



Oregon

Kate Brown, Governor

Department of Consumer and Business Services
Building Codes Division
1535 Edgewater Street NW
P.O. Box 14470
Salem, OR 97309-0404
503-378-4133
Fax: 503-378-2322
Oregon.gov/bcd

State Plumbing Board

Meeting agenda

Thursday, June 18, 2020, 9:30 a.m.

Live audio-conference board meeting

Audio streamed via the [Internet](#)

I. Board business

- A. Call to order
- B. Roll call
- C. Approval of agenda and order of business
- D. Approval of the [draft board meeting minutes](#) of April 16, 2020
- E. Date of the next regularly scheduled meeting: Aug. 20, 2020

II. Public comment

The division is taking extra precautions for public meetings given concerns regarding the Coronavirus/COVID-19, and is evaluating each meeting on a case by case basis. ***The public will not be able to give testimony during this audio-conference meeting.*** Written public comments can be sent to the boards coordinator prior to the meeting date. *(Additional instructions are at the end of the agenda)*

III. Reports

- A. Plumbing program update
- B. Approval of [Corrected Proposed Order](#) for OAH Case No. 2019-ABC-02759, BCD Case No. C2018-0396 for Cris A. Brackens (***Board action required***)
- C. Summary of [enforcement cases previously resolved](#) by the division as outlined in the enforcement board report (***No board action required***)

IV. Communications - None

V. Appeals - None

VI. Unfinished business - None

VII. New business

- A. Board review of [proposed rule amendments](#) for water heater installer license scope
- B. Board review and approve [committee recommendations](#) on new continuing education course and instructor applications

VIII. Announcements – None

IX. Adjournment

Please read carefully

Temporary instructions for submitting public testimony for board meetings:

- Please submit testimony for consideration by board members no later than 4:00 p.m. the day before the scheduled meeting by email to debra.j.woods@oregon.gov.
- Include your name and the organization you represent (if any).
- List the agenda item to which your comments are related.
- Please include all related material.
- Expect an email from the boards coordinator, chief plumbing inspector, or the chair of the State Plumbing acknowledging that your testimony has been received and will be presented to the board.
- If you do not receive confirmation of your testimony within one business day or by 8:30 a.m. on the date of the board meeting, please resubmit your testimony.

Note: For information regarding re-appointments or board vacancies, please visit the governor's [website](#).

**State Plumbing Board
Audio meeting minutes
April 16, 2020**

Members audio: Travis Argue - 10-year journeyman plumber, chair
Matthew Rozzell - Building official, vice-chair
Craig Anderson - Licensed plumbing contractor
Melissa Gitt – Plumbing inspector journeyman license
Molly Keller - Employee of the Oregon Health Authority
Joe Lebold - Member of the general public

Members absent: Corey Frazier - Registered professional mechanical engineer

Staff audio: Alana Cox, manager, Policy and Technical Services (PTS)
Andy Skinner, plumbing program chief, PTS
Todd Smith, senior stakeholder & public affairs analyst,
Administration
Roseanne Nelson, assistant manager of operations, Field Services
Nick Howard, contested case representative, Enforcement Services
Sarah Blam-Linville, contested case representative, Enforcement
Services
Tyler Glaze, policy analyst, PTS
Debi Barnes-Woods, boards administrator/coordinator, PTS

I. Board business

A. Call to order

Travis Argue, chair, called the State Plumbing Board meeting of April 16, 2020, to order at 9:30 a.m. The meeting was an audio conference meeting. At this time, the division is taking extra precautions for public meetings given concerns regarding the Coronavirus/COVID-19, and is evaluating each meeting on a case by case basis.

B. Roll call

Corey Frazier was excused.

C. Approval of amended agenda and order of business

Chair Argue ruled the amended agenda, which added Item VII.C. posted to the division website approved.

D. Date of the next regularly scheduled meeting: June 18, 2020

II. Public comment - None

III. Reports

A. Program update

Andy Skinner, plumbing program chief, Policy and Technical Services (PTS), introduced Andy Boulton, policy analyst, PTS

- ***Plumbing code adoption update***
Chief Skinner explained that because of the COVID-19 pandemic, the division's ability to adopt the next edition of the Oregon Plumbing Specialty Code on schedule has been interrupted. He added that the adoption of the new code will be postponed until April 1, 2021.
- ***Licensing renewal extension discussion***
Chief Skinner said that the renewal date for licenses that were due to renew between April 1, 2020, and Dec. 1, 2020, has been extended to Jan. 15, 2021.

B. Board vote on consent orders proposed for resolution as outlined in the enforcement board report (*Board action required*)

Nick Howard, contested case representative, Enforcement Services, said that the division, acting on the board's behalf, has entered into a consent agreement in one case since the board's February 27, 2020, meeting. The consent order is listed on the enforcement report provided.

Motion by Melissa Gitt to adopt the consent order listed on the enforcement board report and issue final order.

Until further notice, all agenda items that require a vote, will be announced by roll call:

Aye: Joe Lebold, Molly Keller, Melissa Gitt, Craig Anderson, Vice-chair
Matthew Rozzell, and Chair Travis Argue

Nay: None

Motion carried unanimously.

IV. Communication - None

V. Appeals - None

VI. Unfinished business - None

VII. New business

A. Board make a determination for temporary delegation of final order authority for amended consent orders

Andy Skinner, acting in his interim role as enforcement manager, said that with Governor Brown's issuance of Executive Order (EO) 20-12 in response to the COVID-19 pandemic many Oregonians are facing financial hardship. Final orders sometimes include payment plans requiring a postmark no later than the 25th day of the month. These payment plans cannot be altered without an agreement by the parties and approval of an amended consent order from the board.

Mr. Skinner explained that the temporary delegation of final order authority would only be applicable to requested payment plan adjustments, solely to amend previous board finalized consent orders, and would be in effect until EO 20-12 is terminated by the Governor. The total amount that the individual owes would not change. A person requesting a different total penalty amount would still have to petition the board.

Motion by Vice-chair Rozzell to approve the proposed temporary delegation of final order authority to the Administrator and Deputy Administrator of the Building Codes Division as written in the attached letter of authority.
Until further notice, all agenda items that require a vote, will be announced by roll call:

Aye: Joe Lebold, Molly Keller, Melissa Gitt, Craig Anderson, Vice-chair
Matthew Rozzell, and Chair Travis Argue

Nay: None

Motion carried unanimously.

B. Board review and approve committee recommendations on new continuing education course and instructor applications

Tyler Glaze, policy analyst, Policy and Technical Services, said that all new course and instructor applications submitted were approved by committee.

Motion by Chair Argue to approve committee recommendations for approval of courses and instructors applications.

Until further notice, all agenda items that require a vote, will be announced by roll call:

Aye: Joe Lebold, Molly Keller, Melissa Gitt, Craig Anderson, Vice-chair
Matthew Rozzell, and Chair Travis Argue

Nay: None

Motion carried unanimously.

(This item was added to the agenda after the first posting of the board packet, but posed as a late submission)

C. Request for continuing education credit hours for licensed members of the 2020 Oregon Plumbing Specialty Code Review Committee

Chief Skinner said that the Chair of the code review committee is requesting the board approve the following continuing education credit hours for the licensed members of the 2020 Oregon Plumbing Specialty Code Review Committee: four hours of code related credit and four hours of code change: Oregon Rule and Law credit, to be applied to either the 2020 or 2023 license renewal cycle at the committee members discretion.

Motion by Vice-chair Rozzell to approve the code review committee's request for continuing education credit, granting four hours of code related credit and four hours of code change: Oregon Rule and Law credit, to be applied to either the 2020 or 2023 code cycle.

Until further notice, all agenda items that require a vote, will be announced by roll call:

Aye: Joe Lebold, Molly Keller, Melissa Gitt, Craig Anderson, Vice-chair
Matthew Rozzell, and Chair Travis Argue

Nay: None

Motion carried unanimously.

VIII. Announcements - None

IX. Adjournment

Chair Argue adjourned the meeting at 9:59 a.m.

Respectfully submitted by Debi Barnes-Woods, boards administrator/coordinator.

State of Oregon

Board memo

Building Codes Division

June 18, 2020

To: The State Plumbing Board

From: Tyler Anderson, Assistant Attorney General, and Nick Howard, contested case representative, Enforcement Services

Subject: Approval of Corrected Proposed Order for OAH Case No. 2019-ABC-02759, BCD Case No. C2018-0396 for Cris A. Brackens

Action requested:

To consider the adoption of the Corrected Proposed Order and issue a Final Order.

Background:

On May 9, 2019, the Building Codes Division (Division), acting on behalf of the State Plumbing Board, issued a Notice of Proposed Assessment of Civil Penalties; Notice of Proposed Revocation of Journeyman Plumber License Number 6699JP; and Notice of Final Order on Default. On May 21, 2019, Cris A. Brackens (Respondent) requested a hearing.

On May 30, 2019, the Division referred the hearing request to the Office of Administrative Hearings (OAH). Presiding Administrative Law Judge (ALJ) Monica Whitaker held a telephone prehearing conference on August 22, 2019. Assistant Attorney General Tyler Anderson (Mr. Anderson) appeared on behalf of the Division. Nick Howard (Mr. Howard), a contested case representative, also appeared on behalf of the Division. Respondent did not appear for the prehearing conference. ALJ Whitaker informed the parties that the OAH had assigned the case to ALJ Rebecca Lease, established deadlines for filing exhibits and witness lists and scheduled a hearing for November 13, 2019. ALJ Lease confirmed this information to the parties in a letter dated August 23, 2019.

On October 23, 2019, Mr. Anderson requested that the case be rescheduled based on a conflict for one of the Division's witnesses. A prehearing conference was scheduled for November 6, 2019, to discuss the Division's request. Neither Respondent nor any representative for the Division appeared for the November 6, 2019, prehearing conference. The OAH scheduled a second prehearing conference to discuss the Division's request to reschedule on November 12, 2019. Mr. Anderson and Mr. Howard appeared at the rescheduled prehearing conference. Respondent did not appear. ALJ Lease granted the Division's request and rescheduled the

hearing for December 12, 2019. She set new deadlines for the filing of witness lists and exhibits and confirmed this information to the parties in a letter dated November 12, 2019.

On December 9, 2019, ALJ Lease held another prehearing conference by telephone. Respondent, Mr. Anderson and Mr. Howard appeared for the conference. Mr. Anderson moved to reschedule the hearing to permit Respondent sufficient time to prepare. With the agreement of the parties, ALJ Lease scheduled the hearing for January 9, 2020. She set new deadlines for the filing of witness lists and exhibits and confirmed this information to the parties in a letter dated December 12, 2019.

On January 9, 2020, ALJ Lease convened a telephone hearing. Respondent appeared for the hearing. Mr. Anderson, Mr. Howard and Andrea Simmons, Enforcement Manager, appeared on behalf of the Division. Because the Division did not serve its exhibits on Respondent, the hearing concluded without taking any witness testimony. ALJ Lease rescheduled the hearing for February 13, 2020, set new deadlines for the filing of witness lists and exhibits and confirmed this information to the parties in a letter dated January 9, 2020.

On February 13, 2020, ALJ Lease reconvened the telephone hearing. Respondent appeared without counsel and testified. Mr. Anderson represented the Division at hearing. Mr. Howard and Ms. Simmons testified on behalf of the Division. Andy Skinner, State Plumbing Chief, Rosalia Santana, Field Investigator, and Eric Jeffords, Field Investigator, were present for observation and training purposes but did not participate in the hearing. The record closed at the conclusion of the February 13, 2020 hearing.

On March 27, 2020, the OAH erroneously listed the agency representative as Sarah Wheeler on the Certificate of Mailing that accompanied the Proposed Order. A Corrected Proposed Order was issued to correct that error, and to list the correct agency representative for the Building Codes Division on the Certificate of Mailing. The Corrected Proposed Order was issued on March 31, 2020.

The Division now presents the Corrected Proposed Order for Board consideration and approval.

BEFORE THE STATE PLUMBING BOARD OF THE STATE OF OREGON

IN THE MATTER OF:) **CORRECTED PROPOSED ORDER** ¹
)
CRIS A. BRACKENS,) **OAH Case No. 2019-ABC-02759**
RESPONDENT) **Agency Case No. C2018-0396**

HISTORY OF THE CASE

On May 9, 2019, the State Plumbing Board of the State of Oregon (Board) issued a Notice of Proposed Assessment of Civil Penalties; Notice of Proposed Revocation of Journeyman Plumber License Number 6699JP; and Notice of Final Order on Default to Cris Brackens (Respondent). On May 21, 2019, Respondent requested a hearing.

On May 30, 2019, the Division referred the hearing request to the Office of Administrative Hearings (OAH). Presiding Administrative Law Judge (ALJ) Monica Whitaker held a telephone prehearing conference on August 22, 2019. Assistant Attorney General Tyler Anderson (Mr. Anderson) appeared on behalf of the Division. Nick Howard (Mr. Howard), a contested case representative, also appeared on behalf of the Division. Respondent did not appear for the prehearing conference. ALJ Whitaker informed the parties that the OAH had assigned the case to ALJ Rebecca Lease, established deadlines for filing exhibits and witness lists and scheduled a hearing for November 13, 2019. She confirmed this information to the parties in a letter dated August 23, 2019.

On October 23, 2019, Mr. Anderson requested that the case be rescheduled based on a conflict for one of the Division’s witnesses. A prehearing conference was scheduled for November 6, 2019 to discuss the Division’s request. Neither Respondent nor any representative for the Division appeared for the November 6, 2019 prehearing conference. The OAH scheduled a second prehearing conference to discuss the Division’s request to reschedule on November 12, 2019. Mr. Anderson and Mr. Howard appeared at the rescheduled prehearing conference. Respondent did not appear. ALJ Lease granted the Division’s request and rescheduled the hearing for December 12, 2019. She set new deadlines for the filing of witness lists and exhibits and confirmed this information to the parties in a letter dated November 12, 2019.

On December 9, 2019, ALJ Lease held another prehearing conference by telephone. Respondent, Mr. Anderson and Mr. Howard appeared for the conference. Mr. Anderson moved to reschedule the hearing to permit Respondent sufficient time to prepare. With the agreement of

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On January 9, 2020, ALJ Lease convened a telephone hearing. Respondent appeared for the hearing. Mr. Anderson, Mr. Howard and Andrea Simmons, Enforcement Manager, appeared on behalf of the Division. Because the Division did not serve its exhibits on Mr. Brackens, the hearing concluded without taking any witness testimony. ALJ Lease rescheduled the hearing for February 13, 2020, set new deadlines for the filing of witness lists and exhibits and confirmed this information to the parties in a letter dated January 9, 2020.

On February 13, 2020, ALJ Lease reconvened the telephone hearing. Respondent appeared without counsel and testified. Mr. Anderson represented the Division at hearing. Mr. Howard and Ms. Simmons testified on behalf of the Division. Andy Skinner, State Plumbing Chief, Rosalia Santana, Field Investigator, and Eric Jeffords, Field Investigator, were present for observation and training purposes but did not participate in the hearing. The record closed at the conclusion of the February 13, 2020 hearing.

ISSUES

1. Whether Respondent engaged in the business of a plumbing contractor without a plumbing contractor license. ORS 447.040(1) and OAR 918-030-0010(8).
2. Whether the Board should revoke Mr. Brackens' journeyman plumber's license. ORS 455.129(2)(a), (2)(d) and (3)(a).
3. Whether the Board should assess civil penalties against Respondent. ORS 455.895(1) and OAR 918-001-0036.
4. Whether the Board should disqualify Mr. Brackens from obtaining any plumbing license for a period of five years. ORS 455.127(2)(a) and OAR 918-001-0034(1).

EVIDENTIARY RULING

Exhibits A1 through A10, offered by the Division, were admitted into the record without objection.

FINDINGS OF FACT

1. Respondent has held journeyman plumber license number 6699JP since May 31, 2001. He has never held a valid plumbing contractor license in Oregon. (Test. of Howard; Brackens.)
2. Kennedy Plumbing, Inc. (Kennedy Plumbing) employed Respondent as a plumber from November 26, 2018 to December 13, 2018. Kennedy Plumbing fired Mr. Respondent after receiving a complaint from the housekeeper of one of its customers. The housekeeper overheard

Respondent persuade the customer to loan him money, to allow him to work “off the books” and to pay him approximately \$600 to purchase materials. (Ex. A1 at 2.)

3. Sometime between November 26, 2018 and December 18, 2018, Respondent performed work on behalf of Kennedy Plumbing at a residence located at 4301 Collins Way, Lake Oswego, Oregon (the Collins property). In addition to the work that he performed on behalf of Kennedy Plumbing, Respondent installed a garbage disposal for the Collins property owner. The owner paid Respondent directly for this work. (Exs. A1 at 2-3; A2 at 3.) Kennedy Plumbing learned that Respondent performed this work when the property owner requested that it cover a repair to the garbage disposal under warranty. (Ex. A1 at 2-3.) Kennedy Plumbing had no record of performing this work at the Collins property, nor being paid to perform this work. (Exs. A1 at 2-3; A2 at 3.)

4. Hazel Storm (Ms. Storm) hired Kennedy Plumbing to repair a cracked sink at her residence located at 17436 NW Shady Fir Loop, Beaverton, Oregon (the Shady Fir property). (Ex. A4 at 10.) At that time, Ms. Storm was approximately 88 years old. (*Id.* at 9.) On or around December 4, 2018, Respondent repaired the sink at the Shady Fir property on behalf of Kennedy Plumbing. Ms. Storm wrote a check to Kennedy Plumbing in the amount of \$663 for the cost of the repair. During Respondent’s visit to the Shady Fir property, he recommended that Ms. Storm have other work completed at her residence, including replacing two toilets, another sink, a water heater and repairing some piping underneath the residence. (*Id.*)

5. Respondent requested that Ms. Storm pay him directly because he wanted to work independent of Kennedy Plumbing. (Ex. A4 at 10.) On December 4, 2018, Ms. Storm paid Respondent \$160 by personal check number 3996. A notation on the check indicated that it was for “Plumbing[.]” (*Id.* at 50.) Respondent subsequently requested additional payments to obtain materials for the work he had proposed completing for Ms. Storm. She made the following payments to Respondent via personal check:

<u>Check Number</u>	<u>Amount</u>	<u>Date</u>	<u>Notation</u>
3997	\$200	December 5, 2018	Plumbing
4000	\$500	December 17, 2018	Plumbing
4001	\$600	December 18, 2018	Plumbing
4002	\$650	December 20, 2018	Plumbing
4003	\$650	December 21, 2018	Plumbing
4004	\$500	December 21, 2018	Plumbing W/H
4005	\$650	December 22, 2018	Plumbing
4009	\$650	January 10, 2019	Plumbing

(*Id.* at 51-58.)

6. On or around December 22, 2018, Ms. Storm provided Respondent with her debit card and personal identification number to facilitate the purchase of plumbing materials. Between December 22, 2018 and December 29, 2018, Respondent used Ms. Storm’s debit card to make small purchases and obtain cash in 24 separate transactions, in the total amount of \$13,022.23. (Ex. A4 at 9.) Respondent did not utilize these withdrawals to obtain plumbing supplies. (Test. of Brackens.)

7. Besides replacing Ms. Storm's sink on behalf of Kennedy Plumbing, Respondent did not perform any of the plumbing work that he proposed to complete at the Shady Fir property. Respondent subsequently plead guilty to three felony charges related to his financial interactions with Ms. Storm. (Test. of Brackens.)

8. The Board has adopted a civil penalty matrix (Penalty Matrix) for plumbing violations. The Penalty Matrix provides for violation types of 1 through 3 based "upon the number of violations committed within five years of the date of the present violation." For a business without a history of violations within five years of the date of the present violation, the civil penalty is \$3,000 per violation. This Penalty Matrix specifies that this section "applies to individuals engaging in the business or of a contractor working in a trade that requires a specialty license." The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board's behalf for purposes of settling cases prior to hearing.

(Ex. A7.)

9. Plumbing work done by an unlicensed individual can expose a homeowner to legal and financial liabilities, including potential refusal by a home owner's insurer to cover damage caused by plumbing work done by an unlicensed individual. (Test. of Simmons.)

CONCLUSIONS OF LAW

1. Respondent engaged in the business of a plumbing contractor without a plumbing contractor license in violation of ORS 447.040(1).
2. The Board should revoke Respondent's journeyman plumber's license.
3. The Board should assess civil penalties against Respondent in the amount of \$6,000.
4. The Board should disqualify Respondent from obtaining any plumbing license for a period of five years.

OPINION

The Board alleges that Respondent engaged in the business of a plumbing contractor without a plumbing contractor license. For this alleged violation, the Board proposes to revoke Respondent's journeyman plumber's license, disqualify Respondent from obtaining any plumbing license for a period of five years, and impose \$6,000 in civil penalties. Because the Board is the proponent of this case, it bears the burden of proving its allegations by a preponderance of the evidence. *Reguero v. Teachers Standards and Practices Commission*, 312 Or 402, 418 (1991) (burden is on Commission in disciplinary action); *Dixon v. Board of Nursing*,

291 Or App 207, 213 (2018) (in administrative actions, burden of proof is by a preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is convinced that the facts asserted are more likely true than false. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

1. Plumbing Contractor

ORS 447.010 provides, in part:

As used in ORS 447.010 to 447.156 and 447.992, unless the context requires otherwise:

* * * * *

(6) “Plumbing” is the art of installing, altering or repairing in or adjacent to or serving buildings:

(a) Pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes.

(b) Fixtures and fixture traps.

(c) Soil, waste and vent pipes.

(d) House drain and house sewer to the sewer service lateral at the curb, or in the street, or alley, or other disposal terminal holding human or domestic sewage.

(e) Storm water drainage, with their devices, appurtenances and connections.

(f) Pipes, fixtures and other apparatus for medical gas, anesthetic waste gas and vacuum systems.

(g) Solar heating and cooling systems.

Installing a water-heater, replacing toilets, replacing a sink, replacing water supply and drain pipes under a residence with PEX pipes and installing a garbage disposal constitute “plumbing” within the meaning of ORS 447.010(6).

ORS 447.040(1) provides:

A person may not work as a plumbing contractor, or advertise or purport to be a plumbing contractor, and a member or employee of a firm, partnership or corporation may not engage in the layout or superintending of plumbing installations, without having obtained the plumbing contractor license

required under ORS 447.010 to 447.156 as provided by State Plumbing Board rules adopted under ORS 455.117.

OAR 918-030-0010 provides, in part:

As used in OAR 918, division 30 and division 35, terms are defined as follows unless context requires otherwise:

* * * * *

(8) For purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, “engaging in the business” means to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law, including but not limited to a single instance.

Respondent engaged in the business of a plumbing contractor by installing a garbage disposal at the Collins property. Respondent also engaged in the business of a plumbing contractor by agreeing to install a water-heater, and to replace toilets, a sink, and water supply and drain pipes under a residence with PEX pipes at the Shady Hill property. ORS 447.040(1) provides that an individual may not work as a plumbing contractor without having obtained a plumbing contractor license. Respondent has never possessed a plumbing contractor license in Oregon. Therefore, Respondent worked as a plumbing contractor by performing plumbing work at the Collins property and agreeing to perform plumbing work at the Shady Fir property without a plumbing contractor license in violation of ORS 447.040(1).

2. License Revocation

ORS 455.129 provides, in part:

(2) Subject to ORS chapter 183, a regulatory body listed in subsection (3) of this section may deny a license, certificate, registration or application or may suspend, revoke, condition or refuse to renew a license, certificate or registration if the regulatory body finds that the licensee, certificate holder, registrant or applicant:

(a) Has failed to comply with the laws administered by the regulatory body or with the rules adopted by the regulatory body.

* * * * *

(d) Has performed work without appropriate licensing, certification or registration or has employed individuals to perform work without appropriate licensing, certification or registration.

* * * * *

(3) Subsection (2) of this section applies to:

(a) The State Plumbing Board for purposes of licenses issued under ORS 447.010 to 447.156 or ORS chapter 693.

As specified above, Respondent worked as a plumbing contractor by performing plumbing work or agreeing to perform plumbing work without a plumbing contractor license in violation of ORS 447.040(1). By performing or agreeing to perform this work without a plumbing contractor's license, Respondent failed to comply with the laws administered by, and the rules adopted by, the Board. Revocation is within the scope of the Board's authority, and pursuant to ORS 455.129(2)(a), (2)(d) and (3)(a), the Board may revoke Respondent's journeyman plumber's license.

3. Civil Penalties

OAR 455.895(1)(a) provides that the "State Plumbing Board may impose a civil penalty against a person as provided under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS 693.165."

OAR 918-001-0036 provides, in part:

(6) The Director may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

The Board proposes to assess a civil penalty totaling \$6,000 against Respondent for violating ORS 447.040(1), \$3,000 for one violation at the Collins property and \$3,000 for one violation at the Shady Fir property. This penalty is within the scope of ORS 455.895(1) and OAR 918-001-0036(6), and is consistent with the Penalty Matrix adopted by the Board to establish guidelines for the imposition of penalties. Respondent's violations of ORS 447.040(1) constitute business violations under the penalty matrix. In accordance with the Penalty Matrix, it is appropriate to assess a civil penalty of \$3,000 per violation against Respondent for a total civil penalty of \$6,000.

4. License Disqualification

ORS 455.127 provides, in part:

(2) The Director of the Department of Consumer and Business Services, the Department of Consumer and Business Services or an appropriate advisory board may disqualify a person from obtaining or renewing a license, registration, certificate or certification if the person:

(a) Is or has been subject to civil penalties, revocation, cancellation or

suspension of a license, registration, certificate or certification or other sanction by the director, department or an advisory board[.]

OAR 918-001-0034 provides, in part:

(1) Disqualification under ORS 455.127(2) shall be for a period of five years except as provided in subsection (2) of this rule.

(2) The Director of the Department of Consumer and Business Services or an appropriate advisory board may, in its discretion, order a disqualification fewer than five years. In doing so the Director of the Department of Consumer and Business Services or appropriate advisory board may, but is not required to, consider any mitigating factors.

The Board proposes disqualifying Respondent from obtaining any plumbing license for five years pursuant to ORS 455.127(2)(a) and OAR 918-001-0034(1). As discussed above, the Board has established that Respondent's journeyman plumber's license should be revoked pursuant to ORS 455.129(2)(a), 2(d) and (3)(a), and that Respondent is subject to civil penalties pursuant to ORS 455.895(1)(a) and OAR 918-001-0036(6). Because the Board has established that Respondent is subject to revocation and civil penalties, and considering the egregious nature of his conduct, it is appropriate to disqualify him from obtaining any plumbing license for five years pursuant to OAR 918-001-0034(1).

ORDER

The Board issues the following order:

Cris A. Brackens' journeyman plumber license #6699JP is hereby **REVOKED**, pursuant to ORS 455.129(2)(a), (2)(d) and (3)(a).

Cris A. Brackens is assessed a civil penalty of \$6,000 for engaging in the business of a plumbing contractor without a plumbing contractor license, in violation of ORS 447.040(1), in accordance with ORS 455.895(1) and OAR 918-001-0036(6),

Cris A. Brackens is disqualified from obtaining any plumbing license for five years pursuant to ORS 455.129(2)(a) and OAR 918-001-0034(1).

_____ for Date: _____
Chair
State Plumbing Board
State of Oregon

NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW
(OREGON COURT OF APPEALS)

Respondent is entitled to judicial review of this Final Order pursuant to ORS 183.482. Judicial review may be initiated by filing a petition for review with the Oregon Court of Appeals within sixty (60) days from the date this Final Order was mailed to Respondent.

State Plumbing Board Default Orders June 18, 2020

<p>Agenda Item IIC.</p>
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Case #	Name	Violation	Location	Date of Violation	Penalty Assessed	Penalty to Pay	Other Comments
C2019-0253 Nick	Thompson, Charles T. dba Thompson Remodeling and General Contracting	Installation of water lines and hot water heater. ●No journeyman plumber license ●No plumbing contractor license ●No plumbing permit	Salem	September 2019 to October 2019	\$6,000	\$6,000	Complaint submitted by homeowner.
C2020-0002 Russ/Nick	Verdis Ayala, Honorio	Installation of bathroom sink, new faucet, new drain pipe, new water line connections, new shower, new mixing valve, new toilet, kitchen sink and new water/waste pipes under home. ●No journeyman plumber license ●No plumbing contractor license ●No plumbing permit	Hillsboro	March 2019	\$6,000	\$6,000	Complaint submitted by CCB field investigator
C2020-0029 Russ/Nick	Pirnstill, Loki Ikaika Zen King	Installation of bathroom and water lines. ●No journeyman plumber license	Springfield	September 2019	\$2,000	\$2,000	Complaint submitted by BCD field investigator

*Total penalties assessed for violations in more than one program

State of Oregon

Board memo

Building Codes Division

June 18, 2020

To: The State Plumbing Board

From: Andy Boulton, policy analyst, Policy and Technical Services

Subject: Water Heater Installer License Scope

Action requested:

Board review of proposed rule amendments for water heater installer license scope.

Background:

Based on industry input and changes in product design and installation methodologies, the division has drafted proposed amendments for the existing rule related to the scope of work of water heater installers.

These proposed rule amendments:

- Make clear that a water heater installer is not licensed to preform work that would alter the location of an existing water heater.
- Explicitly establish that a water heater installer is authorized to install an instantaneous on demand water heater; and
- Change the maximum length of piping extending from the hot and cold water connections from 24 inches to 96 inches.

Options:

The board has the following options:

- Approve the proposed rule amendments and forward to the administrator for rulemaking and subsequent adoption.
- Amend and approve the proposed rule amendments and forward to the administrator for rulemaking and subsequent adoption.
- Disapprove the proposed rule amendments.

McKenzie W James
4811 Se 79th Avenue
Portland, Oregon 97206
Tel# 503-998-7411
Email: mckenziejames05@gmail.com
January 21st , 2020

Andy Skinner
Plumbing Program Chief Plumbing Inspector
Building Codes Division
1535 Edgewater Street NW
Salem, Oregon 97304

Water Heater License Material Change Request Including Cold-Water Full Way Shut off Valve to Water Heater.

Dear Mr. Skinner,

I am requesting that some material changes be made for the water heater license installer because of the new technology of energy efficient tankless instantaneous water heaters and heat pump hot water heaters.

The State of Oregon requires the installer replacing water heaters in residential dwellings shall be licensed. There is no prerequisite to taking the state of Oregon Building Codes Division, 52 questions, 3-hour exam with a passing grade of 75 percent. There are no continuing education requirements.

The water heater license limits the material the installer can use in the replacement of the existing water heater to;

- Two six-inch nipples
- Two 24-inch flex connectors, one for cold water and one for hot water
- Installation of related appurtenances
- Temperature and pressure relief valve drain piping and drain pan.

There are some challenges the installer face trying to find the exact replacement size water heater to maintain using the proposed materials and avoiding a \$5000.00 fine for working beyond the scope of his or her plumbing license.

Requesting the following material increase to accommodate energy efficient tankless instantaneous water heater and heat pump water heaters that has hot and cold-water connections on the bottom and side of the water heater.

Temperature and pressure relief valves on bottom and side of water heaters. Storage tank type water heaters comes in many sizes and shape and height. Typical residential water heater piping for storage tank water is hot and cold-water piping above the water heater. The technology of energy efficient water heaters requires a material change. The change proposal as follows:

- Two nipples maximum length twelve inches.
- Two 24-inch flex connectors, one for cold water and one for hot water
- Total length of piping material required in the replacement zone of the water heater.
- Installation of all related appurtenances in the water heater replacement zone
- Temperature and pressure relief valve drain piping and drain pan piping.
- All piping is accessible and visible not concealed.

Relocating the water heater would require a license journeyman plumber.

The cold water shut off valve to the water heater poses a potential problem for the water heater installer. The problem, the full-way shut off valve has remained in the open position for a long time, sometimes the valve stem breaks, when closing valve, sometimes the valve can't positively shut off and the installer must shut the water off at the meter.

There are many types of IPS, Crimp and Pressed full-way valves available today with manufacturer recommended tools. The water heater installer having the ability to replace the full-way shutoff valve;

- Reduce the overall installation time.
- In an emergency or maintenance of the water heater there would be no need to shut off the valve at the water meter.
- The homeowner would not have to be without water while the water heater is replaced, cold water will be available for flushing toilets and other plumbing fixtures and for cooking.
- Replacing the full way valve to the water heater is a minor repair.
- The installation of the full-way valve is accessible and not concealed

Sincerely

McKenzie W James

Plumbing Inspector, License Journeyman Plumber, Plumbing Inspector

**Limited Specialty Plumber Classification for
Limited Maintenance Electrical Contractors**
6/18/20

OAR 918-695-0120

Limited Specialty Plumber Classification for Limited Maintenance Electrical Contractors

(1) Authorization and Scope. This rule creates a limited specialty plumbing license to install and replace residential water heaters.

(2) Persons Eligible for Licensing. A registered plumbing contractor also licensed under ORS 479.630 as an electrical limited maintenance specialty contractor can apply for this license. This allows licensing of:

(a) An individual holding a Limited Maintenance Specialty Contractor License;

(b) Officers or employees designated by a corporate Limited Specialty Contractor; or

(c) Any partner where a partnership is the Limited Specialty Contractor.

(3) Employees of a sole proprietor or of a partnership identified in subsections (2)(a) and (c) of this rule cannot be licensed under this rule.

(4) Procedure for Licensing. An applicant for licensing shall:

(a) Pay applicable fees;

(b) Have the application signed by the plumbing-electrical contractor;

(c) Attend an approved eight-hour training class for limited specialty residential water heater plumbing installation; and

(d) Pass a division-approved examination.

(5) Training Class and Examination Requirements.

(a) A limited specialty residential water heater plumbing class shall cover the requirements for installation of residential water heaters and the related administrative and enforcement provisions in statutes, rules and codes to obtain Chief Plumbing Inspector approval.

(b) The examination shall test applicant's knowledge of the items covered in subsection (a) of this section.

(6) Scope of Plumbing Authorized. As used in ORS 693.103(2):

(a) "Installation and replacement of one- or two-family dwelling residential water heaters" includes open (non-covered and not intended to be covered) plumbing work in a one- or two-family dwelling related to **work listed in (A)-(C) below; that does not include any work that changes the location of the water heater.**

(A) Replacement or fuel conversion of an existing water heater; **including:**

(i) Conversion to a different fuel type;

(ii) Replacement of a storage tank water heater with an instantaneous on demand water heater; and

(iii) Replacement of an instantaneous on demand water heater with a storage tank water heater.

(B) Installation of up to two nipples with no nipple exceeding six inches and piping not exceeding **96** 24-inches for each of the cold and hot water connections; and

(C) Installation of piping and related appurtenances applicable to the temperature pressure relief valve.

(b) "Existing plumbing" means the exposed pre-installed approved cold water supply piping used or designed to connect to the water heater extending to the exposed cold water shut-off supply valve. If there is no cold water shut-off supply valve, "existing plumbing" extends to and includes the connected water heater and does not allow a replacement by a limited specialty plumbing licensee under these rules.

(c) "Alteration of existing plumbing" means any changes to existing plumbing and includes installation or replacement of a cold water shut-off supply valve regardless of whether one was initially installed. Alterations are not authorized under these rules and the limited specialty plumbing license.

Statutory Authority: ORS 693.103

Statutes Implemented: ORS 693.103

State of Oregon

Board memo

Building Codes Division

June 18, 2020

To: The State Plumbing Board
From: Andy Boulton, policy analyst, Policy and Technical Services
Subject: Continuing Education Applications

Action requested:

State Plumbing Board consideration of the Continuing Education Committee's recommendations regarding continuing education courses and instructors.

Background:

The State Plumbing Board establishes continuing education requirements for all plumbing licensees in order to ensure licensees possess up-to-date knowledge of the code and administrative requirements. The board sets standards for approval of courses and instructors in order to have a sufficient number and variety of continuing education courses available to licensees.

The board's continuing education committee has been evaluating courses and instructors on the board's behalf. In June 2020, the committee reviewed 7 applications from 1 organization:

- 3 courses were recommended for approval.
- 4 instructors were recommended for approval.

See attached summary for more information.

In addition to the Oregon Rule and Law criteria, the committee uses the following when reviewing applications:

- For correspondence courses – Provider must submit complete course and some method of verification that student has completed course.
- For online courses – Provider must submit a log-on or screen shots of course content.
- OSHA 10 and 30 courses are eligible for a maximum of 10 hours code-related credit.
- First Aid, CPR, AED, and OSHA related safety courses are eligible for a maximum of eight hours code-related credit.

Options:

- Approve the committee's recommendations for approval of courses and instructors.
- Amend and approve the committee's recommendations for approval of courses and instructors.
- Disapprove the committee's recommendations for approval of courses and instructors.

State Plumbing Board
Committee on Continuing Education Course and Instructor Review
June 18, 2020

Courses

	Applicant	Course Name	Committee Recommendation	Board Action
1	UA Local 290, Plumbers and Steamfitters	Instantaneous-Tankless Water Heater Course 8 Hours CR	Approve for 2017 code cycle	
2	UA Local 290, Plumbers and Steamfitters	2017 OPSC Chapter 9, Venting 8 hours CR	Approve for 2017 code cycle	
3	UA Local 290, Plumbers and Steamfitters	Infection Control Risk Assessment 12 hours CR	Approve for 2017 code cycle	

Instructors

	Applicant	Committee Recommendation	Board Action
1	Joseph Y Tavares II; U.A. Local 290	Approve for 2017 code cycle	
2	Zachary Wright; U.A. Local 290	Approve for 2017 code cycle	
3	Dale Braun; U.A. Local 290	Approve for 2017 code cycle	
4	Dominic Depiero; U.A. Local 290	Approve for 2017 code cycle	