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RULE BEING AMENDED: 21A TITLE OF RULE BEING AMENDED: Licensing Of Elevator Mechanics, Accessibility Technicians, And Limited Technicians And Registration Of Elevator Mechanic Apprentices

Kevin Sullivan <KSullivan@eiwpcf.org>

Wed, Jul 26, 2023 at 10:53 AM

To: "Farber, Brooke M" <brooke.m.farber@wv.gov>

Cc: Ryan White <rwhite@whitepllc.com>, "iuec48@frontier.com" <iuec48@frontier.com>

Hi Brooke,

Below please find our comments related to the proposed Amendment to Existing Rule.

21A TITLE OF RULE BEING AMENDED: Licensing Of Elevator Mechanics, Accessibility Technicians, And Limited Technicians And Registration Of Elevator Mechanic Apprentices

Here are my comments.

1. **Page 1 Section 1.5 Sunset Date** Is this for the entire Title 42 Series 21A or just the proposed changes? We are opposed to a Sunset of the entire law.

2. **Page 2 Section 3.12 Other Authorization to Practice** This language is too vague. It should be a license or certificate of competency from another state with standards equal to West Virginia Standards. We do not want mechanics using a loophole to get licensed in West Virginia or to use the West Virginia License get a license in another state that has a loophole. We have seen this problem throughout the Industry including nearby States Kentucky and Indiana.

Currently, 39 States have licensing requirements for elevator mechanics and/or accessibility mechanics. These requirements include on the job training as well as classroom instruction usually in the form of apprenticeship programs. West Virginia recognizes NEIEP and CET Apprenticeship Programs. These are the minimum standards that should be acceptable in West Virginia. Allowing lesser qualified technicians the ability to get a West Virginia License will make the elevator industry less safe for people living, working and visiting West Virginia.

3. **Page 4 Section 6.5 Regarding Mechanic Renewals and Page 4 Section 6.5 Regarding Accessibility Technician Renewals** A license that has been expired for 90 days or more cannot be renewed/reinstated. This existing rule seems unintentionally harsh.

4. **Page 13 Section 16.2 License based on Commissioner's discretion** The language is too vague and has been abused in other States, licenses have been given to unqualified workers. These licenses are usually given to employees of well-connected business owners rather than qualified elevator/accessibility technicians . The work experience for this should be 4 years and completion of an approved apprenticeship program like NEIEP or CET.

5. The elevator industry is a relatively safe industry because of licensing laws similar to the West Virginia Law, ASME Elevator Safety Codes and frequent Code Updates, regular and routine elevator inspections, regular and routine maintenance of the equipment and training and education of the workers. Weakening of any of these standards will lead to more accidents, injuries and equipment shutdowns.

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WEST VIRGINIA DIVISION OF LABOR

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July 27, 2023

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Mr. Sullivan:

Thank you for your submission of comments on the Division of Labor's (the "Division") proposed changes to 42 CSR 21A, "*Licensing of Elevator Mechanics, Accessibility Technicians, and Limited Technicians and Registration of Elevator Mechanic Apprentices.*" The Division appreciates your time in reviewing and commenting on the proposed changes, each of which are addressed separately below.

Sunset Date Applicable to the Rule in its Entirety

The proposed sunset date of August 1, 2029 is applicable to the entire rule and not just to the proposed changes. It is a requirement of the State Administrative Procedures Act, W. Va. Code §29A-3-1 *et seq.* that legislative rules promulgated or amended after April 1, 2016 include a "sunset provision terminating the rule on August 1 of the fifth year following its promulgation [or amendment]." W. Va. Code §29A-3-19.

While the Division is required to comply with §29A-3-19(a) and (b) by including a sunset date in a newly promulgated or amended legislative rule, §29A-3-19(e) requires the West Virginia Secretary of State to provide notice to a promulgating agency at least 18 months prior to a legislative rule's sunset date and permits an agency to affirmatively seek an extension of the sunset date.

"Other Authorization to Practice" Definition

The proposed definition for "other authorization to practice" is largely adopted from how the term is defined in the Review and Credential Acknowledgement Procedures Act (the "RECAP Act"), W. Va. Code §21-17-1 *et seq.*

"Other authorization to practice" is statutorily defined as a "nontransferable acknowledgment, other than a license, by a state government or board that is provided to an individual asserting that the individual

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has met the educational and examination requirements to engage in a lawful occupation.” W. Va. Code §21-17-(2).

“Other authorization to practice,” as that term is used in section 16 of the proposed rule, is defined in the proposed rule as “a nontransferable acknowledgment, other than a license, by another state government that is provided to an individual asserting that the individual has met the educational and examination requirements to engage in the performance of erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators, related conveyances, or accessibility equipment.”

The purpose of the proposed definition and how it differs from the definition in the RECAP Act is to clarify the applicability of the term specifically as it relates to the Elevator Safety Act, W. Va. Code §21-3C-1 *et seq.*, for which the Division is responsible for administering and enforcing.

License Expired for 90 Days or More Cannot be Renewed

The provision that a license that has been expired for 90 days or more cannot be renewed is already in effect as a current regulation and is not changed or modified by the proposed changes in the rule.

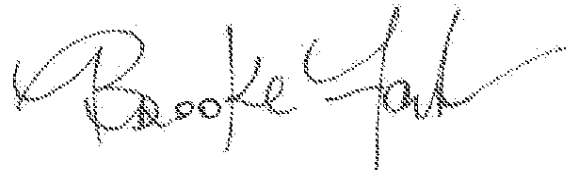
Discretion of the Commissioner Regarding Recognition of Occupational
Licensing Credentials from Other States

The proposed procedures in section 16 of the rule regarding recognition of an applicant’s occupational licensing credentials or work experience from another state is largely adopted from the statutory procedures identified in the RECAP Act. The Commissioner and the Division are required to comply with the RECAP Act’s provisions.

Similar to the proposed definition for “other authorization to practice” as discussed above, the differences in the proposed procedures in relation to the statutory procedures found in W. Va. Code §21-17-3(a) and §21-17-4 are to add clarity to such procedures specifically as it relates to the Elevator Safety Act, W. Va. Code §21-3C-1 *et seq.*

The Division thanks you for your comments and we look forward to hearing from you as 42 CSR 21A progresses through the legislative process.

Sincerely,



Brooke M. Farber
Deputy Commissioner/Counsel