

## CHAPTER 260

AN ACT concerning the licensure of master hearth specialists and amending and supplementing P.L.2007, c.211.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.2007, c.211 (C.45:16A-2) is amended to read as follows:

C.45:16A-2 Definitions relative to licensing of HVACR contractors, master hearth specialists.

As used in this act:

"Board" means the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors established pursuant to P.L.2007, c.211 (C.45:16A-1 et seq.).

"Bona fide representative" means, except as otherwise provided herein, a Master HVACR contractor who has not less than one percent ownership of the issued and outstanding shares of stock in a corporation, or not less than one percent ownership of the capital of a partnership, or not less than one percent ownership of any other firm or legal entity engaged in HVACR contracting in this State. A "bona fide representative" means, with respect to a corporation, partnership, or other firm or legal entity engaged in HVACR contracting in this State which generates more than 65 percent of its gross revenue from sources other than HVACR contracting, or with respect to a publicly-traded corporation, including its wholly-owned subsidiaries, whose principal business in this State is HVACR contracting: in the case of a sole proprietorship, the owner; in the case of a partnership, a partner; in the case of a limited liability company, a manager; or in the case of a corporation, an executive officer.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Heating, ventilating, air conditioning and refrigeration" or "HVACR" means the process of treating and protecting the environment by the responsible handling, dispensing, collecting and cleaning of chlorofluorocarbons and other refrigerants in stationary sources, and controlling the temperature, humidity and cleanliness of air by using the "wet," "dry," "radiant," "conduction," "convection," "direct," or "indirect" method or combination of methods, including those which utilize solar energy, to meet the environmental requirements of a designated area. "HVACR" also means the installation, servicing, connecting, maintenance or repair of the following:

power boiler systems, hydronic heating systems, fire tube and water tube boilers, pressure steam and hot water boilers, furnaces and space heaters, and appurtenances utilizing electric, fossil fuel, wood pellets or solar energy, other than those appurtenances utilized solely for the purpose of heating potable water;

warm air heating or refrigeration and evaporative cooling systems, ventilation and exhaust systems, dust collectors, air handling equipment, heating or cooling coils, air or refrigerant compressors, chillers, cooling towers, evaporators, condensers, plenums, fans, blowers, air cleaners, mechanical ventilation for radon mitigation, humidifiers, filters, louvers, mixing boxes and appurtenances; hydronic heating and chilled water pipe, condensate piping not discharged into a sanitary sewer, valves, fittings, burners and piping, hydronic heating, expansion tanks, pumps, gauges, humidity and thermostatic controls;

natural or manufactured gas piping on the load side of a meter; supply water piping to equipment being served from an existing dedicated source connected downstream from an approved backflow preventer, except in replacement cases, the installation of the required approved backflow device downstream from a pre-existing valve; and pneumatic controls

and control piping, for the control of air, liquid, or gas temperatures, radiators, convectors, unit cabinet heaters, or fan coil units; and pneumatic controls and control piping, of automatic oil, gas or coal burning equipment, mechanical refrigeration equipment, gasoline or diesel oil dispensing equipment and in replacement cases only, the connection thereof of the wiring from an electrical service disconnect box of adequate size to accommodate the equipment and controls and previously dedicated to that equipment, and the testing and balancing of air and hydronic systems, but does not include the design or preparation of specifications for equipment or systems to be installed that are within the practice of professional engineering as defined in subsection (b) of section 2 of P.L.1938, c.342 (C.45:8-28).

"HVACR apprentice" means a person who is enrolled in an HVACR apprenticeship or other training program, including, but not limited to steamfitter, pipefitter or sheet metal apprenticeship programs, approved by the United States Department of Labor and who engages in the installation, alteration, repair, service, or renovation of HVACR systems under the supervision of a Master HVACR contractor as part of that apprenticeship or other training program and who has studied and performed the majority of "HVACR" as defined in this section.

"Heating, ventilating, air conditioning and refrigeration contracting" means undertaking or advertising to undertake, for a fixed price, fee, commission, or gain of whatever nature, the planning, laying out, installation, construction, maintenance, service, repair, alteration or modification to any portion of any system, product or equipment or appurtenances used for the environmental needs or control of any heating, ventilating, air conditioning and refrigeration system.

"Master heating, ventilating, air conditioning and refrigeration contractor" means any person, firm, partnership, corporation or other legal entity licensed according to the provisions of P.L.2007, c.211 (C.45:16A-1 et seq.). which obtains a pressure seal pursuant to sections 24 and 25 of P.L.2007, c.211 (C.45:16A-24 and C.45:16A-25) and which advertises, undertakes or offers to undertake for another the planning, laying out, supervising, installing, servicing or repairing of HVACR systems, apparatus or equipment. In order to act as a "Master HVACR contractor," an individual shall be a bona fide representative of the legal entity licensed pursuant to the provisions of this act, and shall have studied and performed the majority of "HVACR" as defined in this section.

"HVACR journeyman" means any person who installs, alters, repairs, services or renovates HVACR systems in accordance with standards, rules and regulations established by the board, who works under the supervision of a Master HVACR contractor, and who has studied and performed the majority of "HVACR" as defined in this section.

"One percent ownership" means that a bona fide representative is entitled to one percent of any net profits from a business, owns one percent equity in a Master HVACR contractor, and is entitled to one percent of the net proceeds from the sale of a business in the event of the sale of the business. If the Master HVACR contractor is a corporation, the bona fide representative owns stock equaling one percent equity interest, and, if there is more than one class of stock, the stock owned by the bona fide representative is the highest level stock with full voting rights.

"Retrofit" means a change in design, construction or equipment already in operation in order to incorporate later improvements.

"Replacement" means a change of equipment with the same type or similar equipment.

"Undertake or offer to undertake for another" means a contractor who is listed in a public bid as the proposed subcontractor by the contractor placing the bid for an HVACR contract.

"Barbecue appliance" means an appliance that cooks food by applying heat as a result of burning solid fuel, gas fuel, natural gas, propane gas, wood fuel, or pellet fuel.

"Hearth product appliance" means a fireplace, fireplace insert, stove, or log set that offers a decorative view of flames and may be fueled by solid fuel, gas fuel, natural gas, propane gas, wood fuel, or pellet fuel, and may include a passive or powered air vent heated by flames, a convection chamber for the purpose of heating the room air by the means of gravity, or a manufacturer approved or supplied fan.

"Hearth professional work" means the installation, replacement, connection, venting, inspection, repair, maintenance, or servicing of hearth product appliances, barbecue appliances, outdoor patio appliances, and decorative space heater appliances, and shall include the installation, inspection, repair, or servicing of vents, vent connectors, masonry, metal and factory built chimney and vent systems, and natural or manufactured gas piping on the load side of the meter.

"Licensed Master Hearth Specialist" means a person who holds a current, valid license to engage in hearth professional work pursuant to P.L.2019, c.260 (C.45:16A-29 et al.).

"Outdoor patio appliance" means an appliance that is located outdoors and may be fueled by solid fuel, gas fuel, natural gas, propane gas, wood fuel, or pellet fuel, including free standing, mounted, or built-in appliances, stoves, fireplaces, fire pits, inserts, and gas logs.

"Decorative Space heater appliance" means an appliance that offers a decorative view of flames and provides heat to the immediate area by the means of thermal radiation or convection, and includes free standing, mounted, or built-in appliances, stoves, fireplaces, inserts, and gas logs, and may be fueled by solid fuel, gas fuel, natural gas, propane gas, wood fuel, or pellet fuel.

C.45:16A-29 "Licensed Master Hearth Specialist Advisory Committee."

2. a. There is established within the Division of Consumer Affairs in the Department of Law and Public Safety, under the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, a "Licensed Master Hearth Specialist Advisory Committee." The committee shall consist of seven members who are residents of this State appointed by the Governor without regard to political affiliation as follows:

(1) Three members shall have been engaged or employed in hearth professional work for a period of five consecutive years and shall hold a certification as a Master Hearth Professional, as issued by the National Fireplace Institute immediately preceding their appointments, and, except for the first members appointed, shall be licensed under the provisions of P.L.2019, c.260 (C.45:16A-29 et al.);

(2) One member shall be a licensee of the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors Board, established pursuant to P.L.2007, c.211 (C.45:16A-1 et seq.);

(3) One member shall be a licensee of the State Board of Examiners of Master Plumbers, established pursuant to P.L.1968, c.362 (C.45:14C-1 et seq.);

(4) One member shall be from a department in the Executive Branch of State Government who shall serve without compensation at the pleasure of the Governor; and

(5) One member shall be a public member who meets the requirements pertaining to public members set forth in subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2).

b. A majority of the appointed members of the committee shall constitute a quorum thereof and no action of the committee shall be taken except upon the affirmative vote of a majority of the appointed members of the committee.

c. The Governor shall appoint each member for a term of three years, except that of the members first appointed, four shall serve for terms of three years, two shall serve for a term of two years, and one shall serve for a term of one year.

d. Any vacancy in the membership of the committee shall be filled for the unexpired term in the manner provided for the original appointment. No member may serve more than two successive terms in addition to any unexpired term to which the members has been appointed.

e. The committee shall annually elect from among its members a chair and vice-chair. The committee shall meet at least twice a year and may hold additional meetings as necessary to discharge its duties.

C.45:16A-30 Powers, duties of board.

3. Notwithstanding any law, rule, or regulation to the contrary, the board shall have the following powers and duties, or may delegate them to the committee:

a. set standards and approve certifications for applicants for a master hearth specialist license, and issue a license to each qualified applicant;

b. determine the form and contents of applications for licensure, issuance of license, and identification cards;

c. adopt a code of ethics for licensed master hearth specialists;

d. issue and renew licenses and identification cards;

e. set the amount of fees for master hearth specialist licenses, license renewals applications, examinations, and other services provided by the committee within the limits provided in subsection b. of section 8 of P.L.2019, c.260 (C.45:16A-35);

f. refuse to issue or suspend, revoke, or fail to renew the license of a master hearth specialist pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

g. maintain a record of all applicants for a license;

h. maintain and annually publish a record of the name, place of business, and license date and number for every licensed master hearth specialist;

i. take disciplinary action in accordance with P.L.1978, c.73 (C.45:1-14 et seq.) against a licensed master hearth specialist who violates any provision of this act or any rule or regulation promulgated pursuant to P.L.2019, c.260 (C.45:16A-29 et al.);

j. adopt standards and requirements for and approve continuing education programs and courses of study for master hearth specialists and their employees;

k. review advertising by licensed master hearth specialists; and

l. perform other duties as may be necessary to effectuate the purposes of P.L.2019, c.260 (C.45:16A-29 et al.).

C.45:16A-31 Application for master hearth specialist license.

4. Any person desiring to obtain a master hearth specialist license shall make application to the board and shall pay all the fees required in connection with the application.

C.45:16A-32 License required to use title, designation.

5. A person shall not work as a master hearth specialist or use the title or designation of “licensed master hearth specialist” or “master hearth specialist” unless issued a license pursuant to the provisions of P.L.2019, c.260 (C.45:16A-29 et al.).

C.45:16A-33 Licensure required for certain actions relative to gas piping.

6. No person shall install, improve, repair, or maintain gas piping associated with barbecue appliances, hearth product appliances, outdoor patio appliances, decorative space heater appliances, or hearth professional work unless licensed by the board as a master hearth specialist in accordance with the provisions of P.L.2019, c.260 (C.45:16A-29 et al.).

C.45:16A-34 Licensure required to provide instruction relative to certain actions concerning gas piping.

7. No person shall provide instruction regarding the installation, improvement, repair, or maintenance of gas piping associated with barbecue, hearth products or hearth professional work unless licensed by the board as a master hearth specialist in accordance with the provisions of P.L.2019, c.260 (C.45:16A-29 et al.).

C.45:16A-35 Licensing, other requirements to engage in business of hearth professional work contracting.

8. a. A person, firm, partnership, corporation, or other legal entity shall not engage in the business of hearth professional work contracting or advertise in any manner as a master hearth specialist contractor or use the title or designation of "licensed master hearth specialist contractor" unless authorized to act as a licensed master hearth specialist contractor pursuant to the provisions of P.L.2019, c.260 (C.45:16A-29 et al.).

b. In addition to any penalty authorized pursuant to the provisions of section 12 of P.L.1978, c.73 (C.45:1-25), any person, firm, partnership, corporation, or other legal entity that knowingly violates any provision of this section shall be guilty of a crime of the fourth degree and shall have his or her license revoked.

c. No firm, corporation, or other legal entity for which the person is the bona fide representative shall perform hearth professional work without a valid license held by a bona fide representative.

d. No firm, corporation, or other legal entity performing hearth professional work shall be denied the privilege of conducting and continuing the business of master hearth specialist contracting, by reason of death, termination of employment, illness or a substantial disability of the bona fide representative of the firm, corporation, or other entity, provided that: the firm, corporation, or other entity has complied with the other provisions of P.L.2019, c.260 (C.45:16A-29 et al.) the firm, corporation or other entity maintains a place of business within this State; and another bona fide representative of the entity obtains a license within six months from the date of the death, termination of employment, illness, or disability. The board may promulgate additional regulations governing the management and operation of an entity during that period of time when the entity shall be in operation without a bona fide representative.

e. As used in this section, “bona fide representative” means, except as otherwise provided herein, a master hearth specialist contractor who has not less than one percent ownership of the issued and outstanding shares of stock in a corporation, or not less than one percent ownership of any other firm or legal entity engaged in Master Hearth Specialist contracting in this State. A bona fide representative means, with respect to a corporation,

partnership or other firm or legal entity engaged in Master Hearth Specialist contracting in this State which generates more than 65 percent of its gross revenue from sources other than master hearth specialist contracting, or with respect to a publicly traded corporation, including its wholly owned subsidiaries, whose principal business in this State is Master Hearth Professional contracting: in the case of a sole proprietorship, the owner, in the case of partnership, the partner; in the case of a limited liability company, a manager; or in the case of a corporation, an executive officer.

C.45:16A-36 Construction of act.

9. Nothing in P.L.2019, c.260 (C.45:16A-29 et al.) shall be construed to prevent any person licensed by the State, including, but not limited to, architects, professional engineers, electrical contractors, master plumbers, propane gas suppliers or marketers, or any chimney service professional registered as a home improvement contractor with the Division of Consumer Affairs, from acting within the scope of practice of the respective profession or occupation, but no person shall use the designation “licensed master hearth specialist” or “master hearth specialist” unless licensed as a master hearth specialist under the provisions of P.L.2019, c.260 (C.45:16A-29 et al.).

C.45:16A-37 Powers of municipality.

10. a. The provisions of P.L.2019, c.260 (C.45:16A-29 et al.) shall not deny to any municipality the power to inspect hearth professional work or the equipment of a master hearth specialist, or the power to enforce the standards and manner in which hearth professional work shall be done, but no municipality, local board of health, or other agency shall require any master hearth specialist under P.L.2019, c.260 (C.45:16A-29 et al.) to obtain any additional license, apply for or take any examination, or pay any licensing fee.

b. The board shall ensure that licensed master hearth specialists comply with all applicable requirements of building codes, gas codes, and any other industry standards deemed appropriate by the board.

C.45:16A-38 Application procedure, qualifications.

11. Every person desiring to apply for a master hearth specialist license who shall meet the qualifications as set forth herein, shall deliver to the board, personally or by certified mail, return receipt requested, postage prepaid, a certified check or money order payable to the Treasurer of the State of New Jersey in the required amount, together with the written application required by the board, completed as described in the application, and together with proof of qualification as described herein.

The qualifications for a Master Hearth Specialist’s license shall be as follows:

- a. the person shall be 21 or more years of age;
- b. the person shall be a citizen or legal resident of the United States;
- c. the person shall possess a valid certification as a Master Hearth Professional, issued by the National Fireplace Institute, or an equivalent authority approved by the board; and
- d. the person shall have been engaged or employed in hearth professional work for a period of five years preceding the date of the person’s application for licensure.

Proof of compliance with the qualifications shall be submitted to the board in writing, sworn to by the applicant, and the written proof shall be accompanied by two recent photographs of the applicant.

C.45:16A-39 Expiration, renewal of license.

12. Every license issued pursuant to P.L.2019, c.260 (C.45:16A-29 et al.) shall automatically expire on June 30 following the date of its issuance. Licenses may be renewed biennially by the board upon written application of the holder and payment of the prescribed fee.

C.45:16A-40 Continuing education required for license renewal.

13. a. The board shall require each master hearth specialist, as a condition of license renewal, to complete any continuing education requirements imposed by the board pursuant to subsection b. of this section.

b. The board shall establish standards for the continuing education of master hearth specialists, including the subject matter and content of courses of study, the selection of instructors, and the number and type of continuing education credits required of a master hearth specialist as a condition of license renewal.

c. During the biennial renewal period beginning July 1, 2021 and ending on June 30, 2022 and every biennial period thereafter, sponsors of continuing education courses selected by the board shall include one hour of education in propane services, including substantially the same information covered in either the Fundamentals of LP manual, 2007 edition, or the Gas Installation for United Association Journeyworkers and Apprentices manual, 2003 edition.

d. After completion of the education in propane services required pursuant to subsection c. of this section, sponsors of continuing education courses shall administer a competency evaluation examination, that tests a master hearth specialist's understanding of the information provided on propane services.

e. The board shall not require completion of continuing master hearth specialist education credits for the initial licensure period.

C.45:16A-41 Inapplicability.

14. The provisions of P.L.2019, c.260 (C.45:16A-29 et al.) shall not apply to a single-family homeowner who performs hearth professional work on the person's own dwelling. Nothing in P.L.1968, c.362 (C.45:14C-1 et seq.) or P.L.2007, c.211 (C.45:16A-1 et seq.) shall be construed to prevent licensed electrical contractors from engaging in the installation, maintenance, and repair of natural or manufactured gas piping while installing or repairing electric generators, provided they have demonstrated as a part of licensure continuing education in the installation of gas piping relevant to installing or repairing electric generators.

15. Section 2 of this act shall take effect immediately and the remainder of this act shall take effect on the 120th day next following the date of enactment, but the board may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved August 23, 2019.