



State Board of Examiners of Plumbing, Heating & Fire Sprinkler Contractors

November-December 2007

1109 Dresser Court Raleigh, North Carolina 27609
919/875-3612 – Fax 919/875-3616 - Website: www.nclicensing.org

Tommy G. Proffit, Chairman

H. J. Summey; P. K. Selby; J. N. Royal; R. M. Boone; S. K. Hensley; W. T. Tucker

**Renewal
Time**

**Don't let Your License Lapse.
Renew Your License on Time.**

**Renewal
Time**

Remember, there is NO grace period on renewals

- Renewals **must** be returned to Board office **COMPLETE AND CORRECT** by Dec. 31, 2007. Incomplete or incorrect renewals will be returned.
- **Many renewal are sent back for errors that could be avoided by following directions.**
- **Social Security numbers are required** to be listed on renewals. The Board understands your concern about security of this valuable piece of information and be confident that we do not share this information with anyone. All renewal forms that are received **without** a social security number will be returned to the licensee, the renewal will not be processed, and it will delay the renewal of your license.
- Continuing Education (CE) hours **must** be completed to renew license for 2008. If your hours are not listed with the Board, the renewal will be returned.
- **ALL licensees are required to have continuing education** with the exception of licensees who received a license for the first time during 2007.
- Master license holders need to verify that their sub-licensees have completed CE requirements in order to renew their licenses.
- Licenses obtained by NICET must submit a copy of appropriate current NICET certification with their renewal form.
- Code Officials who are not using their license must send a copy of their current inspector card from the Code Official Qualification Board with their renewal form.
- **If your renewal is submitted without a check, or if a check is submitted without a renewal, it will be returned.** We accept Check, Money Order or Certified Check only. We do not accept cash.

Finally, do not call the office and request the staff to stop processing renewals to see if your renewal has been received.

Renewals are processed in the order in which they are received. Sending your renewal in early is the best way to assure that it gets processed by the deadline. To confirm delivery you can send it by certified or express mail.

Administrative Officers	2
Consent Agreements	3
Staffing Changes	4
Attorney's Report	5
Permit Warnings	8
Sub-contracting	9



The State Board of Examiners of Plumbing, Heating & Fire Sprinkler Contractors seeks to employ a person for the position of **ADMINISTRATIVE OFFICER** in the Western region of North Carolina (Morganton, NC region and west).

The Board's Administrative Officer's main duties will be to investigate and report on alleged violations of the licensing laws and rules of plumbing, heating and fire sprinkler contractors. A high school diploma required; technical school graduate and/or experience in the plumbing or heating industry or inspections preferred. North Carolina drivers license with good driving record. Travel and overnight stay required. Word processing/typing skills necessary; basic experience in Microsoft Word. Must be self-motivated, high energy for a fast paced work environment and a self-starter.

Apply immediately; position may close without notice. Salary commensurate with experience; excellent benefits & auto provided. No phone calls. Previous applicants need not apply. Please send resume to:

Administrative Officer
State Board of Examiners
1109 Dresser Ct.,
Raleigh, NC 27609

Field Staff

John Todaro
Senior
Administrative Officer
South Central Region
704-975-5305

Eric Hall
Administrative Officer
Western Region
828-234-2719

Jimmy Jimenez
Administrative Officer
South Eastern Region
910-409-7127

Tom Johnston
Administrative Officer
North Central Region
339-906-9141

Derek Farmer
Administrative Officer
North Eastern Region
919-602-9095

Licenses That Expired On 12/31/2004

In order to avoid re-examination, the Board requires that all licenses expired on December 31, 2004 must have fees paid through 2007, 18 hours of continuing education obtained (4 of which must be in code changes and amendments) and the appropriate form **completed and received correctly no later than December 31, 2007**. General Statutes 87-22 provides in part "...the Board requires re-examination upon failure of a licensee to renew license within three years after expiration." Board Rule 21NCAC50.0409 REINSTATEMENT OF EXPIRED LICENSE - A license which expires may be reinstated within three years of the date of expiration upon written request and upon payment of the current license fee, the license fee for the unpaid prior years together with the processing fee impose by GS 87-22.



Chairman Tommy Proffit Accepts Award



On August 15, 2007, Chairman Tommy Proffit was presented the Life Membership Award from the North Carolina Mechanical Inspectors Association. Mr. Proffit worked as an Inspector for both the Union County and Mecklenburg County Inspection Departments until his retirement in 2005. Since then, Mr. Proffit has returned to work with Mecklenburg County part-time. Mr. Proffit has been an active member of the Mechanical Inspectors Association for many years serving on several committees. We wish to congratulate Mr. Proffit on receipt of this award.

Fire Sprinkler licensees needing CE's shall attend classes provided by AFSA Carolinas Chapter

Consent Agreement Report

A Consent Agreement is an affidavit taken from unlicensed individuals performing plumbing, heating and fire sprinkler work without a license. These individuals sign a Consent Agreement stating that they will not perform any work requiring a license until they are properly licensed to do so. If you see these businesses or individuals in the field, please report them to this office.

<u>Name</u>	<u>Date</u>	<u>City/Town</u>
Bunch, Steven	01/25/2007	Wilmington, NC
Burrill, Ronald W.	02/06/2007	Huntersville, NC
Dixon, Terry	02/22/2007	Fayetteville, NC
Johnson, Alvin Ken	08/25/2006	Alexis, NC
Riggins, Dennis L.	02/15/2007	Clayton, NC
Sears, Stephen D.	01/25/2007	Wilmington, NC
Todd, Paul Legrande	04/29/2007	Conway, SC
Winston, Vance	02/20/2007	Raleigh, NC
Tucker, Michael	8/21/2007	Burlington, NC

NUMBERS YOU MIGHT NEED

Department of Insurance	919-661-5880
Department of Labor	919-807-2760
Department of Revenue	919-733-3673
Secretary of State	919-807-3200
Electrical Licensing Board	919-733-9042
GC Licensing Board	919-571-4183

BOARD STAFF CHANGES AND PROMOTIONS

On October 8, 2007, the Board accepted the resignation of Sandra R. O'Brien as Executive Director of the Board. Sandra served in that position since 1999. During her tenure, the Board implemented mandatory continuing education, reworked the examination process, created multiple limited fire sprinkler licenses, increased the enforcement staff, and modified its complaint procedures to handle the increasing volume. The Board extends its best wishes to Sandra in her future endeavors.

On October 8, 2007, Dale L. Dawson was promoted to the position of Interim Executive Director for the Board. Mr. Dawson has been employed with the Board for almost 15 years and has served the Board as Administrative Officer, Lead Administrative Officer and Assistant Executive Director. Mr. Dawson has held a Plumbing Class I license since 1983, has participated for several years on a Code Committee with the Department of Insurance, is currently 2nd Vice President of the National Construction Investigator Association and is involved in the Department of Labor Plumbing Apprentice Competition. Mr. Dawson currently resides in Buncombe County.

On October 8, 2007, John J. Todaro was promoted to Senior Administrative Officer. Mr. Todaro most recently served as the Administrative Officer since his employment in 2000. Mr. Todaro obtained his H-1-I, H-2 & H-3-I license in November of 1999 and covers the Southwestern Region of North Carolina. Mr. Todaro is involved with the National Construction Investigator Association where he has recently chaired a committee for the last two years and is currently involved in the Department of Labor HVAC Apprentice Competition. Mr. Todaro currently resides in Mecklenburg County.

On October 16, 2007, Derek Farmer was hired to fill the vacant position of Administrative Officer for the Northeastern Region. Mr. Farmer is a former employee of the Wake County Building Inspection Department and is a native of Wake County. Derek replaces Wayne Mixon, who accepted a position in Permitting and Code Enforcement with the Town of Cary.

On October 16, 2007, Kim Atkins began full time employment as the Board's Complaint Coordinator. Mrs. Atkins has worked for the Board in a temporary role for the Board since August of 2007 serving as the receptionist. Mrs. Atkins and her husband recently relocated to the Raleigh area after having resided in Tampa, FL.

On October 9, 2007, Erik Rogers was promoted to Continuing Education Coordinator. Mr. Rogers has been employed with the Board since February 1, 2007, as an Office Assistant. Mr. Rogers hails from Santa Cruz, CA and served 4 years in the United States Air Force from 1998 until 2002.

Over the coming months, the Board will conduct interviews for the position of Executive Director, and more information will be provided at the appropriate time. The Board is optimistic about the future and the talent which has been assembled. Please take time to be in touch with the Board staff, to help those in new positions and to make helpful suggestions for efficient operations.

Attorney's Report

<p>BRYAN, GREGORY SCOTT (*) 2/6/07 Wilmington, NC Application for license denied because of evidence received by the Board which raised character issues as a result of incidents resulting in criminal convictions. Formal hearing requested by applicant held 8/28/07 in Wilmington. Order issued 8/28/07 approving Applicant's application for examination allowing him to sit for the Plumbing, Class I examination one year from the date of the August 28, 2007, hearing in the absence of convictions and the Board receives no new evidence of substance abuse.</p>	<p>Respondent shall: maintain a written record of contracts made and installations performed; maintain a service log of all contracts and service calls; have written contracts signed by the Respondent and customer for each installation for which Respondent is responsible; obtain permits as required for each contract prior to commencement of work; personally appear on every job site every day; personally request all inspections; allow no work requiring a license to be carried out while his health does not permit him to review the work on a daily basis; be involved in no joint ventures; and commit no violation of Article 2, Chapter 87 or the Rules of the Board with regard to any qualification administered by the Board.</p>
<p>COWAN, ROBERT LEE, Jr. (*) 5/17/07 d/b/a R. L. COWAN CO. Wilmington NC License 1855 H-2 Allegations of misconduct and peddling license in that Respondent, permitted use of his license in connection with acquisition of permits for performance of contracts even though Respondent was not a party to the contracts. Respondent also signed an examination application confirming he actually supervised an applicant for license from the Board when he did not in fact know the applicant and applicant had never been a bona fide employee of Respondent. Formal hearing held 8/28/07, Wilmington, N. C. Order issued 8/28/07 revoking Respondent's qualification to engage in business as a Heating, Group 2 contractor and suspending Respondent's license to engage in business as a Heating, Group 3, contractor for a period of 3 months, beginning September 1, 2007, allowing Respondent to complete jobs which were both under contract and for which Respondent had a permit as of 8/27/07. Respondent shall obtain no new permits until December 1, 2007. Upon completion of 3 months suspension and return of license, license of Respondent shall be placed on probation for 2 years with provisions that</p>	<p>GRAHAM, BILLY WRAY (*) 3/2/07 d/b/a GRAHAM & GRAHAM GENERAL CONTRACTING CO. Reidsville, NC Allegations of plumbing contracting without a license. Complaint for injunction filed 3/20/07. Service of Process obtained 3/31/07. Hearing held 8/20/07. Order executed and filed 8/22/07 enjoining defendant from engaging in business as a plumbing, heating or fire sprinkler contractor until properly licensed by the Board.</p> <p>HOWELL, CHRISTOPHER C. (*) 5/30/07 Locust, NC Allegations of heating contracting without a license. Service obtained 6/26/07. Consent order forwarded to Defendant on 7/25/07. Permanent Injunction Judgment filed 9/10/07 enjoining defendant from engaging in business as a plumbing, heating or fire sprinkler contractor until properly licensed by the Board.</p>

Comments from Board Counsel by John N. (Nick) Fountain
(Re-Print from Previous Newsletter)

The Board Chair has asked me to begin a series of articles for the Board newsletter to comment on areas of concern observed over the 30 years I have been counsel to the Board.

For this first such article, I am going to start with a raw but troubling statistic.

Year after year, the Board receives almost double the complaints about heating contractors (licensed and unlicensed) as about plumbing contractors. Apparently, the number of complaints about heating contractors is also about double the complaints about electrical contractors. It is not uncommon for the members of the Board sitting in a Board meeting to poke fun at one another on the question of whether there seems to be more plumbing contractors or more heating contractors who get in trouble with the Board. Why is it? The education of plumbing contractors is about the same ... Roughly the same percentage are handsome... or wear neckties... Roughly, the same percentage drive new trucks... Roughly the same percentage attended continuing education programs before it became mandatory.

So what are some of the reasons:

1. Is it because there are more heating contractors than plumbing contractors? Board statistics indicate there are approximately 5,000 people who hold one of the heating qualifications and 6,500 persons hold plumbing qualifications. Of course some of these people hold both qualifications. So, yes, that is one reason, but not the only reason.
2. Is it because the plumbing system lacks the numerous moving parts involved with heating equipment and break down less often? It is probably true that many consumers will complain if their home or office is too hot or too cold, but won't call the plumber unless the toilet quits completely or there is no hot water.
3. Most of the concerns about plumbing system design are covered by mandatory requirements in the plumbing code, but minimum code and proper design are two different things when it comes to HVAC systems.

All of the foregoing are possible explanations for problems for the large and rising number of complaints about heating systems, but most of the foregoing are beyond our control. What are the things that we could change, i.e., what are the things you can do to reduce the chance you will receive a letter from the Board about a complaint?



1. Make contracts at a realistic price which will allow you to do a quality design and an installation which complies with the code. While it is not up to the Board to help you set prices, many complaints come from installations where the contractor has quoted too little and cannot afford to do the job correctly. Sometimes we see licensees who could not even buy the equipment within the amount of money to be paid. The Board licenses people who want to be heating contractors. If you intend to be a contractor, you must know how to contract, i.e., how to make a fair deal.

(continued on next page)

2. Leave enough money in your business that you are never in a position where you must obtain money before starting work. Many licensees of the Board had very little business experience before going out on their own. We applaud the effort to start a new business, but the new contractor will probably fail unless there is enough capital in the business to be able to buy equipment, parts and supplies and cover labor until receiving payment from the property owner. Never put yourself in the position where one or two disgruntled customers who refuse to pay could break your business. Remember- abandonment of a job or unexcused failure to perform a contract usually results in suspension of license.
4. Insist on a system design which you would want in your own property. The Board will not accept the excuse that, "I did it like the owner said" or "That's what the general contractor demanded." You are the licensee. You are responsible for a design which will function to accepted standards. What does this mean? It means absolute adherence to Air Diffusion Council standard of flex duct design. It means insisting on two systems for 2 story houses, rather than hoping to get by with only a small return up-stairs. Aside from money issues, the great majority of complaints about heating systems involve poor flex duct design, terrible installation quality and inadequate return air.
5. Don't take every job you have the opportunity to do. The Board sees many customers who should have been avoided. Learn through experience (bad customers) when to pass up a job and when to take a job. Even when the job looks profitable, you may be unable to satisfy some people. The Board will insist that you carry out the commitments and contracts that you have made. Many licensees come before the Board and try to blame all the problems on a disagreeable customer. We all have to learn how to handle or avoid disagreeable customers.
6. Never substitute a cheaper or lower efficiency piece of equipment in place of the equipment you proposed. If the customer changes to a cheaper system, be sure to get a new signed proposal.
7. Don't take on more than you can do or more work than you can find help doing. Many knowledgeable contractors have wound up with problems before the Board because they relied on cheap or ignorant help to put in jobs, gambling that the problems would not be discovered. If the job turns out poorly, the Board usually finds the problems were the result of your lack of supervision or your failure to hire competent help. Remember the Board requires you to supervise enough to make each job function as it should. Don't skimp on supervision and hope the customer doesn't call the Board.
8. Go over the cases in the Board newsletter with your employees with each new issue. We put helpful details about each case in the newsletter for the very purpose of helping everyone else learn.
9. Always remember that, as my paralegal tells me: "It's your license." Ask yourself: "How would this look if it was written up in the Board newsletter?"

Finally- help the Board do something about incompetent people, with or without a license. If you help clean up the industry, the complaints about heating contractors will finally start to go down.



Permit Warning Letters

<u>Name</u>	<u>City/Town</u>	<u>Permit Warning</u>
Gentle, Francis G.	Eden, NC	07/12/2007
Smith, Welton S.	Calabash, NC	03/14/2007
Alcorn, Richard T.	Eden, NC	08/08/2007
Jones, Arnold L.	Stocksdale, NC	08/17/2007
Reynolds, Jeffrey A.	Burlington, NC	07/18/2007
Poole, Michael M.	Wilmington, NC	05/07/2007
Amitrano, Robert	Tryon, NC	05/08/2007
Beutler, Derk R.	Southern Pines, NC	01/23/2007
Burke, Sean P.	Newport, NC	05/07/2007
Pridgen, Donald J.	Whiteville, NC	03/23/2007
Simmons, Benjamin A.	Wilmington, NC	07/17/2007
Willis, Gary E.	Coats, NC	03/21/2007
Drew, Richard S.	Myrtle Beach, SC	06/01/2007
Wise, Joseph T.	Coats, NC	03/21/2007
Carver, Daniel, F	Winston-Salem, NC	06/25/2007
Tyndall, William R	New Bern, NC	07/24/2007
Garris, Jerry G.	Belmont, NC	11/15/2006
Strader, Dwain, R	Reidsville, NC	07/12/2007
Hill, Donald H	Lowell, NC	05/01/2007
Milliken Jr, William S.	High Point, NC	01/04/2007
Sampson, Randy M	Greensboro, NC	09/23/2007
Garriss, Mike	Wilmington, NC	10/02/2007

“ATTENTION ... ATTENTION ... ATTENTION”

Our industry has a very rich and proud history. Prior to our board being established, consumers of North Carolina depended on unlicensed plumbing and heating professionals to perform their installations and to provide service to their plumbing and heating systems. Our Board was created in 1931 to protect the citizens of North Carolina and shortly thereafter we started issuing our first licenses. Since that time we have issued just under 30,000 license numbers to different individuals. As every year passes we are losing more and more of the pioneers from our industry here in North Carolina as well as some of the knowledge, materials and documents that held such importance in this trade. While I am writing this article, I stopped to take a phone call from one of our licensee who has been licensed by this board since the early 1970's. This gentleman informed me that he is in his 70's and was planning to retire next year; again another loss of knowledge in our trade. I think it is important for everyone to acknowledge the history of our industry and those who have gone before us. As everyone knows we are in the process of renewing licenses for 2008, and we here at the board think back to what the first licenses that were issued by the Board in 1931 must have looked like. We are currently looking for the oldest original license issued by our Board to any licensee. We would like to possibly use the design for the old licenses that were issued years ago for future license issuance. If you have an old license, please send it to our office, Attn: Dale Dawson, State Board of Examiners of Plumbing, Heating & Fire Sprinkler Contractors, 1109 Dresser Ct., Raleigh, NC 27609.. Should you have any questions, please feel free to contact me anytime at the Board's office.

Lets Take a Look. Is it Good or Bad?

Let's admit it, a lot of licensees only pick up the newsletter for the bad stuff. Maybe you are one of them, and if so, I guess you are not reading this article. Is the only thing important in our industry finding out which contractors have been caught making a mistake or how that information can be used to win over a potential customer? Or spread a rumor? Is everyone guilty of this? Most licensees probably do glance over the Attorney's Report, and I certainly hope if you see an unlicensed person out there working, you will file a complaint. But the majority of contractors are not plotting some evil twist, they are too busy working hard to earn a living.

What I think is important are the good contractors, and even the not so good contractors that strive everyday to become better contractors. These are the contractors that go to the service calls, handle finances and try to balance family with business. These include both big and small contractors.

Our Board will typically handle between 500 and 700 complaints a year. That averages out to about 350-375 licensees who have complaints (since some licensees have multiple complaints). This figure isn't great but let's try and put it in perspective for at least today

This year we have approximately 3,088 expired licensees. These licensees could renew, but have not at this time and are not using their license. We also have around 1,480 sub-licensees that are considered inactive and are working under the licensee of record for their company. There are 12,726 active licensees that can go out and perform work in North Carolina. That is a total of 17,294 licensees in North Carolina and approximately 350-375 of them have been in trouble for the year. That leaves just over 16,000 licensees in all out there to be proud of themselves and their industry. Keep working for your goals; there is always more to achieve.

TO SUB-CONTRACT OR NOT TO SUB-CONTRACT

Recently we have received a large number of complaints where licensed contractor are sub-contracting work that requires a license to persons who do not hold a license or are not on the licensed contractors payroll, where taxes are being withheld. It appears to be more predominant in track housing and apartment complex plumbing and heating installations, but does happen in all other areas in our industry. During my 11 plus years with the Board I have investigated many complaints where unlicensed installers are sub-contracting installations and are more concerned with completing the job as soon as possible in order to make more money on the project. This directly leads to sloppy, poorly designed and sub-standard installation. The General Statutes of North Carolina state that the only person exempted from having to hold a license is a "bona-fide employee of a licensee of our Board." (G.S. 87-25, last sentence.) Several years ago the Board issued the following definition of a "bona-fide employee":

.0512 EMPLOYEES AS EXEMPTED FROM LICENSURE

(a) As used in G.S. 87-25, the phrase "bona-fide employee" shall mean and refer to an individual who is directly and regularly employed in the ordinary course of business by a contractor licensed pursuant to G.S. 87, Article 2. Factors establishing whether the individual is directly and regularly employed in the ordinary course of business of such contractor include, without limitation, the following:

- (1) whether the individual is on the licensed contractor's payroll;
- (2) whether the licensed contractor withholds taxes from the payment to the individual and performs such other acts as are lawfully required of an employer;
- (3) whether the licensed contractor exercises control over the method and manner of the individual's work; and
- (4) whether the licensed contractor, and not the unlicensed person, is and remains obligated to the property owner or general contractor for the work.

(b) Persons acting as independent contractors, consultants or subcontractors, or paid as such, are not bona-fide employees.

According to the above rules, anyone performing plumbing, heating, fire sprinkler or fuel piping installations are required to be on a licensed contractor's payroll where taxes are being withheld and receiving W-2's or they must hold an active license themselves. We have in the past and will continue to prosecute anyone found subcontracting to unlicensed persons. If you are a licensed contractor who presently is sub-contracting work that requires a license to unlicensed persons and these persons are not on your payroll as bona-fide employees or do not hold their own license, then you are opening yourself to a complaint from the Board for allowing the unlicensed person to use your license. Violations of license peddling could lead to suspension or possible revocation of your license. In addition, the unlicensed person will be pursued for working without a license. This rule is very clear and enforcement will take place.

Suggestions or Comments

Do you have any suggestions or comments you would like to share with our staff? Perhaps suggestions on what type of articles you would like to see in future newsletters? Or an article you would like to submit for possible publication? How about information that you think would be helpful to all licensees? If so, please submit you information to the Board's office: Attn: Dale L. Dawson, 1109 Dresser Ct., Raleigh, NC 27609

The Current Continuing Education Schedule
Is Available On-Line At
WWW.NCLICENSING.ORG

If you have questions on continuing education, please contact
Erik Rogers at
(919) 875-3612 ext. 209

Office Staff Directory

Office number	919-875-3612	
Fax number	919-875-3616	
		Phone Extension
Dale L. Dawson	Interim Executive Director	210
Sharon Pittman	Legal Activities Coordinator	206
Dolores Carmona	Examination Coordinator	224
Jennifer Beasley	Licensing Coordinator	204
Mykel Duval	Accountant & Business Operations	207
Erik Rogers	Continuing Education Coordinator	209
Kim Atkins	Complaint Coordinator	203
Judy Stewart	Complaint Clerk	208
Jamie Spence	Office Assistant	226
Hannah Whaley	Receptionist	200

Publisher; Layout & Design by Dale L. Dawson



PRESORT ED
STANDARD

U.S. POSTAGE
PAID

Time Sensitive Material