

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1316

H.P. 970

House of Representatives, March 11, 2003

An Act To Establish Medical Gas and Vacuum System Installer Certification

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUPLESSIE of Westbrook.
Cosponsored by Senator BRYANT of Oxford and
Representatives: HATCH of Skowhegan, NORTON of Bangor, PATRICK of Rumford,
PELLON of Machias, SMITH of Van Buren, Senator: EDMONDS of Cumberland.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §12004-A, sub-§22-A** is enacted to read:

6 22-A. State Board Not 32 MRSA §15354
7 of Examiners for the Authorized
8 Medical Gas and Vacuum
System Industry

10 **Sec. 2. 32 MRSA c. 135** is enacted to read:

12 **CHAPTER 135**

14 **MEDICAL GAS AND VACUUM SYSTEM INSTALLERS**

16 **§15351. Scope**

18 This chapter applies to construction, renovation,
19 installation, alteration, extension, removal, repair, maintenance
20 and service of all medical gas and vacuum systems in the State;
21 except that this chapter does not apply to medical gas and vacuum
22 system installation work performed by persons on their own
23 residences.

24 **§15352. Definitions**

26 As used in this chapter, unless the context otherwise
28 indicates, the following terms have the following meanings.

30 1. ANSI/ASSE SERIES 6000. "ANSI/ASSE Series 6000" means
31 the latest edition of the professional qualification standards
32 for medical gas and vacuum system installers, inspectors and
33 verifiers published by the American Society of Sanitary
34 Engineering.

36 2. ANSI/NFPA 99c. "ANSI/NFPA 99c" means the latest edition
37 of the medical gas and vacuum standard 99c as published by the
38 National Fire Protection Association.

40 3. Apprentice. "Apprentice" means a person who is learning
41 and working at a trade under the supervision of another person
42 certified in accordance with the provisions of this chapter and
43 enrolled in a registered apprenticeship program in accordance
44 with this chapter.

46 4. Board. "Board" means the State Board of Examiners for
47 the Medical Gas and Vacuum System Industry created pursuant to
48 this chapter.

50 5. Contractor. "Contractor" means any person who for a

2 fixed price, commission, fee, or percentage undertakes to bid
3 upon, or accepts, or offers to accept, orders or contracts for
4 performing, managing, or superintending, in whole or in part,
5 medical gas and vacuum system installation work regulated by this
6 chapter.

7 **6. IAPMO.** "IAPMO" means the International Association of
8 Plumbing and Mechanical Officials.

9 **7. Inspector.** "Inspector" means any person employed by the
10 State, a county or a municipality for the purpose of inspecting
11 medical gas and vacuum system installation work in connection
12 with the provisions of this chapter and any applicable code, rule
13 or regulation, or any other health and safety law or ordinance,
14 and has met the qualifications for inspector certification in
15 accordance with the provisions of this chapter.

16 **8. Journeyman.** "Journeyman" means any person, other than
17 an apprentice, who engages in or works at a trade subject to
18 inspection under this chapter and who has completed the
19 requirements for journeyman certification under the provisions of
20 this chapter.

21 **9. Medical gas and vacuum system.** "Medical gas and vacuum
22 system" means a pipe distribution system characterized by a
23 central supply, including bulk systems, manifold devices or
24 medical air compressors, with control equipment and piping
25 extending to points in a facility where nonflammable gases are
26 required or utilized, with suitable outlet valves at each use
27 point.

28 **10. Medical gas and vacuum system installation.** "Medical
29 gas and vacuum system installation" means the work, practice,
30 materials, instrumentation and fixtures used in the construction,
31 installation, alteration, extension, removal, repair, maintenance
32 or renovation of gas and vacuum systems that are used solely to
33 transport gases for medical purposes and to remove liquid, gas
34 and solids.

35 **11. Registered apprenticeship program.** "Registered
36 apprenticeship program" means an apprenticeship training program
37 that is registered with the United States Department of Labor,
38 Bureau of Apprenticeship and Training in accordance with the
39 requirements of 29 Code of Federal Regulations, 29 (2003), and
40 consists of, at a minimum, 8,000 hours of documented practical
41 experience combined with a total of 1,000 hours of classroom and
42 shop instruction in a trade subject to this chapter.

43 **12. State Medical Gas and Vacuum System Code.** "State
44 Medical Gas and Vacuum System Code" means the latest editions of
45 the code.

2 the Uniform Plumbing Code, ANSI/NFPA 99c and ANSI/ASSE Series
3 6000 as adopted and amended by the board pursuant to section
4 15353.

5 12. UPC. "UPC" means the Uniform Plumbing Code published
6 by IAPMO.

7 **§15353. State Medical Gas and Vacuum System Code**

8 1. Scope of code. The UPC, ANSI/NFPA 99c and ANSI/ASSE
9 Series 6000 serve as the medical gas and vacuum system code for
10 all construction, renovation, installation, alteration,
11 extension, removal, repair, maintenance or service of medical gas
12 and vacuum systems governed by this chapter.

13 2. Adoption of code. The board shall, as its first act of
14 business, adopt the most recent editions of the UPC and the
15 ANSI/NFPA 99c and ANSI/ASSE Series 6000, which with any
16 subsequent amendments the board may adopt, is known as "the State
17 Medical Gas and Vacuum System Code."

18 **§15354. Creation and composition of board**

19 1. State Board of Examiners for the Medical Gas and Vacuum
20 System Industry. The State Board of Examiners of the Medical Gas
21 and Vacuum System Industry, as established in Title 5, section
22 12004-A, subsection 22-A, is created to carry out the purposes of
23 this chapter.

24 2. Composition. The board consists of 7 appointed members
25 as follows:

26 A. Three medical gas and vacuum system installers;

27 B. Two medical gas and vacuum system installation
28 contractors engaged in the construction or maintenance of
29 commercial or industrial facilities;

30 C. One general contractor engaged in the construction or
31 maintenance of commercial or industrial facilities; and

32 D. One appointed from the public at large.

33 3. Appointment and removal. The Governor shall appoint the
34 members of the board, subject to confirmation by the Senate, to
35 staggered 4-year terms. The Governor may remove any member of
36 the board for misconduct, incompetence or neglect of duty.
37 Within 30 days after the effective date of this chapter, the
38 Governor shall appoint the initial members of the board.

2 4. Quorum. A majority of the board constitutes a quorum
3 for the transaction of all business.

4 **§15355. Powers and duties**

6 In addition to all other powers and duties conferred or
7 imposed upon the board by this chapter, the board is authorized
8 to:

10 1. Officers. Elect its own officers and prescribe their
11 duties;

12 2. Certifications and permits. Grant certifications and
13 apprentice permits to duly qualified applicants;

14 3. Fees. Establish fees that are reasonable and necessary
15 to defray the cost of administering this chapter;

16 4. Rules. Adopt rules not inconsistent with the laws of
17 this State as may be necessary for the orderly conduct of its
18 affairs and for the administration of this chapter;

19 5. Enforcement. Enforce the provisions of this chapter and
20 any related code or rules through inspections, audits, citations,
21 civil penalties and any other appropriate means;

22 6. Inspections. Employ inspectors and charge fees for
23 inspections of installations pursuant to this chapter;

24 7. Investigations. Subpoena records and documents and
25 compel the attendance of witnesses pursuant to an investigation
26 or a hearing of the board;

27 8. Hearings. Conduct hearings according to the provisions
28 of the Maine Administrative Procedure Act;

29 9. Legal action. Bring a suit, in any court of competent
30 jurisdiction, to enjoin any person from violating this chapter;

31 10. Exceptions. Review and approve or disapprove requests
32 for exceptions to the State Medical Gas and Vacuum System Code in
33 situations in which a strict interpretation of the code would
34 result in unreasonable operational conditions or unreasonable
35 economic burdens as long as public safety is not compromised; and

36 11. Endorsements. Create requirements for specialized
37 endorsements for certifications governed by this chapter.

38 **§15356. Publication of requirements**

2 The board shall, within 30 days after being appointed,
3 devise a plan for publicizing the requirements of this chapter to
4 all persons who may be affected. The board shall take such
5 action to implement the plan as is reasonable and necessary.

6
7 **§15357. Examinations for certifications**

8
9 The board shall establish and administer, or contract out to
10 a recognized 3rd-party certifier for, examinations as required
11 for certification under this chapter and determine satisfactory
12 performance for these examinations.

13 **§15358. Revoking or suspending certifications**

14
15 In accordance with the Maine Administrative Procedure Act,
16 the board may revoke or suspend a certification or reprimand a
17 certification holder for any violation of this chapter or rules
18 of the board. Grounds for suspension or revocation of a
19 certification due to suspected incompetence or willful violation
20 by a certification holder may be determined through retesting
21 procedures.

22
23 **§15359. Reinstating certifications**

24
25 The board shall establish a procedure for reinstating any
26 certification that has been revoked or suspended. Any person
27 whose certification has been revoked may not apply for
28 reinstatement of that certification before the expiration of one
29 year from the date of such revocation. If the board proposes to
30 refuse a person's application for licensure or to suspend or
31 revoke a person's certification, the person is entitled to notice
32 and a hearing before the board.

33 **§15360. General certification requirements**

34
35 The board shall issue a certification to any person who:

36
37 **1. Qualifications.** Meets the qualifications and
38 requirements for a specific certification under this chapter;

39 **2. Application.** Completes and affirms before a notary
40 public an application for examination and certification
41 established by the board;

42 **3. Evidence of qualifications.** Presents competent
43 evidence, in a form acceptable to the board, demonstrating that
44 the applicant meets the qualifications and requirements of the
45 certification for which the applicant has applied;

2 **4. Fees.** Pays the appropriate fees established by the
board; and

4
6 **5. Examination.** Performs satisfactorily on the appropriate
certification examination established and administered by the
board. An applicant who fails to satisfactorily perform on an
8 examination may take no more than 2 additional examinations
during the one-year period commencing on the date of the
10 applicant's first application, and any applicant who fails to
satisfactorily perform on 3 examinations within this one-year
12 period may not be allowed to take an examination within one year
of the last examination on which the applicant failed to
14 satisfactorily perform.

16 **§15361. Conditions**

18 To permit the effective and orderly implementation of this
chapter, the conditions set out in this section apply to the
20 issuance of initial certifications and endorsements under this
chapter.

22
24 **1. Grace period.** There must be a one-year period from the
effective date of this chapter that serves as a grace period for
all persons applying for inspector certifications, journeyman
26 certifications or specialized endorsements required under this
chapter.

28
30 **2. Exemption from certification.** During the one-year grace
period established in subsection 1, a person is not required to
possess any certification or endorsement mandated by this chapter
32 to perform work regulated by this chapter, as long as the person
has submitted the necessary certification application within 180
34 days from the effective date of this chapter.

36 **3. Application for journeyman endorsement or
certification.** During the one-year grace period established in
38 subsection 1, an applicant may apply for a journeyman
certification or endorsement, even if the applicant does not
40 satisfy the apprenticeship requirements for that certification or
endorsement. However, such applicants must comply with all other
42 certification requirements of this chapter and perform
satisfactorily on the examination established for the applicable
44 trade.

46 **4. Prohibition.** A person whose application is denied by
the board is immediately prohibited from engaging in the
48 applicable trade.

50 **5. Inspector certifications.** The board shall grant

2 inspector certifications to qualified persons. Those persons are
3 not required to satisfy the 5-year journeyman certification
4 requirement but must comply with all other certification
5 requirements of this chapter.

6 **§15362. Medical gas and vacuum system installer certification**

8 An applicant for a medical gas and vacuum system installer
9 examination and certification must have:

10 1. Examination. The ability to provide satisfactory
12 answers to the examination questions pursuant to section 15357;

14 2. Brazer standards. A current certification as a medical
16 gas and vacuum system brazer issued in accordance with welding
17 and brazing qualification standards adopted by the board;

18 3. Training course. Evidence of completion of an approved
20 training course on medical gas and vacuum system installation as
21 required by ANSI/ASSE Series 6000; and

22 4. Supervised experience. Eight thousand hours of
24 documented practical experience in piping system installation
25 under the supervision of a journeyman plumber licensed under
26 chapter 49.

27 **§15363. Apprentice permit**

28 The board shall issue an apprentice permit to any person
30 seeking to learn and work at a trade under the supervision of
31 another person certified in accordance with the provisions of
32 this chapter. The applicant must:

34 1. Application. Complete and affirm before a notary public
36 an application for an apprentice permit established by the board;

38 2. Apprenticeship. Present competent evidence, in a form
39 acceptable to the board, demonstrating that that applicant is
40 enrolled in a registered apprenticeship program in accordance
41 with this chapter; and

42 3. Fees. Pay the appropriate fees established by the board.

44 An apprentice permit issued by the board remains valid as
46 long as the holder is enrolled in a registered apprenticeship
47 program in accordance with this chapter.

48 **§15364. Inspector certification**

50 1. Journeyman certification. An applicant for an inspector

2 examination and certification must possess a journeyman
3 certification under this chapter that has been consistently valid
4 for a period of not less than 5 years.

5 2. Financial or advisory interest. Before a person may be
6 qualified for an inspector certification under this chapter, the
7 person shall swear or affirm under oath the person does not have
8 any financial or advisory interests in any medical gas and vacuum
9 system installation company and will not have any financial or
10 advisory interest in any medical gas and vacuum system
11 installation company while holding a valid inspector
12 certification.

13 **§15365. Reciprocity**

14 The board may issue a certification or apprentice permit
15 provided for in this chapter without examination to any currently
16 practicing, competent person who holds a similar authorization
17 granted by any other state that establishes substantially similar
18 qualification requirements to those established under this
19 chapter, provided that the state grants reciprocal authorizations
20 to any currently practicing, competent person holding a
21 certification in this State.

22 1. Certification by reciprocity. An applicant for
23 certification by reciprocity shall:

24 A. Complete and affirm before a notary public an
25 application for certification by reciprocity established by
26 the board;

27 B. Present competent evidence, in a form acceptable to the
28 board, demonstrating that the applicant is currently a
29 practicing, competent person who holds a similar
30 authorization granted by another state that establishes
31 substantially similar qualification requirements to those
32 established under this chapter; and

33 C. Pay the appropriate fees established by the board.

34 **§15366. Expiration and renewal**

35 1. Expiration. Persons holding medical gas and vacuum
36 system installer certifications must recertify according to
37 guidelines established by the board.

38 2. Renewal. The board shall renew for a period of 3 years
39 any certification issued under this chapter upon receiving from
40 the renewal applicant a completed renewal form, as established by
41 the board, the appropriate renewal fee, and evidence of
42 recertification to the most recent ANSI/NFPA 99c.

2 **§15367. Conduct prohibited without certification**

4 **1. Engaging in business or trade.** A person may not engage
6 in the business or trade of work regulated or controlled by this
8 chapter without an appropriate certification and, if applicable,
10 an endorsement issued pursuant to this chapter authorizing the
12 person to engage in the specific business or trade or by any rule
14 adopted pursuant to this chapter.

16 **2. Solicitation.** A person may not solicit, by sign,
18 listing or any other form of advertisement, work regulated or
20 controlled by this chapter or by any rule adopted pursuant to
22 this chapter unless the person has been duly certified by the
24 board to perform that work.

26 **3. Inspectors.** A municipality, county or agency of this
28 State may not appoint, authorize, or employ any person to perform
30 inspections under this chapter or the State Medical Gas and
32 Vacuum System Code unless the inspector has been duly certified
34 by the board as an inspector as provided in this chapter.

36 **4. Exceptions for apprentices.** Notwithstanding the
38 provisions of this section, an apprentice permit holder enrolled
40 in a registered apprenticeship program for a trade subject to
42 control or regulation under this chapter may engage in the work
44 of that trade only when the apprentice is under the supervision
46 of a certified journeyman and only to the extent that the
48 supervising journeyman is duly certified by the board to perform
50 such work.

5. Other exceptions. This chapter may not be construed to
 require employees of the Federal Government to hold
 certifications required by this chapter.

Any violation of this section is subject to the penalties
 described in section 15372.

§15368. Maintain current qualifications

A person who holds a certification or endorsement regulated
 by this chapter that requires at the time of application evidence
 of a certification pursuant to section 15362, subsection 2 must
 maintain those qualifications as a condition for maintaining
 certifications and endorsements issued under this chapter.

A person who does not maintain current certification
 requirements pursuant to section 15362, subsection 2 is guilty of
 a violation of this chapter, which immediately invalidates any
 certification or endorsement issued pursuant to this chapter.

2 **§15369. Other prohibited acts**

4 It is unlawful and a violation of this chapter for any
6 person to:

8 **1. Error or fraud.** Obtain a certification or apprentice
10 permit through error or fraud;

12 **2. False presentation.** Present or attempt to use the
14 certification or apprentice permit of another person for any
16 reason;

18 **3. Impersonation.** Impersonate another person who holds a
20 certification or an apprentice permit or use an expired or
22 revoked certification;

24 **4. Not registered as apprentice.** Use an apprentice permit
26 when the holder is not enrolled in a registered apprenticeship
28 program;

30 **5. False or forged evidence.** Give false or forged evidence
32 of any kind to the board in an application for the issuance or
34 renewal of a certification or apprentice permit under this
36 chapter;

38 **6. Code violation.** Willfully or negligently violate the
40 State Medical Gas and Vacuum System Code or the rules of the
42 board adopted pursuant to this chapter;

44 **7. Misrepresentation.** Knowingly make a substantial
46 misrepresentation of services provided; or

48 **8. False representation of status.** Knowingly make any
50 false promise regarding a person's certification or apprentice
52 permit status with intent to influence, persuade or induce an
54 individual to contract for services regulated or controlled under
56 this chapter.

58 **§15370. Violations through employment of another person**
60 **or conspiracy**

62 It is a violation of this chapter to employ another person
64 or to otherwise conspire with another person to violate any terms
66 of this chapter or any rule adopted pursuant to this chapter.

68 **§15371. Actions required; duty to display certification**
70 **or apprentice permit**

72 **1. Compliance.** A person issued a certification or

2 apprentice permit under the terms of this chapter shall comply
3 with the provisions of this chapter, the State Medical Gas and
4 Vacuum System Code and any applicable rules adopted pursuant to
5 this chapter.

6 2. **Exhibition.** Journeyman certifications with appropriate
7 endorsements and apprentice permits required under this chapter
8 must be exhibited whenever required by an inspector certified
9 under this chapter.

10 **§15372. Penalties**

11 1. **Revocations, suspensions and reprimands.** The board
12 shall revoke or suspend a certification, endorsement or
13 apprentice permit or reprimand a certification holder,
14 endorsement holder or apprentice permit holder for any violations
15 of this chapter or rules of the board.

16 2. **Civil penalties.** A person who violates any provision of
17 this chapter, the State Medical Gas and Vacuum System Code or any
18 applicable rule of the board is subject to a civil penalty of not
19 less than \$50 or more than \$1,000 per day for each violation.

20 3. **Criminal penalties.** A person who knowingly or willfully
21 violates this chapter, the State Medical Gas and Vacuum System
22 Code or any applicable rule is guilty of a Class E crime.

23 **§15373. Rulemaking**

24 The board shall adopt rules necessary to implement this
25 chapter. Rules adopted pursuant to this chapter are routine
26 technical rules as defined in Title 5, chapter 375, subchapter
27 2-A.

28 **SUMMARY**

29 This bill creates the State Board of Examiners for the
30 Medical Gas and Vacuum System Industry and establishes
31 certification requirements for medical gas and vacuum system
32 installers and a permit system for those who apprentice as
33 medical gas and vacuum system installers.