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November 28, 2018

Joint Legislative Administrative Procedure Oversight Committee Joint Legislative Oversight Committee on Justice & Public Safety Attn: Jeff Hudson 545 Legislative Office Building 300 N. Salisbury Street Raleigh, NC 27603

RE:

House Bill 379; Session Law 2018-60

Required Report

Dear Committee Members:

As counsel to the State Board of Examiners Plumbing, Heating, Fire Sprinkler Contractors, I attach the report of the Board with respect to the inquiry contained in Section 1 of the captioned Bill. Please advise if you need further assistance.

Sincerely yours,

YOUNG MOORE AND HENDERSON, P.A.

By

John N. Fountain

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HOUSE BILL 379—SESSION LAW 2018-69 REPORT OF STATE BOARD OF EXAMINERS of PLUMBING, HEATING, and FIRE SPRINKLER CONTRACTORS ON CREATION OF CRIMES BY THE BOARD

The State Board of Examiners Plumbing, Heating, Fire Sprinkler Contractors is an occupational licensing board with legislative authority to administer exams, grant licenses, revoke or suspend licenses and pursue injunctive relief and contempt proceedings with regard to persons engaged in practice without a license. The Board does not and has not sought enforcement of its statutes through the criminal courts or requested assistance from the district attorney.

The relevant statute is G.S. §87-25 and G.S. §87-25.1. The latter statute sets forth the injunction power of the Board. The former statute G.S. §87-25 makes certain activities a crime. That statute was passed the Legislature and is not a rule of the Board. G.S. §87-25 provides as follows:

"Any person, firm or corporation who shall engage in or offer to engage in, or carry on the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof, as defined in G.S. 87-21, without first having been licensed to engage in such business, or businesses, as required by the provisions of this Article; or any person, firm or corporation holding a limited plumbing or heating license under the provisions of this Article who shall practice or offer to practice or carry on any type of plumbing or heating contracting not authorized by said limited license; or any person, firm or corporation who shall give false or forged evidence of any kind to the Board, or any member thereof, in obtaining a license, or who shall falsely impersonate any other practitioner of like or different name, or who shall use an expired or revoked license, or who shall violate any of the provisions of this Article, shall be guilty of a Class 2 misdemeanor. An employee in the course of his work as a bona fide employee of a licensee of the Board shall not be construed to have engaged in the business of plumbing, heating, or fire sprinkler contracting, as the case may be. (1931, c. 52, s. 10; 1939, c. 224, s. 6; 1989, c. 623, s. 4; 1989 (Reg. Sess., 1990), c. 842, s. 7; 1993, c. 539, s. 604; 1994, Ex. Sess., c. 24, s. 14(c).)"

The rules of the Board do not define crimes or create criminal offenses. The Board does have rules serving to clarify the definition of terms such as "full-time employee", or "minor repairs", thereby giving guidance relevant to the statute quoted above.