

**OPINION  
50-131**

September 12, 1950 (OPINION)

PLUMBING

RE: Examinations

Re: Sections 43-1812 and 43-1813 N.D.R.C. 1943

and Rule 6 Plumbing Rules.

Yours of the 12th inst. asking for an opinion as to the procedure of the board in the matter of examinations under the above sections and section 6 of rules and regulations of the board has been received. You state that the way the board now operates is as follows:

"Persons desiring to become licensed make application on forms provided by us and submit the examination fee, the board then reviews the application and passes or rejects it based on his qualifications under Rule 6.

"If the applicant is accepted for examination he may appear at Bismarck, at a date convenient for him to submit to the examination; however, if he has not appeared for the examination prior to the next regular semiannual examination, he is then expected to appear."

It is our opinion that this procedure is proper providing your construction of section 6 is not such as to give the board arbitrary power to refuse an applicant the right to an examination. In our opinion the terminology of section 6 is so broad that practically any applicant can be refused the privilege of taking the examination.

In our opinion, this rule should define what is meant by "satisfactory evidence" and "satisfactorily." An applicant is afforded no information as to what evidence he must submit to the board as to his experience and qualifications in his application. We would suggest that the rule specify somewhat particularly the evidence of his qualifications as to practical experience required of the applicant. If the requirements as to experience are specified, the applicant will know just what evidence he must produce.

It must be remembered that the required written examination is for the purpose of determining his qualifications in the matter of his knowledge of the business or trade of plumbing. He may have a high degree of knowledge of the principles of plumbing, but not must actual application thereof. His knowledge of the trade can only be determined by the written examination. Under the rule as now written, the board might judge from the evidence submitted that the applicant is not a proper person to be licensed as a plumber, when, as a matter of fact, he is highly skilled in the technical knowledge required, and hence legally entitled to take the examination. Such a situation could be avoided by a revamping of Rule 6.

WALLACE E. WARNER

Attorney General