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RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

STATE BOARD OF EXAMINERS OF MASTER PLUMBERS

**BONA FIDE REPRESENTATIVE; PURPOSE AND SCOPE; DEFINITIONS; ADVERTISING
RESPONSIBILITIES**

Additions to proposals are indicated by <<+ Text +>>; deletions from
proposals are indicated by <<- Text ->>.

Changes in tables are made but not highlighted.

Adopted New Rule: N.J.A.C. 13:32-1.3

Adopted Amendments: N.J.A.C. 13:32-1.1, 3.1, 3.2 and 3.3

Proposed: December 6, 1999 at 31 N.J.R. 3984(a).

Adopted: May 4, 2000 by the State Board of Master Plumbers, Mark McManus, President.

Filed: December 6, 2000 as R.2001 d.12, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 45:14C-7.

Effective Date: **January 2, 2001**. Operative Date: March 3, 2001. Expiration Date: October 8, 2002.

Federal Standards Statement

A Federal standards analysis is not required because the new rule and amendments do not involve any Federal standards or requirements.

Full text of the adoption follows:

<< NJ ADC 13:32-1.1 >>

13:32-1.1 Purpose and scope

The rules contained in this chapter implement the provisions of the State Plumbing Licensing Law of 1968, P.L. 1968, c.362 (N.J.S.A. 45:1C-1 et seq.), and provide for the licensing and regulation of master plumbers and the regulation of plumbing contractors.

<< NJ ADC 13:32-1.3 >>

13:32-1.3 Definitions

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

"Apprentice plumber" means any person other than a master plumber or journeyman plumber who, as his or her

principal occupation, is engaged in learning and assisting in the installation of plumbing.

"Board" means the State Board of Examiners of Master Plumbers.

"Bona fide representative" means a licensed master plumber who is the holder of not less than 10 percent of a plumbing contractor in the State of New Jersey.

"Journeyman plumber" means an individual who has completed four years engaged in learning and assisting in the installation of plumbing and who works under the supervision of a master plumber or supervisory journeyman plumber.

"Master plumber" means a person licensed pursuant to N.J.S.A. 45:14C-1 et seq. who has the qualifications, training, experience and technical knowledge necessary to properly plan, lay out, install and repair plumbing apparatus and equipment and to supervise others in the performance of such work in accordance with the rules established in this chapter.

<<-"Plumbing" means the practice, materials and fixtures used in the installation, maintenance, extension, alteration, repair and removal of all piping, plumbing fixtures, plumbing appliances and plumbing apparatus in connection with any of the following: sanitary drainage, storm facilities and building sewers to their respective final connection to an approved point of disposal, venting systems, public and private water supply systems of any premises to and within the property line of any building, structure or conveyance to their final connection with an approved supply system. "Plumbing" also means the practice and materials used in the installation, maintenance, extension, alteration, repair or removal of storm water, refrigeration and air conditioning drains, liquid waste or sewage.->>

"Plumbing contractor" means any individual licensed master plumber operating as a sole proprietor who, or a firm, partnership, corporation or other legal entity which undertakes for another the planning, laying out, supervising, installing or making of additions, alterations and repairs in the installation of plumbing who either acts, or has a licensee who acts, as a bona fide representative as required by N.J.S.A. 45:14C-2(d) and (h) and this subchapter.

"Supervisory journeyman plumber" means an individual who has completed an apprenticeship program approved by both a Federal agency and a Federally certified State agency recognized by the Board and has completed three additional years as a journeyman plumber working with tools in the installation, maintenance, extension, alteration, repair and removal of all piping, plumbing fixtures, plumbing appliances, and plumbing apparatus as defined in the word "plumbing."

"10 percent ownership" means that the bona fide representative is entitled to 10 percent of any net profits from a business, owns a 10 percent equity interest in a plumbing contractor, and is entitled to 10 percent of the net proceeds from the sale of a business in the event of sale of the business. If the plumbing contractor is a corporation, the bona fide representative owns stock equaling a 10 percent equity interest, and, if there are more than one class of stock, the stock owned by the bona fide representative is the highest level stock with full voting rights.

<< NJ ADC 13:32-3.1 >>

13:32-3.1 Identification of licensees; vehicles, stationery; advertising

(a) (No change.)

(b) All business correspondence, invoices and stationery shall display:

1.-3. (No change.)

(c)-(d) (No change.)

(e) If a plumbing contractor intends to subcontract, in a calendar year, more than one-third of the work which it contracts to perform, all advertising by the plumbing contractor shall state: "A substantial part of the work which we undertake may be performed by independent licensed plumbing subcontractors."

(f) If a plumbing contractor, in a calendar year, subcontracts more than one- third of the work which it originally contracts to perform, all advertising for the following calendar year shall state: "A substantial part of the work which we undertake may be performed by independent licensed plumbing subcontractors."

<<-(g) A plumbing contractor who advertises under the name of another entity shall obtain an agreement from that entity that it, in addition to the plumbing contractor, shall be liable for any damages suffered by consumers as if the entity were the plumbing contractor.->>

<< NJ ADC 13:32-3.2 >>

13:32-3.2 Bona fide representative; reporting responsibilities

(a) A licensee seeking to act as a bona fide representative for any firm, partnership, corporation or other legal entity contemplated by N.J.S.A. 45:14C-2 shall comply with the following within 30 days of assuming the role of a bona fide representative:

1. Register with the Board, providing the name of the plumbing contractor, its business address and if the plumbing contractor is a corporation, the names of the officers of record;

2. Attest to the bona fide representative's ownership interest in the plumbing contractor as follows:

i. If a licensee claims to hold 10 percent or more but less than 50 percent of the issued and outstanding stock or capital of the plumbing contractor, the licensee shall provide the Board with a written affidavit which states the percentage of outstanding shares held by the licensee. The affidavit shall be executed by the corporate secretary or other appropriate representative of the plumbing contractor;

ii. If a licensee claims to hold 50 percent or more of the issued and outstanding stock or capital of the plumbing contractor, the licensee shall provide a written affidavit which states the percentage of outstanding shares held by the licensee upon a request by the Board. The affidavit shall be executed by the corporate secretary or other appropriate representative of the plumbing contractor;

3. Provide to the Board proof that the plumbing contractor has consented that the bona fide representative will act as the agent for service of process within this State. Such proof shall be in writing and on a form provided by the Board; and

4. Provide to the Board the acceptance of liability by the plumbing contractor for any monetary penalty, monies to be paid for restoration to consumers of fees paid for services or for delays suffered by consumers and costs assessed against the bona fide representative while acting within the scope of his or her employment on behalf of the plumbing contractor. Such acceptance of liability shall be in writing and on a form provided by the Board.

(b) In order to evaluate the claims relating to the bona fide representatives ownership interest in the plumbing contractor pursuant to (a)2 above, the Board, at any time, may request that the bona fide representative provide any Federal, State or local government tax documentation which the plumbing contractor is required to file with the governmental tax authorities.

(c) <<-If a bona fide representative withdraws as the bona fide representative for a firm, partnership, corporation or other legal entity contemplated by N.J.S.A. 45:14C-2, the bona fide representative and the firm, partnership, corporation or other legal entity shall notify the Board within 10 days of such withdrawal. The firm, partnership, corporation or other legal entity shall register a new bona fide representative with the Board in this 10-day period or cease providing plumbing services.->> <<+ (Reserved)+>>

(d) If the bona fide representative for any firm, partnership, corporation or other legal entity contemplated by N.J.S.A. 45:14C-2 <<-dies->> <<+is unable to perform the duties of a bona fide representative because of death, illness or disability+>>, the firm, partnership, corporation or other legal entity may continue to operate for six months without a bona fide representative provided that a licensee supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32-3.3(a)3 and the licensee and the firm, partnership, corporation or other legal entity notify the Board within 10 days of the death<<+, illness or disability+>> of the bona fide representative.

<< NJ ADC 13:32-3.3 >>

13:32-3.3 Bona fide representative responsibilities

(a) A bona fide representative registered with the Board pursuant to N.J.A.C. 13:32-3.2 shall:

1. (No change.)

2. Secure or instruct an authorized employee, or for the purpose of this section only, an independent contractor licensed as a master plumber, to secure all necessary permits as may be required by State and local law for the performance of plumbing work to be performed by the plumbing contractor for which the licensee acts as a qualified bona fide representative. In making an application for permit issuance, the authorized employee or independent plumbing contractor shall have in his or her possession a letter authorizing him or her to make the application. A letter of authorization may authorize a permit application for a specific period of time, not to exceed 60 days, and shall have affixed to it the seal of the bona fide representative. In all circumstances, the permit shall be signed by a licensee and all work shall be supervised in the manner set forth in (a)3 below;

3. Supervise in the manner described in (a)3i through iv below the performance of all plumbing work performed by the plumbing contractor for which the licensee acts as the bona fide representative. Such supervision shall assure the effective compliance with State and local plumbing codes and the performance of work in accordance with proper plumbing practice;

i. If the person performing the work is a New Jersey licensee, the bona fide representative shall require at the beginning of the job an initial report on the work to be performed and upon completion of the job a final report on the work performed;

ii. If the person performing the work is a supervisory journeyman, the bona fide representative or a New Jersey licensee employed by the bona fide representative shall maintain daily contact with the supervisory journeyman either directly, by telephone or through writing. Any such contact shall be recorded by and maintained in the files of the bona fide representative or the New Jersey licensee employed by the bona fide representative;

iii. If the person performing the work is a journeyman, the bona fide representative, a New Jersey licensee employed by the bona fide representative or the supervisory journeyman shall maintain daily contact with the journeyman either directly, by telephone or through writing and, where the work requires a plumbing permit, shall inspect the work upon completion. Any such contact shall be recorded by the bona fide representative, the New Jersey licensee employed by the bona fide representative or the supervisory journeyman; and

iv. If the person performing the work is an apprentice, the bona fide representative shall ensure constant on-site supervision by a New Jersey licensee employed by the bona fide representative or a supervisory journeyman during all times that plumbing services are being performed;

4. Be responsible for any and all violations of N.J.S.A. 45:14C-1 et seq. committed by employees of the plumbing contractor for which he or she is serving as a bona fide representative if said violations were committed during the course of work which he or she was required to supervise;

5. Serve as a bona fide representative for only one plumbing contractor;

6. Maintain <<-an office->> <<+a place of business+>> in the State of New Jersey; and

7. Provide each supervisory journeyman of the plumbing contractor that performs plumbing work with an identification card that includes:

i. The name of the supervisory journeyman;

ii. The name and address of the plumbing contractor;

iii. The name and license number of the bona fide representative;

iv. The seal of the bona fide representative; and

v. The issue and expiration dates of the identification card. The expiration date shall not exceed one year from the date of issue.

(b) (No change.)

(c) The bona fide representative of any plumbing contractor which contracts to provide plumbing services to a consumer and wishes to subcontract that plumbing work to another plumbing contractor shall:

1. Subcontract only to a plumbing contractor who is either a sole proprietor or which has a bona fide representative who is registered with the Board. The bona fide representative for the original plumbing contractor shall be responsible for ensuring that the subcontractor has a registered bona fide representative;

2. Require of the subcontractor that a copy of any permit applications, permits and changes in application or permit shall be delivered to the original plumbing contractor within five business days of the date the application or permit is filed;

3. Notify the consumer, prior to the beginning of any work, that the work has been subcontracted to another licensed master plumber or legally qualified plumbing contractor and provide the consumer with the name, address and telephone number of the subcontractor and the name and license number of the subcontractor's bona fide representative;

4. Advise the consumer prior to the beginning of any work that he or she has the right to terminate the contract prior to the beginning of any work because of the subcontracting;

5. Notify the consumer that the original contractor as well as the subcontractor remain liable for any defects, damages or other losses which may result from the negligence, misconduct or insolvency of the subcontractor;

6. Require that the subcontractor immediately notify the original contractor of any complaints by the consumer or the consumer's representative or by any governmental official; and

7. Supervise the work of the bona fide representative for the subcontractor in the same manner as required by (a)3i above.

(d) The bona fide representative shall have sufficient knowledge of the plumbing contractor's bookkeeping system and financial accounts to inform the Board, upon request by the Board, regarding the plumbing contractor's price- setting, billings, costs, subcontractors, overhead costs and profits.