

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to plumbing and mechanical systems licensee practice and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 23, “Plumbing and Mechanical Systems Board—Licensee Practice,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 105.4(2), 105.5, 105.10 and 105.21.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 105.

Purpose and Summary

This rulemaking proposes repromulgation of Chapter 23 and implements Iowa Code chapter 105 in accordance with the goals of Executive Order 10 (January 10, 2023). This rulemaking defines the various license types and establishes expectations and duties for licensure and supervision. It also establishes that inactive licenses and lapsed licenses are not valid for practice. This is important to the industry and the public because it creates an understanding of what is expected of licensed individuals and businesses. The public can be assured that licensed businesses have the appropriate bonding and insurance and that their employees are appropriately supervised. The industry can be assured that all licensed individuals and businesses are following the same standards throughout Iowa.

The Department did not receive any comments on the published Regulatory Analysis for this chapter (IAB 11/1/23). Only nonsubstantive changes were made to the proposed chapter from the Regulatory Analysis.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23

PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE PRACTICE

641—23.1(105) Definitions. The definitions set forth in Iowa Code section 105.2 are incorporated herein by reference. For purposes of these rules, the following additional definitions apply:

“*Inactive license*” means a license that is available for a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level. An inactive license must be renewed prior to its expiration date. An inactive license is not valid for practice until the license is reactivated by the board.

“*Lapsed license*” means a license that has expired. A lapsed license is no longer valid for practice.

“*Licensee*” means a person holding a license issued by the board, including an apprentice, journeyman, or master license in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronics trades; a combined license; a special, restricted sublicense; or a medical gas certificate.

“*Master of record*” means an individual possessing an active master license under Iowa Code chapter 105 who shall be responsible for the proper designing, installing, and repairing of plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems and who is actively in charge of the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic work of a contractor.

641—23.2(105) Duties of all licensees, specialty licensees, and certificate holders.

23.2(1) While conducting business or performing work covered under Iowa Code chapter 105, each licensee will keep a copy of the licensee's board-issued license on the licensee's person or in an easily retrievable area at the work site.

23.2(2) Each licensee will maintain a residential or business address on record with the board. In the event the licensee's residential or business address changes, the licensee will so notify the board.

23.2(3) Each licensee will apply for and obtain all applicable permits prior to performing any work covered under Iowa Code chapter 105 as may be mandated by any law, ordinance, or regulation of this state, or a political subdivision therein.

23.2(4) A licensee will present upon request a copy of the licensee's board-issued license issued under Iowa Code section 105.12(2).

23.2(5) A licensee possessing a lapsed license cannot operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a medical gas system installer or work in a specialty license discipline until the license is reinstated and renewed.

23.2(6) Each licensee will perform all Iowa Code chapter 105-covered work in conformity with the applicable professional code.

23.2(7) A licensee will not perform any Iowa Code chapter 105-covered work for which the licensee does not possess the requisite license.

23.2(8) A licensee will conform to the minimum standard of acceptable and prevailing practice and will exercise the degree of workmanlike care which is ordinarily exercised by the average licensee in the applicable trade acting in the same or similar circumstances.

23.2(9) A licensee who utilizes the services of an unlicensed person as a helper will be responsible for the work performed by the helper and shall ensure that such work conforms to the minimum standard of acceptable and prevailing practice.

641—23.3(105) Contractor license. A contractor licensed under Iowa Code chapter 105 will adhere to the following, the violation of which may give rise to disciplinary action:

23.3(1) Master license. A contractor will not engage in the business of designing, installing, or repairing plumbing, mechanical, HVAC-refrigeration, or hydronic systems unless at all times the contractor holds or employs at least one person holding an active master license issued by the board for each discipline in which the contractor conducts business. Without prior board approval, a contractor will not knowingly utilize a master licensee to meet this requirement if the master licensee is simultaneously associated with another contractor in that discipline.

a. Notwithstanding subrule 23.3(1), in the event a licensed master of record's employment with the contractor is terminated, or the master of record otherwise discontinues the master of record's relationship with the contractor, or the master of record's master license is lapsed, suspended, revoked, expired, or otherwise invalidated, the contractor may continue to provide plumbing, mechanical, HVAC-refrigeration, or hydronic systems services for a period of up to six months without identifying a new master of record.

b. To utilize the six-month grace period set forth in paragraph 23.3(1) "a," a contractor will notify the board of the contractor's loss of the master of record within 30 days from the date the master of record is no longer associated with the contractor, absent exigent circumstances.

23.3(2) Display of license. A person holding a contractor license will keep the current license certificate publicly displayed in the primary place in which the person practices.

23.3(3) Surety bond. A person or entity holding a contractor license must maintain during the licensing period a surety bond issued by an entity licensed to do business in Iowa in a minimum amount of \$5,000. If a person operates the contractor business as a sole proprietorship, the person must personally obtain and maintain the surety bond. If a person operates the contractor business as an employee or owner of a legal entity, the legal entity must obtain and maintain the surety bond, and the surety bond must cover all plumbing or mechanical work performed by the legal entity. The surety bond mandated under this subrule must contain a provision that requires the issuing entity to provide the board ten days' written notice before the surety bond can be canceled.

23.3(4) Public liability insurance. A person or entity holding a contractor license must maintain during the licensing period public liability insurance issued by an entity licensed to do business in Iowa in a minimum amount of \$500,000. If a person operates the contractor business as a sole proprietorship, the person must personally obtain and maintain the public liability insurance. If a person operates the

contractor business as an employee or owner of a legal entity, the legal entity must obtain and maintain the public liability insurance, and the public liability insurance must cover all plumbing and mechanical work performed by the legal entity. The public liability insurance mandated under this subrule must contain a provision that requires the issuing entity to provide the board ten days' written notice before the public liability insurance can be canceled.

23.3(5) Contractor registration with the department. A contractor will maintain registration as a contractor with the director pursuant to Iowa Code chapter 91C by providing the board with the necessary information.

23.3(6) Permanent place of business. A contractor will maintain a permanent place of business, the address of which will be provided to the board. If a contractor changes the permanent place of business, the contractor will provide the board the new address within 30 days of the change.

23.3(7) Licensure. A contractor will not knowingly allow an employee to perform work covered under Iowa Code chapter 105 without the applicable license.

23.3(8) Supervision. A contractor will not knowingly allow an apprentice employed by the contractor to perform work covered under Iowa Code chapter 105 without supervision of the apprentice by a master or journeyman who is also employed by the contractor and who is licensed in the discipline in which the apprentice is performing such work.

641—23.4(105) Master license. A master licensed under Iowa Code chapter 105 will adhere to the following, the violation of which may give rise to disciplinary action:

23.4(1) Contractor relationship. A master may only be a master of record for one contractor in any particular discipline at any one time, except that a contractor or a master may seek prior board approval to serve as the master of record for more than one contractor in a particular discipline. An individual who possesses master licenses in multiple disciplines may be a master of record for multiple contractors so long as the individual is only a master of record for one contractor in any particular discipline at one time.

23.4(2) Contractor. A master will not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

23.4(3) Supervision. A master who superintends the design, installation, or repair of plumbing, mechanical, HVAC-refrigeration, or hydronic systems will be available to supervise journeymen or apprentices as needed and may only provide such supervision in the discipline or disciplines in which the master is licensed. A master will not knowingly supervise unlicensed persons who perform work covered under Iowa Code chapter 105 for which a board-issued license is required.

23.4(4) Master of record. A master who serves as a master of record for a contractor and who disassociates from the contractor will notify the board and the contractor of the disassociation, if notice was not previously provided, within 30 days from the date of disassociation, absent exigent circumstances.

641—23.5(105) Journeyman license. A journeyman licensed under Iowa Code chapter 105 will adhere to the following, the violation of which may give rise to disciplinary action:

23.5(1) Working under supervision. A journeyman will work under the supervision of a master licensed in the discipline of the work being performed in the design, installation, and repair of plumbing, mechanical, HVAC-refrigeration, or hydronic systems.

23.5(2) Contractor. A journeyman will not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

23.5(3) Supervision. A journeyman who superintends one or more apprentices may only provide such supervision in the discipline(s) in which the journeyman is licensed and only while performing work for the same contractor licensed under Iowa Code chapter 105. A journeyman shall not knowingly supervise unlicensed persons who perform work covered under Iowa Code chapter 105 for which a board-issued license is required.

641—23.6(105) Apprentice license. An apprentice licensed under Iowa Code chapter 105 will adhere to the following mandates, the violation of which may give rise to disciplinary action:

23.6(1) Working under supervision. An apprentice may only perform work covered under Iowa Code chapter 105 under the supervision of a master or journeyman.

23.6(2) Contractor. An apprentice will not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

23.6(3) Dual licensure as an apprentice barred. A licensee cannot simultaneously possess both an active apprentice license and an active specialty license.

641—23.7(105) Specialty licenses and certifications.

23.7(1) Medical gas certification.

a. A person who possesses a medical gas certification and who performs medical gas brazing will maintain the person's brazing continuity.

b. A person who possesses a medical gas certification will maintain the person's valid certification issued from the National Inspection Testing Certification Corporation (NITC) or an equivalent authority approved by the board.

23.7(2) Hearth systems specialty license.

a. A person who possesses a hearth systems specialty license will maintain the person's valid certification issued from the National Fireplace Institute or equivalent authority approved by the board.

b. A hearth systems specialty license allows a licensee to perform work in the installation of gas burning and solid fuel appliances that offer a decorative view of the flames, from the connector pipe to the shutoff valve located within three feet of the appliance. A hearth systems specialty license further allows for work in the venting systems associated with a hearth appliance, log lighters, gas log sets, fireplace inserts, and freestanding stoves. A hearth systems specialty license does not allow a licensee to install a shutoff valve or perform any other mechanical or HVAC-refrigeration work.

c. A person possessing a hearth systems specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

23.7(3) Service technician HVAC specialty license.

a. A licensee who holds a service technician HVAC specialty license by demonstrating the licensee possesses a valid certification from North American Technician Excellence, Inc. or an equivalent authority approved by the board will maintain valid certification from North American Technician Excellence, Inc. or an equivalent authority approved by the board.

b. A service technician HVAC specialty license allows a licensee to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than three feet from the appliance. A service technician HVAC specialty license does not allow a licensee to perform any other mechanical or HVAC-refrigeration work.

c. A person possessing a service technician HVAC specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

23.7(4) Disconnect/reconnect plumbing technician specialty license.

a. A disconnect/reconnect plumbing technician specialty license allows a licensee to perform work from the appliance shutoff valve or the fixture shutoff valve to the appliance or fixture and any part or component of the appliance or fixture, including the disconnection and reconnection of the existing appliance or fixture to the water or sewer piping and the installation of a shutoff valve no more than three feet from the appliance or fixture. A disconnect/reconnect plumbing technician specialty license does not allow a licensee to perform any other plumbing work.

b. A person possessing a disconnect/reconnect plumbing technician specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty

license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

23.7(5) Private school or college routine maintenance specialty license.

a. A private school or college routine maintenance specialty license allows a licensee to perform routine maintenance within the scope of the licensee's employment with a private school or college. For purposes of this subrule, "routine maintenance" means the maintenance, repair, or replacement of existing fixtures or parts of plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers or water, gas, or steam piping permanent repairs except for traps and strainers. Routine maintenance includes emergency repairs. Routine maintenance does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than 100 gallons in size.

b. A person possessing a private school or college routine maintenance specialty license will not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and will not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

23.7(6) Dual licensure as an apprentice prohibited. A licensee cannot simultaneously possess both an active apprentice license and an active specialty license.

641—23.8(105) Inactive license.

23.8(1) A person possessing an inactive license under 641—subrule 29.2(6) will not perform any plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic work for which licensure is mandated so long as the person's license is held in inactive status.

23.8(2) A person possessing an active journeyman/inactive master license under 641—subrule 29.2(5) will not perform any plumbing, mechanical, HVAC-refrigeration, or hydronic work for which a master license is mandated so long as the person's master license is held in inactive status.

23.8(3) Inactive specialty license.

a. A person possessing an active specialty license under rule 641—23.7(105) will submit a written request to place the specialty license on inactive status in order to obtain an active apprentice license. The licensee will acknowledge that the licensee is unable to perform any work covered under Iowa Code chapter 105 outside of the apprenticeship program.

b. Notwithstanding 641—subrule 28.1(3), a person possessing both an inactive specialty license and an active apprentice license need not pay a renewal fee for the inactive specialty license so long as the person remains actively licensed as an apprentice.

c. Notwithstanding 641—subrule 30.2(2), a person possessing an inactive specialty license and an active apprentice license need not obtain any continuing education hours for renewal so long as the person remains actively licensed as an apprentice.

d. A person possessing both an inactive specialty license and an active apprentice license may surrender the apprentice license and reactivate the specialty license upon written request and payment of the fee for an active specialty license in the amount specified in 641—Chapter 28.

These rules are intended to implement Iowa Code chapter 105.