

**OPINION  
70-274**

August 4, 1970 (OPINION)

Mr. E. F. Welch

State Plumbing Inspector

State Plumbing Board

State Office Building

RE: Public Buildings - Plumbing - Authority of Plumbing Board

This is in reply to your letter requesting an opinion of this office as to whether or not the State Plumbing Board can require that all plumbing work done on state owned buildings be done under the supervision of a licensed master plumber and that all plumbing work performed be done by licensed journeyman plumbers.

You are undoubtedly aware of the provisions of subsection 1 of section 43-18-08 of the North Dakota Century Code providing in part:

DUTIES OF THE BOARD. The board shall:

1. Supervise and inspect the plumbing, drainage, sewerage, and plumbing ventilation in all public buildings within this state \* \* \*."

We note also the provisions of section 43-18-09 of the North Dakota Century Code authorizing the board to formulate a state plumbing code which shall contain the minimum basic standards for plumbing, drainage, and ventilation of plumbing in buildings of all classes. Section 43-18-23 does impose a criminal penalty for working as a plumber without a license.

Your letter does not mention any specific state owned building. Quite generally, with regard to state owned buildings, the legislature has provided that a specific officer, board, or agency has general supervision, management, control, etc., of that building. Thus, the director of institutions has a certain amount of control of certain state buildings. Board of higher education has statutory control of other buildings, etc. We would assume that the above quoted section 43-18-08 is a general exception to the specific statutes authorizing other officers, boards, or agencies to supervise, manage, control, repair or erect specified buildings. We would assume also, that the appropriation to finance such supervision, management, controlling, repairing or erecting are made directly to the officer, board or agency responsible for the building rather than your department.

In view of the specific provisions of said section 43-18-08, your board is apparently given the final supervision and right to inspect the parts of the building therein specified. Thus your board could determine that the plumbing, drainage, sewerage, and plumbing ventilation in such buildings was or was not satisfactory.

We find nothing in these statutory provisions, however, that gives your board specific authority to let contracts, make repairs, etc. to such buildings, to direct the procedures by which repairs, construction, etc. are made, or to in any manner determine what individual or group of individuals, are authorized to do such work. On such basis it is our opinion, that the officer having the primary jurisdiction to manage, control, supervise, construct or repair the building would also have jurisdiction to determine whether or not the plumbing work to be done would be under the supervision of a licensed master plumber and that all plumbing work performed be done by licensed journeyman plumbers.

We would assume that in the usual instance, particularly where contracts for repairs are let by public bidding, the only persons offering to do the work would be licensed master plumbers and the journeymen and apprentices that might work with them. We could not, however, rule out the possibility of a particular board, agency, or officer determining to have the work done by inmates, employees, etc. of that agency, board, or officer. The plumbing done would, of course, in any case be subject to supervision and inspection by your board.

In direct answer to your question, the State Plumbing Board cannot require that all plumbing work on state owned buildings be done under the supervision of a licensed master plumber and that all plumbing work performed be done by licensed journeyman plumbers. We are not suggesting, however, that your board would have to accept plumbing, drainage, sewerage, or plumbing ventilation that was not equivalent in quality to that supervised by a licensed master journeyman plumber.

We hope the within and foregoing will be sufficient for your purposes.

HELGI JOHANNESON

Attorney General