

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
MECHANICAL BOARD**

1511 Pontiac Avenue, Bldg 70, 2nd Floor Conference Room

Cranston, RI 02920

Wednesday, April 3, 2013

9:00am

In attendance:

Timothy Byrne

Stanley Davies

Fred Foeri (arrived 9:10am, exited 10:22am)

Steven Gray

Bobby Joe Harris

Michael Januario

Jack King

Quinlan T. Regan

Charles Wright

Dennis Brennan and Robert Eva were not in attendance.

Also in attendance were Ron D'Ambruoso, Administrator; Nick Ranone, Chief Mechanical Investigator and Bernard Healy, Legal Counsel.

1. – Call to Order: Stanley Davies called the meeting to order at 9:02am.

2. – Minutes of February 6, 2013 and March 6, 2013 meeting: The dispensing of the minutes was held until after the hearings. Following the hearings, Charles Wright made a motion to accept the minutes of February 6, 2013 and March 6, 2013 meeting; seconded by Bobby Joe Harris and passed unanimously by the Board.

3. – Conflict of Interest: Not addressed.

4. – HEARINGS:

Hearings were conducted out of order to accommodate those respondents that were present.

Edward Byrne – A&E Fire Protection Inc – Viol 4485:

E. Patrick Luther, DLT; Nicholas Ranone, Chief Mechanical Investigator; Edward Byrne, A&E Fire Protection; and Garrett Fisk, A&E Fire Protection are sworn in for testimony. For the record Tim Byrne, Board Member, states that as far as he is aware, there is no connection between himself and Mr. Edward Byrne. Nicholas Ranone reads the violation.

DATE: 1/7/2013; Violation 4485

NAME OF VIOLATOR: Edward Byrne, A&E Fire Protection, 280 Milton St, Dedham, MA 02026

LOCATION OF VIOLATION: Lowe's, Eddy Dowling Hwy, No. Smithfield, RI 02896

VIOLATION: RIGL 28-27-5.1 Practices for which a journey person or apprentice license required.

On 10-25-2012, Edward Byrne, A&E Fire Protection Inc. Dedham, MA, did have his employees, Christopher Reif, Rolando E. Menendez, Scott C. Randolph and Douglas M. Paiva engaging in the installation of sprinkler piping at the above mentioned location.

None of these four (4) men hold any valid sprinkler fitter license or are registered apprentices with the State of RI.

This is four (4) violations of the above mentioned RIGL 28-27-5.1.

Four (4) violations at \$500.00 each. Total \$2000.00.

E. Patrick Luther, Investigator, provides testimony. The Board questions Mr. Luther. Mr. Luther presents a photograph of Joshua Snead's RI Driver's License as Exhibit A and a photograph of Scott C. Randolph's Massachusetts Sprinkler Apprentice card as Exhibit B.

The Board continues questioning Mr. Luther.

Fred Foeri arrives at 9:10am.

Edward Byrne, A&E Fire Protection provides testimony. Mr. Byrne provides the Board with a list of his A&E Fire Protection's license holders. The Board questions Mr. Byrne.

With regard to Violation 4485, A & E Fire Protection, Tim Byrne made a motion that violations of RIGL 28-27-5.1, Practices for which a journey person or apprentice license required, did occur based on testimony presented; seconded by Charles Wright and Bobby Joe Harris and passed unanimously by the Board.

Tim Byrne made a motion to uphold the fine of \$500.00 for each violation, for a total of \$2,000.00; seconded by Charles Wright and passed unanimously by the Board.

The recommendation will be forwarded to the Director's office.

Vincent A. Palka, III – Viol 4511:

Vincent A. Palka, III and Vincent Palka, IV are sworn in for testimony. Nick Ranone was previously sworn. Mr. Ranone reads the violation.

DATE: 1/23/13; Violation 4511; Vincent A. Palka, III; 4 Grand View Ave,

Johnston, RI 02919

**LOCATION OF VIOLATION: John & Deb Medeiros 70 Treasure Rd.
Narragansett, RI 02882**

VIOLATION: On 4-28-2012, Vincent A. Palka, III contracted and engaged in the installation of one (1) complete central air conditioning system without a proper RI Refrigeration and or Sheetmetal license. Also, no permit was issued from the Town of Narragansett, at the above mentioned location. This is four (4) violations of RIGL 28-27-5 "Practices for which master or contractor license required", and one (1) violation of RIGL 28-27-20 "State and municipal inspections and installation permits".

The Board had no questions for Mr. Ranone.

Mr. Palka, III addressed the Board.

Nicholas Ranone addressed the Board. Vincent Palka, III only holds a Sheet Metal Journeyman I license.

The Board addressed and questions Mr. Palka, III.

The Board questions Mr. Ranone.

Regarding Violation 4511, Terry (Quinlan T.) Regan made a motion

that violations of RIGL 28-27-5 and RIGL 5-27-20 did occur; seconded by Tim Byrne and passed unanimously by the Board.

Terry Regan made a motion that the fine for Violation 4511 of \$2,500.00 be upheld; seconded by Charles Wright and passed unanimously by the Board.

The recommendation will be forwarded to the Director's office.

Vincent Palka, IV – Viol 4512:

Vincent Palka, IV, and Mechanical Investigator, Nicholas Ranone, were previously sworn in for testimony. Nicholas Ranone reads the violation.

DATE: 1/23/13; Violation 4512; Vincent Palka, IV, 68 Falcon Ave, Warwick, RI 02888

LOCATION OF VIOLATION: John & Deb Medeiros 70 Treasure Rd. Narragansett, RI 02882

VIOLATION: On 4-28-2012, Vincent A. Palka, IV engaged in the installation of one (1) complete central air conditioning system at the above mentioned location. Mr. Palka, IV does hold a valid RI Refrigeration Journey 2 license but was not working for someone holding a proper RI Refrigeration Master license.

This is two (2) violations of RIGL 28-27-5.1" Practices for which a journeyperson or apprentice license required".

The Board questions Mr. Ranone. Vincent Palka, IV holds a Refrigeration Journey 2 license and does not hold a sheet metal license. There is discussion of the Refrigeration Journey 2 license and sheet metal work.

Vincent Palka, IV addressed the Board. The Board questions Mr. Palka IV.

Jack King made a motion that a single violation of RIGL 28-27-5.1 did occur; seconded by Terry Regan and Bobby Joe Harris and passed unanimously by the Board.

Jack King made a motion on Violation 4512, RIGL 28-27-5.1, a fine of \$500.00 be upheld for a single violation; seconded by Bobby Joe Harris and passed unanimously by the Board. It was clarified that the original requested fine of \$1,000.00 would be reduced to \$500.00.

The recommendation will be forwarded to the Director's office.

Adam Perry – Viol 4510: Adam Perry was not present at the start of the hearings. The matter was held to allow time for the respondent to

arrive. The board returned to this matter following the hearings where respondents were present. Adam Perry still had not arrived. Even though the meeting in March did not take place due to a lack of a quorum, Nicholas Ranone states that Adam Perry was not present in March. There is discussion. Tim Byrne made a motion that in the absence of Mr. Perry and no notification of his absence to Mr. Ranone, the Board move ahead with the violation. Ron D'Ambruoso, Administrator, inquires about notice of today's hearing to Adam Perry. Sean Nolan, Implementation Aide, informs the Board that the notice of today's hearing sent by Certified Mail was returned "Unclaimed" and the notice sent by regular mail was not returned. Tim Byrne repeats his motion regarding Violation 4510, Adam Perry; that the board move forward with the violation hearing; seconded by Michael Januario and passed unanimously by the Board. The hearing proceeds. Nicholas Ranone reads the violation.

DATE: 1/16/2013; Violation; 4510, Adam Perry, 447 Read School House Rd, Coventry, RI 02816

LOCATION OF VIOLATION: Jim Schiller 190 Station St. Coventry, RI 02816

VIOLATION: RIGL 28-27-20 State and municipal inspections and installation permits.

On 12-10-2012, Adam Perry entered into a contract with Mr. Schiller to

install an additional heating zone in his home at the above mentioned location. Mr. Perry is properly licensed in RI to perform this type of work, license # 00007605 -PM-2. No permit was issued with the town of Coventry. This is one (1) violation of the above referenced RIGL 28-27-20.

Mr. Perry does have a pending violation # 4273 from 6-19-2012; therefore, any new violations will be assessed at \$950.00 each.

The Board questions Mr. Ranone. There is discussion. Nick Ranone informs the Board of the previous violation from 6/19/12, Violation #4273.

Regarding Violation 4510, Fred Foeri made a motion that a violation of RIGL 28-27-20 be upheld; seconded by Jack King and passed unanimously by the Board.

Regarding the penalty for Violation 4510, Fred Foeri made a motion that the fine of \$950.00 be upheld; seconded by Charles Wright and passed unanimously by the Board.

The recommendation will be forwarded to the Director's office.

Michael Jean – MJ Heating & Air Conditioning – Viol 4462: Respondent does not appear. This is the first scheduled hearing for

this matter. Tim Byrne made a motion to continue the matter of Violation 4462 to next months meeting; seconded by Charles Wright and passed unanimously by the Board.

End of hearings.

5. – MECHANICAL BOARD RULES & REGULATIONS: Subcommittee is to meet following the meeting.

6. – HOW TO HANDLE APPRENTICES THAT LIVE ON ISLANDS (IE. BLOCK ISLAND, PRUDENCE ISLAND): Charles Wright addressed the Board regarding an individual that is a registered apprentice that lives on Block Island. There is no school on Block Island and therefore leaves Block Island to go to school and can lose up to three days of pay. Mr. Wright's question to the Board is looking into other types of programs; i.e. online, correspondence. Mr. Wright does state that this matter may need to be brought to the State Apprenticeship Council (SAC). Mr. Wright is seeking the Mechanical Board's backing.

Tim Byrne states that the matter is a State Apprentice Council matter not a licensing matter and questions if the board should even weigh in on the matter.

There is discussion.

Ron D'Ambruoso, Administrator, addressed the Board and recommends the Board wait until the SAC Rules and Regulations go through before addressing this matter as the Board may have an answer through the SAC.

7. – DISTINGUISHING BETWEEN MAINTENANCE AND SOMEONE HAVING TO HOLD A LICENSE: Charles Wright addressed the Board that the head of the Mechanical Department in Providence is having a problem with a company, Aramark. Mr. Wright refers to RIGL 28-27-28 and RIGL 28-27-29; particularly RIGL 28-27-29, Persons and acts exempt. Mr. Wright addressed the Board to look at RIGL 28-27-29 (b) and (c).

§ 28-27-29 Persons and acts exempt

(b) "Maintenance" is confined to the specific premise and means preserving or repairing anything that exists, and can be maintained by persons regularly employed within a specific building or complex. Normally, city or town permits are not required for this work, nor is a state pipefitters/refrigeration or sheet metal workers license.

(c) "Service work" means work performed by state licensed qualified tradespersons or pipefitters/refrigeration mechanics or sheet metal workers.

There is a distinction between “maintenance” and “service work”.

Mr. Wright then refers to the Rules and Regulations regarding the definition of “Maintenance”:

Maintenance: Is defined as preserving or repairing anything that exists. Maintenance does not cover the replacement of piping or equipment, which is normally covered under RIGL 28-27-28, entitled “Practices for which a license is required”. Also as referred to in RIGL 28-27-29 (b).

The Board has a discussion regarding the distinction between maintenance (preserving and protecting what is in place) and service; and when there is need to be licensed to perform work. There is also discussion regarding the comparison of a property manager or outside company, which serves as a vendor, providing a service and the need to be licensed.

Mr. Wright is trying to clarify this matter for Nick Ranone, Chief Mechanical Investigator, as he receives the inquiries regarding maintenance people. Mr. Wright brings the discussion to the board to give Mr. Ranone some guidance. Tim Byrne, agreed with Jack King, that if a separate company is doing the work the company would need to be properly licensed; there is a distinction between maintenance of maintaining a system and service of improving or repairing. The discussion continues.

Nick Ranone addressed the board referring to the first part of RIGL 28-27-29 (a):

§ 28-27-29 Persons and acts exempt. – (a) The provisions of this chapter shall not apply to persons classified as maintenance personnel regularly in the employ of a public utility company doing utility company work, hospitals, schools, city, town or state employees regularly employed as maintenance personnel on the premises of the employer, and to any person employed in a plant maintenance department.

Discussion continues regarding the exemptions and outside companies.

Charles Wright addressed the Board that they should instruct Mr. Ranone to ask Aramark who is the license holder in the company for the trades and what other licensed persons do they have and get a list of those people and apprentices. Terry Regan inquired that any other major property management company should do the same. Mr. Regan also recommended that the language be cleaned up in the Rules and Regulations and make the definitions more definite.

*****Charles Wright inquired of Nick Ranone regarding a change in a job specification at Brown. Mr. Ranone could not recall the actual name of the job specification. They want to changed the individuals that work on the computers, ie: Johnson Control or Honeywell type person, doing energy management; they want to change that to “Controls Technician” (it is unclear if this is the actual job title) so**

that those people do not need a license. It appears they are trying to do refrigeration work and they can't do that. There is a discussion. The problem would arise when there is an issue and they use a computer to diagnose a problem and then have to go out and fix the problem and would need to be properly licensed to fix the problem.

Fred Foeri exits the meeting at 10:22am.

8. – NICK RANONE – CAN TELECOMMUNICATIONS LICENSE HOLDERS REMOVE THERMOSTATS AND INSTALL THEIR OWN CONTROLS IN ITS PLACE: Charles Wright started by addressing the board regarding gas companies offering a thermostat that is linked to a smart phone that he received in the mail. Some kind of receiving device would need to be installed on the equipment. Whose work is this?

Nick Ranone addressed the board. He received a call from ADT. They have a control that arms the windows and doors and also controls the boiler. There is discussion and concern over improper installation won't properly control the heating or air conditioning system which is why one would need to be properly licensed. There is a safety concern. Discussion continues.

The matter was tabled for further information.

9. – ADJOURNMENT: A motion to adjourn was made by Steven Gray; seconded by Charles Wright and passed unanimously by the Board.

The meeting adjourned at 10:45am.