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NEW JERSEY ADMINISTRATIVE CODE

TITLE 13

LAW AND PUBLIC SAFETY

CHAPTER 32A

STATE BOARD OF EXAMINERS OF HEATING,  
VENTILATING, AIR CONDITIONING, AND  
REFRIGERATION CONTRACTORS

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**SUBCHAPTER 1.  
PURPOSE AND SCOPE; DEFINITIONS**

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**13:32A-1.1 PURPOSE AND SCOPE**

- a) The rules contained in this chapter provide for the licensing and regulation of master heating, ventilating, air conditioning, and refrigeration contractors, implementing the provisions of the State Heating, Ventilating, Air Conditioning and Refrigeration Contracting License Law (P.L. 2007, c. 211, N.J.S.A. 45:16A-1 et seq.).
- b) This chapter does not apply to any person who is:
- 1) Licensed to practice in New Jersey and is practicing within the scope of practice of his or her profession including architects, professional engineers, well drillers and pump installers, electrical contractors, and master plumbers, as long as such person does not identify him- or herself as a licensed Master HVACR contractor;
  - 2) A chimney service professional regulated by the Division of Consumer Affairs as a home improvement contractor acting within the scope of practice of his or her profession as long as such person does not identify him- or herself as a licensed Master HVACR contractor;
  - 3) A single-family home owner who personally occupies his or her own dwelling and who performs work on his or her own dwelling, except that any HVACR work involving chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs) shall be performed only by a licensed Master HVACR contractor;
  - 4) Licensed as a master plumber and is engaged in the installation, maintenance, and repair of:
    - i) Power boiler systems, hot water and steam heating systems, fire tube and water tube boilers, pressure steam and hot water boilers, space heaters, unit heaters, and appurtenances utilizing electricity, fossil fuel, or solar energy;
    - ii) Steam, hot water and chilled water pipe, condensate piping, valves, fittings, burners and piping, expansion tanks, pumps, and gauges on the load side of a meter;
    - iii) Thermostatic controls; or
    - iv) Natural or manufactured gas piping;

- 5) Licensed as a master plumber and is engaged in the installation, maintenance, or connection of:
    - i) Pneumatic and/or direct digital controls and control piping for the control of air, liquid, or gas temperatures, radiators, convectors, cabinet unit heaters, fan coil units, air handlers utilizing hydronic coils, mechanical ventilation for radon mitigation, humidifiers, flues, and patented chimneys; or
    - ii) Pneumatic and/or direct digital controls and control piping of automatic oil, gas, or coal burning equipment, gasoline or diesel oil dispensing equipment, and, in replacement cases only, connecting to them the wiring from a dedicated electrical service disconnect box of adequate size to accommodate the equipment and controls, and the testing and balancing of hydronic systems;
  - 6) Licensed as a master plumber and is engaged in the installation, repair, testing, or closure of waste oil underground storage tanks;
  - 7) Licensed as an electrical contractor and is engaged in the installation of:
    - i) Electrical resistance heating equipment and ventilation equipment with an exhaust duct not exceeding 60 square inches in area; or
    - ii) In commercial applications the connection sleeve between a roof-top mounted exhaust fan and its central connecting register, provided that this connection sleeve is not more than 15 inches in length or the length necessary to penetrate a roof or other similar openings;
  - 8) Licensed as an electrical contractor and is engaged in the maintenance and repair of the electrical sections of any equipment used for heating, ventilating, air conditioning, or refrigeration; or
  - 9) Licensed as an electrical contractor and is engaged in the installation, maintenance, and repair of natural or manufactured gas piping while installing or repairing electric generators, provided he or she has completed two hours of continuing education in the installation of gas piping relevant to installing or repairing electric generators, of which one hour is in natural gas piping and one hour is in manufactured gas piping.
- c) This chapter shall not apply to:
- 1) Any public utility company regulated by the Board of Public Utilities or any related competitive business segment of that public utility that offers competitive services

pursuant to the "Electric Discount and Energy Competition Act," P.L. 1999, c. 21 (N.J.S.A. 48:3-49 et seq.);

- 2) A related competitive business segment of a public utility holding company that offers to provide or provides competitive services pursuant to the Electric Discount and Energy Competition Act, P.L. 1999, c. 23 (N.J.S.A. 48:3-49 et seq.); or
  - 3) HVACR work performed on buildings, structures, or premises owned or operated by a public utility holding company or its subsidiaries.
- d) This chapter shall not apply to any liquefied petroleum gas marketer licensed by the Department of Community Affairs.
- e) This chapter shall not apply to a person who performs service, repair, or maintenance work necessary for the continued normal performance of heating, ventilating, air conditioning, and refrigeration systems as part of his or her employment for an entity that owns or operates:
- 1) A general hospital licensed pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.);
  - 2) A building that contains a steam boiler, pressure vessel, or refrigeration plant, which is subject to test and inspection pursuant to N.J.S.A. 34:7-14; or
  - 3) A casino-hotel facility operated under the provisions of the "Casino Control Act," P.L. 1977, c. 110 (N.J.S.A. 5:12-1 et seq.), which shall include any building containing heating, ventilating, air conditioning, and refrigeration systems operated by one or more casino-hotel facilities as part of an agreement or arrangement to share systems.
- f) This chapter shall not apply to a person who performs service, repair, or maintenance work necessary for the continued normal performance of heating, ventilating, air conditioning, and refrigeration systems if:
- 1) That person has completed an education that complies with the requirements of N.J.A.C. 13:32A-2.2;
  - 2) That person is an employee of the owner or lessee of the property at which the services, repairs, or maintenance work is being performed, who was hired to work on an ongoing and continuous basis, and whose remuneration is reported on a Form W-2 to the Internal Revenue Service; and
  - 3) That person and his or her employer do not engage in or offer HVACR contracting to the public.

### 13:32A-1.2 DEFINITIONS

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

"Board" means the State Board of Examiners of Heating, Ventilating, Air Conditioning, and Refrigeration Contractors.

"Bona fide representative" means a licensed master HVACR contractor who:

1. Has not less than one percent ownership of the issued and outstanding shares of stock in a corporation, not less than one percent ownership of the capital of a partnership, or not less than one percent ownership of any other firm or legal entity engaged in HVACR contracting in this State; or

2. Is, if the entity engaged in HVACR contracting generates more than 65 percent of its gross revenue from sources other than HVACR contracting or if the entity is a publicly traded corporation, including its wholly owned subsidiaries, whose principal business in this State is HVACR contracting:

i. In the case of a sole proprietorship, the owner of the business;

ii. In the case of a partnership, a partner in the business;

iii. In the case of a limited liability company, a manager; or

iv. In the case of a corporation, an executive officer. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Heating, ventilating, air conditioning, and refrigeration" or "HVACR" means the process of treating and protecting the environment by the responsible handling, dispensing, collecting, and cleaning of chlorofluorocarbons and other refrigerants in stationary sources, and controlling the temperature, humidity, and cleanliness of air by using the "wet," "dry," "radiant," "conduction," "convection," "direct," or "indirect" method or combination of methods, including those that utilize solar energy, to meet the environmental requirements of a designated area. "HVACR" also means the provision of propane services and the installation, servicing, connecting, maintenance, or repair of the following:

1. Power boiler systems, hydronic heating systems, fire tube and water tube boilers, pressure steam and hot water boilers, furnaces and space heaters, water recovery systems, and appurtenances utilizing electric, fossil fuel, wood pellets, or solar energy, other than those appurtenances utilized solely for the purpose of heating potable water;

2. Warm air heating or refrigeration and evaporative cooling systems, ventilation and exhaust systems, dust collectors, air handling equipment, heating or cooling coils, air or refrigerant compressors, chillers, cooling towers, evaporators, condensers, plenums, fans, blowers, air cleaners, mechanical ventilation for radon mitigation, humidifiers, filters, louvers, mixing boxes and appurtenances, energy recovery systems, geo-thermal systems (limited to horizontal or lateral connections between wells to the heat pump and appurtenances therefrom into the structure, but does not include the drilling of the well, grouting of the borehole, placement of any components into the well, or decommissioning the borehole, which all require licensing and permitting under N.J.A.C. 7:9D), and related air distribution systems connected to any of these systems and appurtenances;

3. Hydronic heating and chilled water pipe, valves, fittings, burners and piping, hydronic heating, expansion tanks, refrigeration piping, pumps, gauges, humidity, and thermostatic controls;

4. Condensate piping not discharged into a sanitary sewer (disposal of condensate from such piping must be performed pursuant to the Uniform Construction Code and any relevant local ordinances);

5. Natural or manufactured gas piping on the load side of a meter;

6. Supply water piping to equipment being served from an existing dedicated source connected downstream from an approved backflow preventer;

7. The installation of a replacement non-testable backflow device downstream from a pre-existing valve;

8. Pneumatic and/or direct digital controls, control piping, and any type of heat tracing, for the control of air, liquid, or gas temperatures, radiators, convectors, unit cabinet heaters, or fan coil units;

9. Pneumatic and/or direct digital controls and control piping of automatic oil, gas, coal burning, or any other product of combustion equipment, mechanical refrigeration equipment, gasoline, or diesel oil dispensing equipment, and the testing and balancing of air and hydronic systems, but does not include the design or preparation of specifications for



equipment or systems to be installed that are within the practice of professional engineering as defined in subsection (b) of section 2 of P.L. 1938, c. 342 (N.J.S.A. 45:8-28); and

10. In replacement cases only, the connection of the wiring from an equipment service disconnect box of adequate size to accommodate pneumatic and/or direct digital controls and control piping of automatic oil, gas, coal burning, or any other product of combustion equipment, mechanical refrigeration equipment, gasoline, or diesel oil dispensing equipment previously dedicated to that equipment, as long as the connection of the wiring is performed according to all relevant provisions in the Uniform Construction Code.

"Heating, ventilating, air conditioning, and refrigeration contracting" means undertaking or advertising to undertake, for a fixed price, fee, commission, or gain of whatever nature, the planning, laying out, installation, construction, maintenance, service, repair, alteration, or modification to any portion of any system, product, or equipment, or appurtenances used for the environmental needs or control of any heating, ventilating, air conditioning, and refrigeration system.

"HVACR apprentice" means a person who is enrolled in an HVACR apprenticeship or other training program, including, but not limited to steamfitter, pipefitter, or sheet metal apprenticeship programs, approved by the United States Department of Labor and who engages in the installation, alteration, repair, service, or renovation of HVACR systems under the supervision of a Master HVACR contractor as part of that apprenticeship or other training program and who has studied and performed the majority of HVACR practices.

"HVACR journeyman" means any person who installs, alters, repairs, services, maintains, or renovates HVACR systems and who works under the supervision of a Master HVACR contractor and has studied and performed the majority of HVACR practices.

"Master heating, ventilating, air conditioning, and refrigeration contractor" or "master HVACR contractor" means any person licensed by the Board who obtains a pressure seal and advertises, undertakes, or offers to undertake for another, the planning, laying out, supervising, installing, servicing, maintaining, renovating, testing, commissioning, starting-up, or repairing of HVACR systems, apparatus, or equipment. In order to act as a "Master HVACR contractor," an individual shall be a bona fide representative of the legal entity licensed pursuant to the provisions of this chapter and shall have studied and performed the majority of HVACR practices.

"One percent ownership" means that a bona fide representative is entitled to one percent of any net profits from a business, owns one percent equity in a master HVACR contractor, and is entitled to one percent of the net proceeds from the sale of a business in the event of sale of the business. If the master HVACR contractor is a corporation, the bona fide representative owns stock equaling one percent equity interest, and, if there is more than

one class of stock, the stock owned by the bona fide representative is the highest level stock with full voting rights.

"Replacement" means a change of equipment with the same type or similar equipment.

"Retrofit" means a change in design, construction, or equipment already in operation in order to incorporate later improvements.

"Propane services" means the performing of safety and leak testing of, and the performing of installation, maintenance, repair, removal, adjustment and other services to, propane appliances including, without limitation, ranges, water heaters, heaters, furnaces, containers, and other propane fueled systems, for residential and commercial applications.

### **13:32A-1.3 ELECTRICAL WORK**

Except in replacement cases described in the definition of "heating, ventilating, air conditioning, and refrigeration," a master HVACR contractor shall not perform any electrical work with a potential of more than 30 volts.

### **13:32A-1.4 IN-DUCT SMOKE DETECTORS**

In addition to the services provided as part of HVACR, as defined at N.J.A.C. 13:32A-1.2, a licensed master HVACR contractor shall be permitted to install and wire in-duct smoke detectors to HVACR equipment and/or a remote station and to service, repair, and maintain in-duct smoke detectors.

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## **SUBCHAPTER 2. APPLICATION FOR LICENSURE**

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### **13:32A-2.1 ELIGIBILITY FOR EXAMINATIONS**

- a) An applicant for the master HVACR licensing examination shall submit to the Board:
- 1) A completed application for examination, on a form provided by the Board, including a full street name and number. An application containing only a post office box number as a mailing address shall not be considered a complete application;
  - 2) Proof that the applicant is at least 21 years of age;

- 3) A passport size photograph of the applicant taken within the last six months;
  - 4) Proof that the applicant has met the education requirements of N.J.A.C. 13:32A-2.2; and
  - 5) The application fee as set forth in N.J.A.C. 13:32A-6.1.
- b) After the Board has reviewed the information required in (a) above, the Board shall send a letter that informs the applicant whether he or she is eligible to take the licensing examination required by N.J.A.C. 13:32A-2.3 and, if deemed eligible, of the time and place of examination.

### **13:32A-2.2 EDUCATION REQUIREMENTS**

- a) An applicant for licensure as a master HVACR contractor shall complete one of the following:
- 1) Five years of employment in the HVACR contracting business, which consists of:
    - i) Four or more years in an HVACR apprenticeship or other training program, including, but not limited to steamfitter, pipefitter, or sheet metal apprenticeship programs, approved by the United States Department of Labor, which includes education in the proper management of chlorofluorocarbons and other refrigerants, including high global warming potential gases, and education in propane services that meets the requirements of (c) below; and
    - ii) One or more years employment as an HVACR journeyman;
  - 2) A bachelor's degree in HVACR from a college or university accredited by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education, which includes education in the proper management of chlorofluorocarbons and other refrigerants, including high global warming potential gases, education in propane services that meets the requirements of (c) below, and one year experience in the practical work of installing, servicing, or maintaining HVACR systems; or
  - 3) A bachelor's degree in a field related to HVACR from a college or university accredited by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education, which includes education in the proper management of chlorofluorocarbons and other refrigerants, including high global warming potential gases, education in propane services that meets the requirements of (c) below, and three years experience in the practical work of installing, servicing, and maintaining HVACR systems.

- b) Pursuant to N.J.S.A. 45:16A-13, successful completion of an HVACR program given by a technical school, trade school, county college, or community college accredited by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education, shall satisfy two of the four years required by (a)1i above.
- c) Education in propane services required by (a) above shall include substantially the same information covered in either the Fundamentals of LP manual, 2007 edition, published by the Plumbing-Heating-Cooling Contractors Association, 180 S. Washington Street, P.O. Box 6808, Falls Church, VA 22046, incorporated herein by reference, as amended and supplemented, or the Gas Installation for UA Journeyworkers and Apprentices manual, 2003 edition, published by the United Association, Three Park Place, Annapolis, Maryland, 21401, incorporated herein by reference, as amended and supplemented.

### **13:32A-2.3 EXAMINATIONS**

- a) Examinations shall be prepared and administered by a third-party vendor, but no license shall be granted except by the Board. The Board chairperson may designate members of the Board to oversee the administration of the examination.
- b) Examinations shall be held at least four times annually.
- c) Examinations shall consist of a written portion covering practice issues in HVACR contracting and a written portion on the laws and rules governing the practice of HVACR contracting in New Jersey.
- d) In order to pass the examination an applicant must receive a minimum grade of 70 in each of the two areas set forth in (c) above.
- e) An applicant who fails the master HVACR licensing examination shall not be permitted to retake the examination for six months from the date he or she failed the examination.

### **13:32A-2.4 LICENSURE AND PRESSURE SEAL**

- a) After an applicant has successfully passed the master HVACR licensing examination, or has been informed by the Board that he or she qualifies for licensure pursuant to N.J.A.C. 13:32A-2.5 or 2.6, he or she shall submit to the Board:

- 1) A surety bond in the sum of \$ 3,000 as required pursuant to N.J.S.A. 45:16A-23. An applicant who has obtained a surety bond in the sum of \$ 3,000 in order to satisfy the requirements of N.J.S.A. 45:14C-26 and N.J.A.C. 13:32-2.5 shall meet this requirement if he or she submits proof that such a bond has been submitted to the State Board of Examiners of Master Plumbers;
  - 2) A certificate of general liability insurance from an insurance company authorized and licensed to do business in New Jersey in the amount of \$ 500,000 for combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence or proof of self-insurance approved by the Department of Banking and Insurance, obtained by the applicant or the HVACR company or corporation, if the applicant will offer HVACR contracting services to the public, which includes instances when the applicant will act as a bona fide representative for a company or corporation;
  - 3) A Federal Tax Identification number for the HVACR business, if the applicant will be engaging in the business of HVACR contracting, which includes instances when the applicant will act as a bona fide representative for a company or corporation; and
  - 4) The licensing fee as set forth in N.J.A.C. 13:32A-6.1.
- b) At the time of the issuance of the license to a master HVACR contractor, the Board shall authorize the vendor that issues pressure seals to furnish a pressure seal to the master HVACR contractor. After the Board has informed an applicant that he or she has passed the licensing examination, or has qualified for licensure pursuant to N.J.A.C. 13:32A-2.5 or 2.6, the applicant shall submit to the Board the initial pressure seal fee pursuant to N.J.A.C. 13:32A-6.1. The pressure seal shall remain the property of the Board and shall be returned to the Board as provided in (f) below.
- c) The seal shall be used exclusively by the master HVACR contractor in the conduct of the heating, ventilating, air conditioning, and refrigeration business practice. The master HVACR contractor shall impress the seal upon all applications for heating, ventilating, air conditioning, and refrigeration permits.
- d) Use of a seal by any person other than the master HVACR contractor to whom it was issued or the securing of a heating, ventilating, air conditioning, and refrigeration permit for an unlicensed person shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation, or false pretense. Such conduct may be grounds for the suspension or revocation of the license of an unauthorized user if he or she is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license at any point in the future, which does not preclude the Board from proceeding against unlicensed practice pursuant to any other law or rule. Nothing in this subsection shall be deemed to preclude a bona fide representative from

securing a heating, ventilating, air conditioning, and refrigeration permit for the heating, ventilating, air conditioning, and refrigeration business he or she represents.

- e) A master HVACR contractor who willfully or negligently allows an unlicensed or unauthorized person to use his or her seal shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by N.J.S.A. 45:16A-1 et seq. and 45:1-14 et seq.
- f) A master HVACR contractor who has been suspended for failure to renew a license in accordance with N.J.A.C. 13:32A-3.1 or who has had his or her license suspended or revoked for any reason shall return the pressure seal to the Board within 30 days of the suspension, revocation, or lapse of license.
- g) A master HVACR contractor who no longer possesses a pressure seal due to theft, loss, or other cause shall replace the seal by submitting to the Board a notarized letter detailing why the master HVACR contractor no longer possesses the pressure seal. The master HVACR contractor shall submit to the Board the replacement pressure seal fee pursuant to N.J.A.C. 13:32A-6.1. The replacement pressure seal shall remain the property of the Board and shall be returned to the Board as provided in (f) above.
- h) Only the Board recognized vendor of seal presses shall issue or create seal presses. No other entity or person shall issue or create seal presses.

### **13:32A-2.5 RECIPROCITY WITH OTHER STATES**

- a) An individual who is licensed to practice HVACR contracting in another state may obtain a license in New Jersey without taking the master HVACR licensing examination as long as the other state:
  - 1) Has licensure standards equal to or comparable to licensure requirements in New Jersey; and
  - 2) Permits New Jersey licensees to obtain licensure based upon a New Jersey license.
- b) An applicant for a master HVACR contractor license who is licensed in another state shall submit:
  - 1) A completed application for licensure through reciprocity, on a form provided by the Board, which shall include a full street name and number. An application containing only

- a post office box number as a mailing address shall not be considered a complete application;
- 2) Proof that the applicant is at least 21 years of age;
  - 3) A passport size photograph of the applicant taken within the last six months;
  - 4) Proof that the applicant has met the education requirements of N.J.A.C. 13:32A-2.2;
  - 5) Proof that the state in which he or she is licensed allows New Jersey licensed master HVACR contractors to obtain a license in that state based upon New Jersey licensure;
  - 6) Proof that the applicant is licensed in the other state; and
  - 7) The application fee as set forth in N.J.A.C. 13:32A-6.1.
- c) Once the Board has reviewed the submitted information, and has determined whether the other state meets the requirements of (a) above, the Board shall inform the applicant whether he or she qualifies for licensure and, if eligible, that he or she should submit the information and documentation required by N.J.A.C. 13:32A-2.4.

**13:32A-2.6 ISSUANCE OF LICENSE TO INDIVIDUALS ENGAGED IN PRACTICE AS OF MARCH 1, 2012**

- a) Prior to September 1, 2014 a licensed master plumber or any other person may apply for a license as a master HVACR contractor without satisfying the education requirements of N.J.A.C. 13:32A-2.2 or the examination requirements of N.J.A.C. 13:32A-2.3 if the person has for at least two years prior to the date the application is submitted to the Board engaged in the practice of installing, servicing, maintaining, planning the installation, laying out the installation, and supervising the installation and/or servicing of HVACR systems.
- 1) For the purposes of this subsection, engaging in the practice of installing, servicing, maintaining, planning the installation, laying out the installation, or supervising the installation and/or servicing of HVACR systems shall include:
    - i) Being employed as an inspector of HVACR systems and holding a license as a mechanical inspector or a plumbing inspector from the Department of Community Affairs; and

- ii) Teaching courses in the HVACR field at an apprentice or other training program approved by the United States Department of Labor or a bachelor's degree program in a college or university accredited by a regional accrediting body recognized by the United State Department of Education, Office of Postsecondary Education. Such an applicant shall have worked as a master HVACR contractor for at least five years prior to, or during, the time he or she was teaching HVACR courses.
- b) An applicant who meets the requirements of (a) above shall submit:
- 1) A completed application for licensure, on a form provided by the Board, including a full street name and number. An application containing only a post office box number as a mailing address shall not be considered a complete application;
  - 2) A passport size photograph of the applicant taken within the last six months;
  - 3) Proof that the applicant has met the experience requirements of (a) above. Such proof may include:
    - i) An attestation from a master HVACR contractor indicating that the applicant has completed the requirements of (a) above;
    - ii) Any certifications the applicant has obtained indicating expertise in the field of heating, ventilating, air conditioning, and refrigeration contracting;
    - iii) Any education the applicant has completed related to the field of heating, ventilating, air conditioning, and refrigeration contracting;
    - iv) An employment history showing that the applicant has engaged in the practice of heating, ventilating, air conditioning, and refrigeration contracting;
    - v) A copy of a Form W-2 that has been submitted to the Internal Revenue Service indicating that the applicant engaged in the practice of heating, ventilating, air conditioning, and refrigeration contracting; or
    - vi) Any other documentation that demonstrates to the Board that the applicant has completed at least two years of experience in heating, ventilating, air conditioning, and refrigeration contracting.
  - 4) The application and licensing fees as set forth in N.J.A.C. 13:32A-6.1.



**13:32A-2.7 CREDIT TOWARDS LICENSURE FOR EDUCATION, TRAINING, AND EXPERIENCE RECEIVED WHILE SERVING AS A MEMBER OF THE ARMED FORCES**

- a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure under N.J.A.C. 13:32A-2.2 may apply to the Board for recognition of the applicant's training, education, or experience received while serving as a member of the Armed Forces, which the Board shall consider together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure
  
- b) The Board shall issue a license to the applicant, if the applicant presents evidence to the Board that:
  - 1) The applicant has been honorably discharged from active military service;
  
  - 2) The relevant training, education, and experience the applicant has received in the military, together with any training, education, and experience obtained outside of the Armed Forces, is substantially equivalent in scope and character to the training, education, and experience required for licensure under N.J.A.C. 13:32A-2.2.
    - i) An applicant seeking credit for military training and experience shall submit to the Board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586.
  
    - ii) An applicant seeking credit for education courses and/or training completed while in the military shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to the program required for licensure under N.J.A.C. 13:32A-2.2. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses or training courses and/or training relevant to the practice of heating, ventilating, air conditioning, and refrigeration that have been evaluated by the American Council on Education for substantial equivalence to civilian heating, ventilating, air conditioning, and refrigeration education; and
  
  - 3) The applicant complies with all other requirements for licensure, including successful completion of licensing examination.

- c) It is the applicant's responsibility to provide timely and complete evidence of the training, education, and experience gained in the military for review and consideration.
- d) If the applicant's military training, education, and experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Board shall credit whatever portion of the military training, education, and experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:32A-2.2 for the issuance of the license.
- e) Satisfactory evidence of such training, education, and experience shall be assessed on a case-by-case basis.

### **13:32A-2.8 ABANDONMENT OF APPLICATION FOR LICENSURE**

- a) An application for a license submitted to the Board will be deemed abandoned if:
  - 1) The individual applying for the license has not submitted to the Board all of the information and documentation required to obtain a license, pursuant to N.J.A.C. 13:32A-2.1; and
  - 2) One year has elapsed since the first notice to the applicant was sent by the Board informing him or her of the information and documentation that the Board has not received.
- b) If an application for licensure is deemed abandoned pursuant to (a) above, the Board shall administratively close the application without notice to the applicant and shall dispose of any information or documentation submitted by the applicant pursuant to the Division of Consumer Affairs' record retention plan.
- c) An individual whose application for licensure has been administratively closed by the Board, pursuant to (a) above, may reapply for licensure pursuant to N.J.A.C. 13:32A-2.1.

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**SUBCHAPTER 3.  
RENEWAL OF LICENSURE**

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**13:32A-3.1 RENEWAL OF LICENSE**

- a) Licenses shall be renewed biennially on a form provided by the Board. Each applicant for renewal shall attest that the continuing education requirements of N.J.A.C. 13:32A-4.1 have been completed during the prior biennial period.
- b) The Board shall send a notice of renewal to each master HVACR contractor, at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew provided that the license is renewed within 60 days from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.
- c) A master HVACR contractor shall renew his or her license for a period of two years from the last expiration date. The master HVACR contractor shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:32A-6.1 prior to the date of expiration of the license.
- d) A master HVACR contractor may renew his or her license by choosing inactive status. A master HVACR contractor electing to renew license as inactive shall return his or her pressure seal to the Board. A master HVACR contractor with an inactive license shall not practice as a master HVACR contractor, or hold himself or herself out as eligible to practice as a master HVACR contractor, in New Jersey until such time as the license is returned to active status.
- e) If the master HVACR contractor does not renew the license prior to its expiration date, the master HVACR contractor may renew the license no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:32A-6.1. During this 30-day period, the license shall be valid and the master HVACR contractor shall not be deemed practicing without a license.
- f) A master HVACR contractor who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing. A master HVACR contractor whose license has been suspended shall return his or her pressure seal to the Board.

- g) A person who continues to practice or hold himself or herself out as a master HVACR contractor after his or her license has been suspended pursuant to (f) above shall be deemed to have committed unlicensed practice pursuant to N.J.S.A. 45:16A-7 and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the person.

### **13:32A-3.2 LICENSE REACTIVATION**

- a) A master HVACR contractor who holds an inactive license pursuant to N.J.A.C. 13:32A-3.1(d) may apply to the Board for reactivation of the inactive license. A master HVACR contractor seeking reactivation of an inactive license shall submit:
- 1) A renewal application;
  - 2) A certification of employment listing each job held during the period of inactive license which includes the names, addresses, and telephone number of each employer;
  - 3) If the renewal application is sent during the first year of the biennial renewal period, the renewal fee for the biennial period for which reactivation is sought as set forth in N.J.A.C. 13:32A-6.1. If the renewal application is sent during the second year of the biennial period, half of the renewal fee for the biennial period for which reactivation is sought as set forth in N.J.A.C. 13:32A-6.1; and
  - 4) Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth in N.J.A.C. 13:32A-4.1.
- b) An applicant who holds a valid, current license in good standing issued by another state to practice as a master HVACR contractor and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements of (a)4 above. If the other state does not have any continuing education requirements, the requirements of (a)4 above shall apply.
- c) The Board shall return the master HVACR contractor's pressure seal when the master HVACR contractor returns to active status.
- d) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reactivation of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant as a condition of reactivation of licensure to take and successfully complete education or training, or to submit to supervision, monitoring, or

limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:

- 1) Length of time the license was inactive;
- 2) Employment history;
- 3) Professional history;
- 4) Disciplinary history and any action taken against the applicant's license by any professional or occupational licensing board;
- 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to practice as a master HVACR contractor or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
- 6) Pending proceedings against a professional or occupational license issued to the applicant by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
- 7) Civil litigation related to practice as a master HVACR contractor or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

### **13:32A-3.3 LICENSE REINSTATEMENT**

- a) A person who has had his or her license suspended pursuant to N.J.A.C 13:32A-3.1(f) may apply to the Board for reinstatement. A person applying for reinstatement shall submit:
  - 1) A reinstatement application;
  - 2) A certification of employment listing each job held during the period of suspended license which includes the names, addresses, and telephone number of each employer;
  - 3) The renewal fee set forth in N.J.A.C. 13:32A-6.1 for the biennial period for which reinstatement is sought;

- 4) The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;
  - 5) The reinstatement fee set forth in N.J.A.C. 13:32A-6.1; and
  - 6) Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth in N.J.A.C. 13:32A-4.1.
- b) An applicant who holds a valid, current license in good standing issued by another state to practice as a master HVACR contractor and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements of (a)6 above. If the other state does not have any continuing education requirements, the requirements of (a)6 above shall apply.
- c) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant as a condition of reinstatement of licensure to take and successfully complete education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:
- 1) Length of time the license was suspended;
  - 2) Employment history;
  - 3) Professional history;
  - 4) Disciplinary history and any action taken against the applicant's license by any licensing or occupational board;
  - 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to practice as a master HVACR contractor or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;

- 6) Pending proceedings against a professional or occupational license issued to the licensee by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
- 7) Civil litigation related to practice as a master HVACR contractor or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

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## **SUBCHAPTER 4. CONTINUING EDUCATION**

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### **13:32A-4.1 LICENSE RENEWAL; CONTINUING EDUCATION REQUIREMENT**

- a) Every master HVACR contractor shall successfully complete five credits of continuing education at an approved course every biennial period. Master HVACR contractors applying for their first biennial renewal are exempt from this continuing education requirement.
- b) A master HVACR contractor shall indicate on the license renewal form that he or she has completed the continuing education requirements of this subchapter. Failure to meet the continuing education requirements as set forth in this subchapter or the falsification of any information submitted with the renewal application may result in the imposition of disciplinary sanctions pursuant to N.J.S.A. 45:1-21 et seq.
- c) Every master HVACR contractor shall maintain, for a period of four years, all verification of attendance forms for all continuing education courses the master HVACR contractor has completed. Master HVACR contractors who teach a continuing education course during a biennial period shall maintain, for a four-year period, records that indicate that the master HVACR contractor has taught a Board-approved continuing education course.
- d) The Board may review the records of any master HVACR contractor, at any time, in order to ensure that the master HVACR contractor has complied with the continuing education requirements.

### **13:32A-4.2 CONTINUING EDUCATION SPONSORS; BOARD APPROVAL; DUTIES**

- a) All sponsors of continuing education courses shall obtain Board approval prior to offering a continuing education course for an upcoming biennial period. The Board shall maintain a list of approved courses at the Board offices and shall furnish this information to master HVACR contractors upon request.

- b) A sponsor seeking Board approval shall appear before the Board and submit, prior to that appearance, the following:
  - 1) Detailed descriptions of course content and estimated hours of instruction;
  - 2) Curriculum vitae of each instructor, including the background that qualifies him or her as an instructor in specific areas; and
  - 3) The continuing education sponsor application fee pursuant to N.J.A.C. 13:32A-6.1.
- c) The sponsor of a continuing education course shall furnish each attendee a verification of attendance, which shall include the following:
  - 1) The title, date, and location of course or program offering;
  - 2) The name and license number of the attendee;
  - 3) The number of hours attended; and
  - 4) The name and signature of the sponsor or instructor.
- d) The sponsor of a continuing education course shall monitor the attendance at each approved course and maintain an attendance log, which lists the name and license number of every master HVACR contractor who attends a course. The log shall document that each master HVACR contractor has completed the sponsor's course.
- e) The sponsor shall obtain course evaluations from both participants and instructors and maintain these evaluations as part of the sponsor's records.
- f) The Board may evaluate the performance of any continuing education instructor through observation of the instructor during the presentation of a course or evaluate the qualifications and abilities of the instructor by conducting an interview during a Board meeting.
- g) A continuing education class shall consist of no more than 50 people.



### **13:32A-4.3 REQUIRED COURSE TOPICS**

- a) Every biennial period, master HVACR contractors shall complete one hour of continuing education in statutes and rules governing the practice of heating, ventilating, air conditioning, and refrigeration, including the Uniform Construction Code, N.J.A.C. 5:23.
- b) Three months prior to the beginning of a biennial period, the Board shall determine the topics for the remaining four hours of continuing education that shall be provided by program sponsors for the upcoming biennial period. The Board shall determine these topics at a regularly scheduled public Board meeting.
- c) The list of required topics shall be published as a public notice in the New Jersey Register and shall be available at the Board offices.
- d) During the biennial renewal period beginning July 1, 2016 and ending on June 30, 2018, sponsors of continuing education courses shall include one hour of education in propane services which includes substantially the same information covered in either the Fundamentals of LP manual, 2007 edition or the Gas Installation for UA Journeyworkers and Apprentices manual, 2003 edition.
- e) After completion of the education in propane services required by (d) above, sponsors of continuing education courses shall administer a competency evaluation examination, which tests a licensed master HVACR contractor's understanding of the information provided on propane services.

### **13:32A-4.4 CREDIT AWARDED**

- a) One continuing education credit shall equal one hour of attendance at a continuing education course.
- b) A master HVACR contractor who teaches a continuing education course approved by the Board shall earn five credits of continuing education for the biennial period in which he or she teaches the course and shall be exempt from the requirement of N.J.A.C. 13:32A-4.3(a).
- c) A master HVACR contractor who has completed the continuing education requirements for renewal of a license as a master plumber, or as a plumbing inspector or mechanical inspector by the Department of Community Affairs pursuant to N.J.A.C. 5:23-5.21, shall earn four credits of continuing education. Such a master HVACR contractor shall be required to complete one hour of continuing education in the statutes and rules governing the practice of heating, ventilating, air conditioning, and refrigeration required by N.J.A.C. 13:32A-4.3.

### **13:32A-4.5 WAIVER OF CONTINUING EDUCATION REQUIREMENT**

- a) The Board may waive continuing education requirements on an individual basis for reasons of hardship, such as illness, disability, military duty, or other good cause that prevents the master HVACR contractor from completing continuing education credits during a biennial period.
- b) Any master HVACR contractor seeking a waiver of the continuing education requirements shall apply to the Board in writing and set forth in specific detail the reasons for requesting the waiver. The master HVACR contractor shall provide the Board with such supplemental materials as will support the request for waiver.

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## **SUBCHAPTER 5. IDENTIFICATION OF LICENSEES; BONA FIDE REPRESENTATIVE; SUPERVISION**

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### **13:32A-5.1 IDENTIFICATION OF MASTER HVACR CONTRACTOR; VEHICLES, STATIONERY; ADVERTISING**

- a) All commercial vehicles used by a master HVACR contractor shall be marked on driver's and passenger's sides with the following information:
  - 1) The name of the HVACR business;
  - 2) The name of the master HVACR contractor who owns the business or the name of the bona fide representative for the business in lettering at least one inch in height;
  - 3) The words "Master HVACR contractor license number" or "Master HVACR contractor Lic. #" followed by the license number of the master HVACR contractor in lettering at least one inch in height; and
  - 4) The municipality from which the master HVACR contractor practices or where the master HVACR contractor has a principal office in lettering at least three inches in height.
- b) All business correspondence, invoices, and stationery shall display:

- 1) The name of the master HVACR contractor;
  - 2) The words "Master HVACR contractor license number" or "Master HVACR contractor Lic. #" followed by the license number of the master HVACR contractor; and
  - 3) The New Jersey business address, including the street name and number.
- c) All advertising shall include:
- 1) The name of the master HVACR contractor; and
  - 2) The words "Master HVACR contractor license number" or "Master HVACR contractor Lic. #" followed by the license number of the master HVACR contractor.
- d) Every master HVACR contractor whose name, office address, or license number appears or is mentioned in any advertisement of any kind or character shall be presumed to have caused, permitted, or approved the advertising and shall be personally responsible for its content and character.
- e) If a master HVACR contractor intends to subcontract, in a calendar year, more than one-third of the HVACR work that he or she contracts to perform, or subcontracted in the previous calendar year more than one-third of the work that he or she contracted to perform, all advertising by the master HVACR contractor shall state: "A substantial part of the HVACR work which we undertake may be subcontracted to independent licensed HVACR contractors."

### **13:32A-5.2 BONA FIDE REPRESENTATIVE; REPORTING RESPONSIBILITIES**

- a) A master HVACR contractor seeking to act as a bona fide representative 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 HVACR business, its address and if the HVACR business is a corporation, the names of the officers of record;
  - 2) Provide to the Board proof that the HVACR business 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

- 3) Provide to the Board the acceptance of liability by the HVACR business 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 HVACR business. Such acceptance of liability shall be in writing and on a form provided by the Board.
- b) If a bona fide representative for an HVACR business withdraws as the bona fide representative, the HVACR business may continue to operate for 60 days without a bona fide representative provided that:
- 1) A master HVACR contractor supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32A-5.3(a)3;
  - 2) The bona fide representative and the HVACR business notifies the Board within 10 days of the withdrawal of the bona fide representative; and
  - 3) The supervising master HVACR contractor licensee notifies the Board within 10 days of being appointed as the supervising master HVACR contractor.
- c) If the bona fide representative for any HVACR business is unable to perform the duties of a bona fide representative because of death, illness, or disability, the HVACR business may continue to operate for six months without a bona fide representative provided that:
- 1) A master HVACR contractor supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32A-5.3(a)3; and
  - 2) The supervising master HVACR contractor and the HVACR business notify the Board within 10 days of the death, illness, or disability of the bona fide representative.

### **13:32A-5.3 BONA FIDE REPRESENTATIVE RESPONSIBILITIES**

- a) A bona fide representative registered with the Board pursuant to N.J.A.C. 13:32A-5.2 shall:
- 1) Give notice to the Board in writing concerning any change in the name or address of the entity within 10 days of the change;
  - 2) Secure or instruct an authorized employee, or an independent master HVACR contractor, to secure all necessary permits as may be required by State and local law for the performance of HVACR work to be performed by the HVACR business. In making an

application for permit issuance, the authorized employee or independent master HVACR 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 master HVACR contractor and all work shall be supervised in the manner set forth in (a)3 below;

- 3) Supervise the performance of all HVACR work performed by the HVACR business as follows:
  - i) If the person performing the work is a master HVACR contractor, 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 has completed at least two years of experience in the practice of HVACR, the bona fide representative or a master HVACR contractor employed by the HVACR business shall maintain daily contact with the person either directly, by telephone, or through writing and, where the work requires a HVACR permit, shall inspect the work upon completion. Any such contact shall be recorded by the bona fide representative or the master HVACR contractor employed by the HVACR business;
  - iii) If the person is performing preventative maintenance on an HVACR system and has at least one year of experience in the practice of HVACR, the bona fide representative or a master HVACR contractor employed by the HVACR business shall maintain daily contact with the person either directly, by telephone, or through writing. Any such contact shall be recorded by the bona fide representative or the master HVACR contractor employed by the HVACR business; and
  - iv) Except as set forth in (a)3iii above, if the person performing the work has less than two years experience, the bona fide representative shall ensure constant on-site supervision by a master HVACR contractor, or a HVACR journeyman with at least five years experience, during all times that HVACR services are being performed;
- 4) Be responsible for any and all violations of N.J.S.A. 45:16A-1 et seq. committed by employees of the HVACR business if said violations were committed during the course of work that he or she was required to supervise;
- 5) Serve as a bona fide representative for only one HVACR business; and
- 6) Maintain a place of business in the State of New Jersey or designate, and notify the Board of the identity of, an agent or entity in New Jersey for service of process.

- b) Nothing in this chapter shall preclude the Board from proceeding against both the bona fide representative for an HVACR business or any other master HVACR contractor employed by such a business who can be shown to have violated N.J.S.A. 45:16A-1 et seq. or Board rules. Nothing shall preclude any person entitled to maintain an action on a bond from proceeding pursuant to N.J.A.C. 13:32A-5.6 against the bona fide representative and any other master HVACR contractor who has failed to perform the duties required by N.J.S.A. 45:16A-1 et seq.
- c) The bona fide representative of any HVACR business that contracts to provide HVACR services to a consumer and wishes to subcontract that HVACR work to another HVACR business shall:
- 1) Subcontract only to a business whose sole proprietor is a licensed master HVACR contractor or which has a bona fide representative who is registered with the Board. The bona fide representative for the original master HVACR 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 HVACR business 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 HVACR business 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 HVACR business as well as the subcontractor remain liable for any defects, damages, or other losses that may result from the negligence, misconduct, or insolvency of the subcontractor;
  - 6) Require that the subcontractor immediately notify the original HVACR business of any complaints by the consumer or the consumer's representative or by any governmental official; and
  - 7) Supervise the work of the subcontractor in the same manner as required by (a)3i above.
- d) The bona fide representative shall have sufficient knowledge of the HVACR business' bookkeeping system and financial accounts to inform the Board, upon request by the Board,

regarding the business' price-setting, billings, costs, subcontractors, overhead costs, and profits.

#### **13:32A-5.4 SUPERVISION**

Any HVACR work that a master HVACR contractor agrees to perform, that has not been subcontracted, shall be performed only by the master HVACR contractor or those employees of the master HVACR contractor or the HVACR business whose remuneration is reported on a Form W-2 to the Internal Revenue Service.

#### **13:32A-5.5 REQUIREMENT OF IDENTIFICATION CARD**

- a) At the time of the biennial renewal of the license, the Board shall furnish a wallet size identification card to every master HVACR contractor. The card shall be used exclusively by the master HVACR contractor in the conduct of his or her practice. A master HVACR contractor is required to present the identification card upon request when applying for HVACR permits.
- b) Use of an identification card by any person, other than the master HVACR contractor to whom the identification card is issued or by the agent authorized to act on behalf of the master HVACR contractor, shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation, or false pretense. Such conduct shall be unlawful and may be grounds for the suspension or revocation of the license of the unauthorized user if he or she is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license in the future, which does not preclude the Board from proceeding against unlicensed practice pursuant to any other law or regulation.
- c) A master HVACR contractor who willfully or negligently allows an unlicensed or unauthorized person to use his or her identification card shall be deemed to have engaged in occupational misconduct and shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by N.J.S.A. 45:16A-1 and 45:1-14 et seq.

#### **13:32A-5.6 ACTIONS ON THE SURETY BOND**

- a) Any person, partnership, or corporation including any political subdivision of State government who has been injured, aggrieved, or damaged through the failure of a master

HVACR contractor to perform the duties required by N.J.S.A. 45:16A-1 et seq. or any rule of the Board shall be eligible to receive the financial protection of, and may maintain an action on, the surety bond.

- b) Any restitution to a person, partnership, corporation, or any political subdivision of State government ordered by the Board shall be eligible for the financial protection of the surety bond.
- c) If a bond is used to respond to a claim pursuant to (a) or (b) above, a master HVACR contractor shall replenish the bond so that its sum is \$ 3,000 as required by N.J.S.A. 45:16A-23.

### **13:32A-5.7 CHANGE OF ADDRESS; SERVICE OF PROCESS**

- a) Every master HVACR contractor shall notify the Board in writing of his or her office address. Every master HVACR contractor shall notify the Board in writing of any change in his or her office within 10 days after such change.
- b) Service of an administrative complaint or other process initiated by the Board, the Attorney General, or the Division of Consumer Affairs at the master HVACR contractor's address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding against the master HVACR contractor.

### **13:32A-5.8 UNCONSCIONABLE PRICING**

- a) A master HVACR contractor shall not charge an unconscionable price for services. A price is unconscionable when, after review of the facts, a master HVACR contractor of ordinary prudence would be left with a definite and firm conviction that the price is so high as to be manifestly unconscionable or overreaching under the circumstances.
- b) Factors that may be considered in determining whether a price is unconscionable include the following:
  - 1) The time and effort required;
  - 2) The novelty or difficulty of the job;



- 3) The skill required to perform the job properly;
  - 4) Any special conditions placed upon the performance of the job by the person or entity for which the work is being performed;
  - 5) The experience, reputation and ability of the master HVACR contractor to perform the services; and
  - 6) The price customarily charged in the locality for similar services.
- c) Charging an unconscionable price shall constitute occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) and may subject the master HVACR contractor to disciplinary action.

**13:32A-5.9 DESIGNATIONS FOR LICENSEES; PROHIBITIONS ON UNLICENSED PERSONS**

- a) An active licensee may use the title "licensed master HVACR contractor" or "master HVACR contractor."
- b) No person, firm, partnership, corporation, or other legal entity shall engage in the business of HVACR contracting, advertise as a master HVACR contractor or use the title "licensed master HVACR contractor" or "master HVACR contractor" unless the person is licensed by the Board or the firm, partnership, corporation, or other legal entity has a bona fide representative who is licensed by the Board.

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**SUBCHAPTER 6.  
FEES**

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**13:32A-6.1 FEE SCHEDULE**

- a) The following fees shall be charged by the Board:
  - 1) Application fee without prior registration (non-refundable) ..... \$ 100.00
  - 2) Initial license fee:

- i) If paid during the first year of a biennial renewal period ..... 160.00
  - ii) If paid during the second year of a biennial renewal period ..... 80.00
  - 3) License renewal fee, biennial ..... 160.00
  - 4) Late renewal fee ..... 50.00
  - 5) Reinstatement fee ..... 150.00
  - 6) Initial pressure seal ..... 25.00
  - 7) Replacement pressure seal ..... 25.00
  - 8) Duplicate license fee ..... 25.00
  - 9) Replacement wall certificate ..... 40.00
  - 10) Verification of licensure ..... 25.00
  - 11) Continuing education sponsor application fee ..... 100.00
- b) The following fees shall be charged by the Board in connection with licensure of master hearth specialists:
- 1) Application fee ..... \$100.00
  - 2) Initial license fee:
    - i) i. If paid during the first year of a biennial renewal period .....\$160.00
    - ii) ii. If paid during the second year of a biennial renewal period .....\$80.00
  - 3) License renewal fee, biennial ..... \$160.00
  - 4) Late renewal fee ..... \$50.00
  - 5) Reinstatement fee ..... \$150.00

- 6) Duplicate license fee ..... \$25.00
- 7) Verification of licensure ..... \$25.00
- 8) Temporary courtesy license fee ..... \$80.00

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**SUBCHAPTER 7. LICENSED MASTER HEARTH SPECIALIST ADVISORY  
COMMITTEE**

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**13:32A-7.1 PURPOSE AND SCOPE**

- a) The rules contained in this subchapter provide for the licensing and regulation of master hearth specialists, implementing the provisions at P.L. 2019, c. 260.
- b) This subchapter does not apply to any person who is:
  - 1) Licensed to practice in New Jersey and is practicing within the scope of practice of his or her profession, including an architect, professional engineer, electrical contractor, manufactured gas supplier or marketer, master plumber, or master heating, ventilating, air conditioning, and refrigeration contractor, as long as such person does not identify him- or herself as a licensed master hearth specialist;
  - 2) A chimney service professional registered as a home improvement contractor with the Division of Consumer Affairs, as long as such person does not identify him- or herself as a licensed master hearth specialist;
  - 3) A single-family homeowner who personally performs hearth professional work on his or her own dwelling; and
  - 4) Any public utility company regulated by the Board of Public Utilities or any related competitive business segment of that public utility that offers competitive services pursuant to the Electric Discount and Energy Competition Act, P.L. 1999, c. 21 (N.J.S.A. 48:3-49 et seq.).

### **13:32A-7.2 DEFINITIONS**

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

"Barbecue appliance" means an appliance that cooks food by applying heat as a result of burning solid fuel, gas fuel, natural or manufactured gas, wood fuel, or pellet fuel.

"Board" means the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors.

"Bona fide representative" means a licensed master hearth specialist who has not less than one percent ownership of the issued and outstanding shares of stock in a corporation, or not less than one percent ownership of any other firm or legal entity engaged in hearth professional work in this State. A "bona fide representative" means, with respect to a corporation, partnership, or other firm or legal entity engaged in hearth professional work in this State that generates more than 65 percent of its gross revenue from sources other than hearth professional work, or with respect to a publicly traded corporation, including its wholly owned subsidiaries, whose principal business in New Jersey is hearth professional work:

1. In the case of a sole proprietorship, the owner;
2. In the case of partnership, the partner;
3. In the case of a limited liability company, a manager; or
4. In the case of a corporation, an executive officer.

"Committee" means the Licensed Master Hearth Specialist Advisory Committee.

"Decorative space heater appliance" means an appliance that offers a decorative view of flames and provides heat to the immediate area by the means of thermal radiation or convection, and includes free standing, mounted, or built-in appliances, stoves, fireplaces, inserts, and gas logs, and may be fueled by solid fuel, gas fuel, natural or manufactured gas, wood fuel, or pellet fuel.

"Employee" means an individual who is employed by a hearth professional work business.

"Hearth product appliance" means a fireplace, fireplace insert, stove, or log set that offers a decorative view of flames and may be fueled by solid fuel, gas fuel, natural or manufactured gas, wood fuel, or pellet fuel, and may include a passive or powered air vent heated by flames, a convection chamber for the purpose of heating the room air by the means of gravity, or a manufacturer approved or supplied fan.

"Hearth professional work" means the installation, replacement, connection, venting, inspection, repair, maintenance, or servicing of hearth product appliances, barbecue appliances, outdoor patio appliances, and decorative space heater appliances, and shall include the installation, inspection, repair, or servicing of vents, vent connectors, masonry, metal and factory-built chimney and vent systems, and natural or manufactured gas piping on the load side of the meter.

"Licensed master hearth specialist" means a person who holds a current, valid license to engage in hearth professional work pursuant to P.L. 2019, c. 260 (N.J.S.A. 45:16A-29 et seq.).

"Outdoor patio appliance" means an appliance that is located outdoors and may be fueled by solid fuel, gas fuel, natural or manufactured gas, wood fuel, or pellet fuel, including free standing, mounted, or built-in appliances, stoves, fireplaces, fire pits, inserts, and gas logs.

### **13:32A-7.3 ELIGIBILITY FOR LICENSURE**

- a) An applicant for a license as a master hearth specialist shall submit to the Committee:
- 1) A completed application for licensure, on a form provided by the Committee, including a full street name and number. An application containing only a post office box number as a mailing address shall not be considered a complete application;
  - 2) Proof that the applicant is at least 21 years of age;
  - 3) A passport size photograph of the applicant taken within the last six months;
  - 4) Proof that the applicant has a valid certification as a master hearth professional from the National Fireplace Institute (NFI);

- 5) Proof that the applicant has been engaged or employed in hearth professional work for at least five years, two of which shall be within the preceding five years. Such proof may include:
    - i) A signed attestation from a licensed master hearth specialist indicating that the applicant has completed five years of hearth professional work;
    - ii) An employment history showing that the applicant has engaged in hearth professional work signed by an employer;
    - iii) A copy of a Form W-2 that has been submitted to the Internal Revenue Service indicating that the applicant engaged in the hearth professional work; or
    - iv) Any other documentation that demonstrates to the Committee that the applicant has completed at least five years of experience in hearth professional work.
  - 6) The application fee as set forth at N.J.A.C. 13:32A-6.1.
- b) After the Committee has reviewed the information required at (a) above and determined that the applicant meets the standards, the Committee shall send a letter that informs the applicant that the applicant will be licensed upon receipt of the license fee as set forth at N.J.A.C. 13:32A-6.1. Upon receipt of the fee, the Committee shall send the applicant the license.

#### **13:32A-7.4 TEMPORARY COURTESY LICENSE**

- a) An applicant may obtain a temporary courtesy license pursuant to P.L. 2013, c. 264, if the applicant:
  - 1) Is currently licensed in good standing in another state or territory of the United States, or the District of Columbia, that has licensure requirements equivalent to those in New Jersey;
  - 2) Is not a resident of New Jersey;
  - 3) Has not committed an act in another jurisdiction that would have constituted grounds for the denial, suspension, or revocation of a master hearth specialist license in New Jersey or has not been disciplined, or is not the subject of an investigation, by a professional or occupational licensing or credentialing entity in another jurisdiction;

- 4) Is the spouse of an active-duty member of the Armed Forces of the United States who has been transferred to New Jersey in the course of his or her service; and
  - 5) Is legally domiciled in New Jersey or has moved to New Jersey on a permanent change-of-station basis.
- b) An applicant for a temporary courtesy license shall submit, or arrange to submit, to the Committee:
- 1) A completed application form;
  - 2) The application and temporary courtesy license fees as set forth at N.J.A.C. 13:32A-6.1(b)1 and 8;
  - 3) Written or electronic verification of status of licensure from every state or territory of the United States, or the District of Columbia, in which the applicant was ever licensed. The verification shall either be forwarded directly to the Committee from the applicable State board, if written, or if electronic, be issued by the applicable State board; and
  - 4) Proof that the applicant was engaged in hearth professional work in another jurisdiction, including any time spent discharging official duties in the Armed Forces or for an agency of the Federal government, for at least two of the last five years immediately preceding the date of application.
- c) A temporary courtesy license shall be valid for one year.
- d) A holder of a temporary courtesy license shall comply with the continuing education requirements at N.J.A.C. 13:32A-7.8.
- e) An individual who holds a temporary courtesy license may apply to the Committee for an extension of the license for an additional year by submitting a renewal application to the Committee.

### **13:32A-7.5 RENEWAL OF LICENSE**

- a) Licenses shall be renewed biennially on a form provided by the Board. Each applicant for renewal shall attest that the continuing education requirements at N.J.A.C. 13:32A-7.8 have been completed during the prior biennial period and that the applicant has a valid certification as a master hearth professional from the National Fireplace Institute (NFI).

- b) The Committee shall send a notice of renewal to each licensed master hearth specialist, at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensed master hearth specialist of the option to renew as inactive. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew provided that the license is renewed within 60 days from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.
- c) A licensed master hearth specialist shall renew his or her license for a period of two years from the last expiration date. The licensed master hearth specialist shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:32A-6.1 prior to the date of expiration of the license.
- d) A licensed master hearth specialist may renew his or her license by choosing inactive status. A licensed master hearth specialist with an inactive license shall not practice as a licensed master hearth specialist or hold himself or herself out as eligible to practice as a licensed master hearth specialist, in New Jersey until such time as the license is returned to active status.
- e) If the licensed master hearth specialist does not renew the license prior to its expiration date, the licensed master hearth specialist may renew the license no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:32A-6.1. During this 30-day period, the license shall be valid, and the licensed master hearth specialist shall not be deemed practicing without a license.
- f) A licensed master hearth specialist who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.
- g) A person who continues to practice or hold himself or herself out as a licensed master hearth specialist after his or her license has been suspended pursuant to (f) above shall be deemed to have committed unlicensed practice pursuant to N.J.S.A. 45:16A-33 and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the person.

### **13:32A-7.6 LICENSE REACTIVATION**

- a) A master hearth specialist who holds an inactive license pursuant to N.J.A.C. 13:32A-7.5(d) may apply to the Committee for reactivation of the inactive license. A master hearth specialist seeking reactivation of an inactive license shall submit:



- 1) A reactivation application;
  - 2) A certification of employment listing each job held during the period of inactive license that includes the names, addresses, and telephone number of each employer;
  - 3) If the reactivation application is sent during the first year of the biennial renewal period, the renewal fee for the biennial period for which reactivation is sought as set forth at N.J.A.C. 13:32A-6.1. If the renewal application is sent during the second year of the biennial period, half of the renewal fee for the biennial period for which reactivation is sought as set forth at N.J.A.C. 13:32A-6.1;
  - 4) Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth at N.J.A.C. 13:32A-7.8; and
  - 5) Proof that the applicant has a valid certification as a master hearth professional from the National Fireplace Institute (NFI).
- b) An applicant who holds a valid, current license in good standing issued by another state to practice as a master hearth specialist and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements at (a)4 above. If the other state does not have any continuing education requirements, the requirements at (a)4 above shall apply.
- c) If a Committee review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Committee may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Committee prior to reactivation of the license. If that examination or assessment identifies deficiencies or educational needs, the Committee may require the applicant, as a condition of reactivation of licensure, to take and successfully complete education or training, or to submit to supervision, monitoring, or limitations, as the Committee determines necessary to assure that the applicant practices with reasonable skill and safety. The Committee may restore the license subject to the applicant's completion of training within a period of time prescribed by the Committee following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:
- 1) Length of time the license was inactive;
  - 2) Employment history;
  - 3) Professional history;

- 4) Disciplinary history and any action taken against the applicant's license by any professional or occupational licensing board;
- 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to practice as a master hearth specialist or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
- 6) Pending proceedings against a professional or occupational license issued to the applicant by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
- 7) Civil litigation related to practice as a master hearth specialist or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

### **13:32A-7.7 LICENSE REINSTATEMENT**

- a) A person who has had his or her license suspended pursuant to N.J.A.C. 13:32A-7.5(f) may apply to the Committee for reinstatement. A person applying for reinstatement shall submit:
  - 1) A reinstatement application;
  - 2) A certification of employment listing each job held during the period of suspended license that includes the names, addresses, and telephone number of each employer;
  - 3) The renewal fee set forth at N.J.A.C. 13:32A-6.1 for the biennial period for which reinstatement is sought;
  - 4) The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;
  - 5) The reinstatement fee set forth at N.J.A.C. 13:32A-6.1;
  - 6) Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth at N.J.A.C. 13:32A-7.8; and
  - 7) Proof that the applicant has a valid certification as a master hearth professional from the National Fireplace Institute (NFI).

- b) An applicant who holds a valid, current license in good standing issued by another state to practice as a master hearth specialist and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements at (a)6 above. If the other state does not have any continuing education requirements, the requirements at (a)6 above shall apply.
- c) If a Committee review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Committee may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Committee prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Committee may require the applicant, as a condition of reinstatement of licensure, to take and successfully complete education or training, or to submit to supervision, monitoring, or limitations, as the Committee determines necessary to assure that the applicant practices with reasonable skill and safety. The Committee may restore the license subject to the applicant's completion of training within a period of time prescribed by the Committee following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Committee shall consider the following non-exhaustive issues:
- 1) Length of time the license was suspended;
  - 2) Employment history;
  - 3) Professional history;
  - 4) Disciplinary history and any action taken against the applicant's license by any licensing or occupational board;
  - 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to practice as a master hearth specialist or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
  - 6) Pending proceedings against a professional or occupational license issued to the licensee by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
  - 7) Civil litigation related to practice as a master hearth specialist or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

### **13:32A-7.8 CONTINUING EDUCATION**

- a) Upon biennial license renewal, licensed master hearth specialists shall attest that they have completed courses of continuing education of the types and number of credit hours specified at (b) and (c) below. Falsification of any information submitted on the renewal application may require an appearance before the Committee and may subject a licensed master hearth specialist to penalties and/or suspension or revocation of the license pursuant to N.J.S.A. 45:1-21 through 25.
- b) Each applicant for biennial license renewal shall be required to complete during the preceding biennial period 22 credit hours of continuing education related to the practice of hearth professional work, except as provided at (d) below.
- c) One credit hour of the 22 required pursuant to (b) above shall be in propane services, including substantially the same information covered in either the Fundamentals of LP manual, 2007 edition, published by the Plumbing-Heating-Cooling Contractors Association, 180 S. Washington Street, PO Box 6808, Falls Church, VA 22046, incorporated herein by reference, as amended and supplemented, or the Gas Installation for UA Journeyworkers and Apprentices manual, 2003 edition, published by the United Association, Three Park Place, Annapolis, Maryland, 21401, incorporated herein by reference, as amended and supplemented. After completion of the one credit in propane services, sponsors of continuing education courses shall administer a competency evaluation examination that tests a master hearth specialist's understanding of the information provided on propane services.
- d) A licensed master hearth specialist applying for their first biennial renewal shall not be required to indicate that they completed continuing education requirements.
- e) A licensed master hearth specialist who completes more than the minimum continuing education credit hours set forth at (b) above in any biennial registration period may carry no more than 11 of the additional credit hours into a succeeding biennial period.

### **13:32A-7.9 CONTINUING EDUCATION PROGRAMS**

- a) A licensed master hearth specialist may obtain continuing education credit hours from the following:

- 1) Successful completion of continuing education courses or programs related to the practice of hearth professional work approved by, or offered by providers approved by, the National Fireplace Institute (NFI), one credit hour for each hour of instruction.
  - 2) Teaching a new continuing education program related to hearth professional work that is approved pursuant to (a)1 above. As used in this paragraph, "new" means that the licensed master hearth specialist has never taught or developed curriculum for that course or program in any educational setting, one credit hour for each hour taught; and
  - 3) Successfully passing the National Fireplace Institute (NFI) examination required to obtain certification as a master hearth professional, 21 credit hours.
- b) The one credit hour course in propane services required pursuant to N.J.A.C. 13:32A-7.8(c) shall be:
- 1) Offered by, or offered by providers approved by, the National Fireplace Institute (NFI);
  - 2) Offered by continuing education sponsors approved by the Board pursuant to N.J.A.C. 13:32A-4.2 or by the Board of Examiners of Master Plumbers pursuant to N.J.A.C. 13:32-6.2; or
  - 3) Offered by, or offered by providers approved by, the Department of Community Affairs.

### **13:32A-7.10 CONTINUING EDUCATION AUDITS; RECORDS OF CONTINUING EDUCATION**

- a) The Committee shall perform audits on randomly selected licensed master hearth specialists to determine compliance with continuing education requirements.
- b) A licensed master hearth specialist shall maintain the following documentation for a period of four years after completion of the credit hours and shall submit such documentation to the Committee upon request:
  - 1) For attendance at programs or courses: a certificate of completion from the sponsor;
  - 2) For developing curriculum or teaching a course or program: documentation, including a copy of the curriculum, location, date, and time of course, duration of course by hour, and letter from sponsor confirming that the licensed master hearth specialist developed or taught the course or program; and

- 3) For successfully passing the National Fireplace Institute (NFI) examination required to obtain certification as a master hearth professional, documentation from the NFI indicating that the licensed master hearth specialist passed the examination.

### **13:32A-7.11 WAIVER OF CONTINUING EDUCATION REQUIREMENTS**

A licensed master hearth specialist may request a waiver of continuing education requirements pursuant to N.J.A.C. 13:45C-2.3.

### **13:32A-7.12 ADDITIONAL CONTINUING EDUCATION REQUIREMENTS**

- a) The Committee may direct or order a licensed master hearth specialist to complete continuing education credit hours:
  - 1) As part of a disciplinary or remedial measure in addition to the required 22 hours of continuing education; or
  - 2) To correct a deficiency in the licensed master hearth specialist's continuing education requirements.
- b) Any continuing education credit hours completed by the licensed master hearth specialist in compliance with an order or directive from the Committee as set forth at (a) above shall not be used to satisfy the minimum continuing education requirements as set forth in this subchapter.

### **13:32A-7.13 IDENTIFICATION OF LICENSED MASTER HEARTH SPECIALIST; VEHICLES, STATIONERY; ADVERTISING**

- a) All commercial vehicles used by a licensed master hearth specialist shall be marked on driver's and passenger's sides with the following information:
  - 1) The name of the hearth professional work business;
  - 2) The name of the licensed master hearth specialist who owns the business or the name of the bona fide representative for the business, in lettering at least one inch in height;

- 3) The words "Master hearth specialist license number" or "Master hearth specialist Lic. #" followed by the license number of the licensed master hearth specialist, in lettering at least one inch in height; and
  - 4) The municipality from which the licensed master hearth specialist practices or where the licensed master hearth specialist has a principal office, in lettering at least one inch in height.
- b) All business correspondence, invoices, and stationery shall display:
- 1) The name of the licensed master hearth specialist;
  - 2) The New Jersey business address, including the street name and number; and
  - 3) The words "Master hearth specialist license number" or "Master hearth specialist Lic. #" followed by the license number of the licensed master hearth specialist.
- c) All advertising shall include:
- 1) The name of the licensed master hearth specialist;
  - 2) The New Jersey business address, including the street name and number; and
  - 3) The words "Master hearth specialist license number" or "Master hearth specialist Lic. #" followed by the license number of the licensed master hearth specialist.
- d) Every licensed master hearth specialist whose name, office address, or license number appears or is mentioned in any advertisement of any kind or character shall be presumed to have caused, permitted, or approved the advertising and shall be personally responsible for its content and character.
- e) If a licensed master hearth specialist intends to subcontract, in a calendar year, more than one-third of the work that the licensed master hearth specialist contracts to perform, or subcontracted in the previous calendar year more than one-third of the work that the licensed master hearth specialist contracted to perform, all advertising by that licensed master hearth specialist shall state: "A substantial part of the work which we undertake may be subcontracted to independent licensed master hearth specialists."

**13:32A-7.14 BONA FIDE REPRESENTATIVE; REPORTING RESPONSIBILITIES**

- a) A licensed master hearth specialist seeking to act as a bona fide representative shall comply with the following within 30 days of assuming the role of a bona fide representative:
  - 1) Register with the Committee, providing the name of the hearth professional work business, its address, and, if the hearth professional work business is a corporation, the names of the officers of record;
  - 2) Provide to the Committee proof that the hearth professional work business has consented to have the bona fide representative act as the agent for service of process within this State. Such proof shall be in writing and on a form provided by the Committee; and
  - 3) Provide to the Committee the acceptance of liability by the hearth professional work business 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 hearth professional work business. Such acceptance of liability shall be in writing and on a form provided by the Committee.
  
- b) If a bona fide representative for a hearth professional work business withdraws as the bona fide representative, the hearth professional work business may continue to operate for 60 days without a bona fide representative provided that:
  - 1) A licensed master hearth specialist supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32A-7.15(a)3;
  - 2) The bona fide representative and the hearth professional work business notifies the Committee within 10 days of the withdrawal of the bona fide representative; and
  - 3) The supervising licensed master hearth specialist licensee notifies the Committee within 10 days of being appointed as the supervising licensed master hearth specialist.
  
- c) If the bona fide representative for any hearth professional work business is unable to perform the duties of a bona fide representative because of death, illness, or disability, the hearth professional work business may continue to operate for six months without a bona fide representative provided that:
  - 1) A licensed master hearth specialist supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32A-7.15(a)3; and



- 2) The supervising licensed master hearth specialist and the hearth professional work business notify the Committee within 10 days of the death, illness, or disability of the bona fide representative.

### **13:32A-7.15 BONA FIDE REPRESENTATIVE RESPONSIBILITIES**

- a) A bona fide representative registered with the Board pursuant to N.J.A.C. 13:32A-7.14 shall:
  - 1) Give notice to the Committee, in writing, concerning any change in the name or address of the entity within 10 days of the change;
  - 2) Secure all necessary permits as may be required by State and local law for the performance of hearth professional work to be performed by the hearth professional work business, except when hearth professional work has been subcontracted to another licensed master hearth specialist pursuant to (c) below;
  - 3) Supervise the performance of all hearth professional work performed by the hearth professional work business, as follows:
    - i) If the employee performing the work is a licensed master hearth specialist, 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 employee performing the work has two or more years of supervised experience in hearth professional work, the bona fide representative or a licensed master hearth specialist employee of the hearth professional work business shall maintain daily contact with the employee either directly or through electronic communication and, where the work requires a permit, shall inspect the work upon completion. Any such contact shall be recorded by the bona fide representative or the licensed master hearth specialist employee of the hearth professional work business; and
    - iii) If the employee performing the work has less than two years of supervised experience in hearth professional work, the bona fide representative shall ensure constant on-site supervision by a licensed master hearth specialist, during all times that hearth professional work services are being performed;
  - 4) Be responsible for any and all violations at N.J.S.A. 45:16A-29 et seq., or Committee rules committed by employees of the hearth professional work business if said violations

were committed during the course of work, which the bona fide representative was required to supervise;

- 5) Serve as a bona fide representative for only one hearth professional work business; and
  - 6) Maintain a place of business in the State of New Jersey or designate, and notify the Committee of the identity of, an agent or entity in New Jersey for service of process.
- b) Nothing in this chapter shall preclude the Committee from proceeding against both the bona fide representative for a hearth professional work business or any other licensed master hearth specialist employed by such a business who can be shown to have violated N.J.S.A. 45:16A-29 et seq., or Committee rules.
- c) The bona fide representative of any hearth professional work business that contracts to provide hearth professional work services to a consumer and wishes to subcontract that hearth professional work to another hearth professional work business shall:
- 1) Subcontract only to a business whose sole proprietor is a licensed master hearth specialist, or that has a bona fide representative who is registered with the Committee. The bona fide representative for the original licensed master hearth specialist 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 hearth professional work business 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 hearth professional work business 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 the consumer 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 hearth professional work business, as well as the subcontractor remain liable for any defects, damages, or other losses that may result from the negligence, misconduct, or insolvency of the subcontractor;

- 6) Require that the subcontractor immediately notify the original hearth professional work business of any complaints by the consumer or the consumer's representative or by any governmental official; and
  - 7) Supervise the work of the subcontractor in the same manner as required at (a)3i above.
- d) The bona fide representative shall have sufficient knowledge of the hearth professional work business' bookkeeping system and financial accounts to inform the Committee, upon request by the Committee, regarding the business' price-setting, billings, costs, subcontractors, overhead costs, and profits.

### **13:32A-7.16 SUPERVISION**

- a) Any hearth professional work that a licensed master hearth specialist agrees to perform, that has not been subcontracted to another licensed master hearth specialist, shall be performed only by the licensed master hearth specialist or those employees of the licensed master hearth specialist or the hearth professional work business.
- b) Remuneration of employees of a hearth professional work business shall be documented in a Form W-2 to the Internal Revenue Service, which shall be made available to the Committee upon request.

### **13:32A-7.17 REQUIREMENT OF IDENTIFICATION CARD**

- a) At the time of the biennial renewal of the license, the Committee shall furnish a wallet-size identification card to every licensed master hearth specialist. The card shall be used exclusively by the licensed master hearth specialist in the conduct of his or her practice. A licensed master hearth specialist is required to present the identification card upon request when applying for hearth professional work permits.
- b) Use of an identification card by any person other than the licensed master hearth specialist to whom the identification card is issued shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation, or false pretense. Such conduct shall be unlawful and may be grounds for the suspension or revocation of the license of the unauthorized user if that user is already licensed by the Committee. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license in the future, which does not preclude the Committee from proceeding against unlicensed practice pursuant to any other law or regulation.

- c) A licensed master hearth specialist who willfully or negligently allows an unlicensed or unauthorized person to use his or her identification card shall be deemed to have engaged in occupational misconduct and shall be subject to such penalties and sanctions as shall be imposed by the Committee pursuant to authority granted by N.J.S.A. 45:16A-29 et seq., and 45:1-14 et seq.

### **13:32A-7.18 CHANGE OF ADDRESS; SERVICE OF PROCESS**

- a) Every licensed master hearth specialist shall notify the Committee, in writing, of the specialist's address of record. Every licensed master hearth specialist shall notify the Committee, in writing, of any change the address of record within 10 days after such change.
- b) Service of an administrative complaint or other process initiated by the Committee, the Attorney General, or the Division of Consumer Affairs at the licensed master hearth specialist's address of record on file with the Committee shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding against the licensed master hearth specialist.

### **13:32A-7.19 UNCONSCIONABLE PRICING**

- a) A licensed master hearth specialist shall not charge an unconscionable price for services. A price is unconscionable when, after review of the facts, a licensed master hearth specialist of ordinary prudence would be left with a definite and firm conviction that the price is so high as to be manifestly unconscionable or overreaching under the circumstances.
- b) Factors that may be considered in determining whether a price is unconscionable include the following:
  - 1) The time and effort required;
  - 2) The novelty or difficulty of the job;
  - 3) The skill required to perform the job properly;
  - 4) Any special conditions placed upon the performance of the job by the person or entity for which the work is being performed;

- 5) The experience, reputation, and ability of the licensed master hearth specialist to perform the services; and
  - 6) The price customarily charged in the locality for similar services.
- c) Charging an unconscionable price shall constitute occupational misconduct within the meaning at N.J.S.A. 45:1-21.e and may subject the licensed master hearth specialist to disciplinary action.

**13:32A-7.20 DESIGNATIONS FOR LICENSEES; PROHIBITIONS ON UNLICENSED PERSONS**

- a) An active licensee may use the title "licensed master hearth specialist" or "master hearth specialist."
- b) No person, firm, partnership, corporation, or other legal entity shall engage in the business of hearth professional work contracting, advertise as a licensed master hearth specialist, or use the title "licensed master hearth specialist" or "master hearth specialist," unless the person is licensed by the Committee or the firm, partnership, corporation, or other legal entity has a bona fide representative who is licensed by the Committee.

**13:32A-7.21 GAS PIPING**

No person shall install, improve, repair, or maintain gas piping associated with barbecue appliances, hearth product appliances, outdoor patio appliances, decorative space heater appliances, or hearth professional work unless licensed by the Committee or licensed to practice in New Jersey with a scope of practice that includes the installation, repair, or maintenance of gas piping.