant was sentenced as a third degree offender to three (3) years in prison but was released from custody after serving thirty (30) months, and then served a three (3) year term of parole supervision.

The applicant appeared at an investigative inquiry into the matter held by the Board and provided testimony relating to his arrest and conviction.

- The applicant shall be granted a HVACR license subject to the conditions and restrictions in this order.

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13. CONSENT ORDER – Filed October 6, 2015

by Rosemarie S. Baccile, Acting Executive Director

HERBERT SPICER, APPLICANT# 181 6025

APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

- The applicant hereby consents to the entry of an order of automatic suspension of his license as a HVACR contractor, without prior notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable demonstrating that the applicant has violated this order or has engaged in acts constituting, or has been convicted of, any offense or crime whether in the State of New Jersey or elsewhere.
- The applicant shall have the right to apply for a hearing regarding removal of the automatic suspension on five (5) day notice.

14. PROVISIONAL ORDER OF DENIAL OF LICENSE

Filed September 1, 2015 by Rosemarie S. Baccile, Acting Executive Director

HARVEY P. SCELSON, APPLICANT# 182 0296

APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

Harvey P. Scelso ("respondent") applied for a Heating, Ventilating, Air Conditioning and Refrigeration ("HVACR") contractor's license in the State of New Jersey.

The above preliminary findings of fact provide grounds for denying respondent's application for a Heating, Ventilating, Air Conditioning and Refrigeration license in New Jersey, pursuant to N.J.S.A. 45:1-21(f), in that the respondent's conviction for 2<sup>nd</sup> degree Sexual Assault, pursuant to N.J.S.A.2C:14-2b, as well as his admission that he offended against the victim M.R. on at least three occasions, are acts constituting crimes and offenses involving moral turpitude and relating adversely to the activity regulated by the Board.

The above preliminary findings of fact provide grounds for denying respondent's application for a Heating, Ventilating, Air Conditioning and Refrigeration Contractor's license in New Jersey pursuant to N.J.S.A. 45:1-21(l), in that the respondent's admission of his lifelong sexual attraction to young prepubescent females, which continues currently, makes him incapable of discharging the functions of a licensee in a manner consistent with the public's health, safety, and welfare.

Respondent's application for a Heating, Ventilating, Air Conditioning and Refrigeration Contractor's license in New Jersey is hereby provisionally denied.

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14. **PROVISIONAL ORDER OF DENIAL OF LICENSE**  
**Filed September 1, 2015 by Rosemarie S. Baccile, Acting Executive Director**  
HARVEY P. SCELSO, APPLICANT# 182 0296  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

**MOTION:** FINALIZE POD - NOVEMBER 10, 2015  
DAG Donofrio established that Harvey P. Scelso (“respondent”) has been properly served with the POD and more than (30) thirty days permitted for a response; therefore, since no response has been submitted by the applicant to the Board, a motion was made by Daniel G. Danko, Jr. and seconded by Kevin S. Clark to finalize the POD whereby Mr. Scelso is hereby denied his license as a Master HVACR Contractor. A vote was taken and the motion unanimously passed.

15. **FINAL ORDER OF DENIAL OF LICENSE – Filed September 1, 2015 by Rosemarie S. Baccile, Acting Executive Director**  
CHARLES R. JONES, APPLICANT# 183 1591  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

**RECUSAL:** Board Member Thomas C. Pitcherello noted his recusal in this matter and entered his comment into the record — as he has been doing so since the onset of this investigation into the application of Charles R. Jones for a Master HVACR Contractor’s License.

Charles R. Jones (“respondent”) applied for a Heating, Ventilating, Air Conditioning and Refrigeration (“HVACR”) contractor’s license in the State of New Jersey. Respondent was previously licensed as a master plumber in New Jersey having been issued a plumbing license by the New Jersey State Board of Examiners of Master Plumbers (“Plumbing Board”) on September 1, 1993. On June 27, 1996, the Plumbing Board filed an Order Entering Default and Revoking Respondent’s Plumbing License. The Plumbing Board found at that time that respondent secured his plumbing license under false pretenses by submitting a work certification which respondent knew contained false information, in violation of N.J.S.A. 45:1-21(b). Additionally, the Plumbing Board then found that respondent obtained his plumbing license under false pretenses which constituted professional misconduct in violation of N.J.S.A. 45:1-21 (e).

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15. FINAL ORDER OF DENIAL OF LICENSE –  
Filed September 1, 2015 by Rosemarie S. Baccile, Acting Executive Director  
CHARLES R. JONES, APPLICANT# 183 1591  
APPLICANT FOR A LICENSE AS A MASTER HVACR CONTRACTOR

On his May 5, 2014 application for a Heating, Ventilating, Air Conditioning and Refrigeration license, respondent was asked, “Have you ever been disciplined or denied a professional or occupational license or certificate of any kind in New Jersey, any other state, the District of Columbia or in any other jurisdiction?: Respondent answered “No.” On his application for licensure, respondent was also asked, “Have you ever had a professional or occupational license or certificate of any type suspended, revoked, or surrendered in New Jersey, any other state, the District of Columbia or in any other jurisdiction?” Respondent answered, “No.”

A Provisional Order of Denial of Licensure was entered on March 3, 2015. Respondent failed to reply to the Provisional Order of Denial. Since the Provisional Order of Denial was served at respondent’s last known address on file with the Board, the Board determined that the Provisional Order of Denial of Licensure, entered on March 3, 2015, is to be finalized as written.

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The above disciplinary actions have been posted to the Board’s website at:  
<http://www.njconsumeraffairs.gov/hvacr/Pages/actions.aspx>

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**CONTINUING EDUCATION**  
WELCOMING CONTINUING EDUCATION SPONSORS  
AS OF DECEMBER 1, 2015

All Licensed Master HVACR Contractors are exempt from the Continuing Education (5) five hour requirement for this first biennial renewal of July 1, 2016 to June 30, 2018, according to **N.J.A.C 13:32A-4.1 License Renewal; Continuing Education Requirement.**

All Licensed Master HVACR Contractors must complete the (5) five hour requirement CE requirement for the following biennial renewal:

**July 1, 2018 to June 30, 2020**

### CONTINUING EDUCATION

This requirement must be met before the next renewal date of **July 1, 2018**.

To assist Master HVACR Contractors with meeting the (5) hour Continuing Education requirement, the Board will approve CE Sponsors and courses and post that information at the HVACR website, once available.

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### EXECUTIVE CLOSED SESSION AGENDA

A motion was made by William C. Barham and seconded by Dominic D. Demico, Jr. to proceed into Executive Closed Session to review consumer complaint matters, conduct investigative inquiries, discuss unlicensed advertisements, unlicensed practice matters, consider administrative closings, investigations of possible violations of applicable law, pending or anticipated litigation, matters under investigation, the DAG caseload, and review matters within the attorney-client relationship exception to the Open Public Meetings Act. A vote was taken and the motion unanimously passed.

The subject of this discussion shall remain confidential until such time as the reasons for having this matter in Executive Closed Session are no longer applicable. A vote was taken and the motion unanimously passed.

Submitted by,

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Rosemarie S. Baccile, Acting Executive Director