



**PLUMBING-HEATING-COOLING
CONTRACTORS ASSOCIATION®**
Best People. Best Practices.®

March 18, 2024

United States Department of Labor
Employment & Training Administration
200 Constitution Avenue NW, Room N-5641
Washington, DC 20210.

RE: National Apprenticeship System Enhancement
Docket No. ETA-2023-0004
RIN Number 1205-AC13

The Plumbing-Heating-Cooling Contractors—National Association is pleased to submit comments regarding the proposed revisions for apprenticeship in America. PHCC has long been a supporter of the use of Registered Apprentices and is proud of its history of developing workers for the plumbing and HVAC industries. We support the Department's efforts to modernize and expand the use of apprentice programs nationally but do have some comments regarding the proposed changes.

As stated, PHCC is supportive of any efforts to increase exposure of the apprentice model for employment, in fact the success of contractors depends on it. PHCC does have concerns that there is some blurring in the distinction between apprenticeship and job training. PHCC sees an apprentice as a person bound to an employer or master craftsman to learn a trade. Through on the job training, the apprentice gains skill, becomes a productive worker, and is compensated for those efforts. Apprenticeship has long been a way to pass the crafts down from one generation to the next.

PHCC has many members who started their career path as a 1st year apprentice. Through the dedication of their mentors and adherence to the registered apprentice program, these members became skilled tradesmen. Their competency in the craft is demonstrated, in most cases, by achieving licensure in their respective state or jurisdiction. Ultimately, these members have gone on to become successful business owners, the fulfillment of the American dream.

Job training is a valuable endeavor as well but is not the same as apprenticeship. In other industries, employees are needed for certain job tasks, training for those competencies can increase an organization's productivity. Task oriented training does not have the goal of learning the craft, it aims to fill certain needs of an employer. Perhaps some workers will expand their skill set but the goal does not seem to be handing down the craft. PHCC has concerns that some of the changes would move apprenticeship more towards a task competencies model.

While it seems attractive to create interim credentials, PHCC sees this as a possible off ramp from apprenticeship. The Department has expressed concern for splintering programs, the interim credential may do just that. Once a candidate has some certificate of recognition, either



the candidate or an employer may decide to abandon the program. The employee has achieved some pay-worthy skills, and an employer may want to capitalize on those skills. Once the employee leaves the apprentice program, it becomes harder to re-engage and continue learning. Certainly, an apprentice should be awarded passing grades for completing levels of education but awarding credentials should only occur upon completion of the required on-the-job training and the required related technical instruction.

PHCC agrees with the Department that apprenticeship should lead to sustainable careers. This Association does not believe the answer to that lies in stackable competencies as discussed in the NOPR comments related to Section 29.7(b)(2). Apprenticeship should have a holistic approach to skills development, not creating certain competencies that might make someone a water heater installer for the rest of their career. While that competency may be an employable skill, the stackable concept limits job opportunities for the apprentice. PHCC does not believe that the “stackable” concept leads to sustainable career opportunities nor career advancement or mobility.

Similarly, the proposed rule wishes to recognize existing education and experience or to acknowledge those that are fast learners. There could indeed be those with prior, verifiable work-related training, this already may be accommodated by rule. Expanding this concept to recognize the “fast learner” opens up some subjective avenues to advance workers before they are ready. Certain employers may flaunt the system and turn a blind eye to the actual skill level that has been developed. This could present hazards to the employee. It also drives the other industry participants downhill as well, as apprentices find out about shorter paths to becoming journey workers, they will pressure their current employer to make changes to match more flexible employers. Apprentice programs should strive to protect the workers and make certain that the required comprehensive skills are achieved by apprentices.

This discussion also leads to another part of the proposed rule, the elimination of non-compete agreements. PHCC understands the view that non-competes limit opportunity for apprentices, but there are some practical problems when non-competes are eliminated. In the P-H-C industry, particularly the open shop market, it is common for the contractor (employer) to pay for the required schooling of apprentices. It is also common for other employers, sometimes through their own apprentices, to approach other enrolled apprentices with job offers.

The original employer has now spent money on a prospective apprentice only to have that apprentice change jobs. The new (poaching) employer gains a pre-paid apprentice. The likely solution will be for the original employer to change to a system of having the apprentice pay the required fees on the front end and possibly reimburse that apprentice upon successful completion of each year or perhaps even the entire program. Rather than encouraging apprentices, this will likely set up more hurdles for apprentice participation and sponsoring contractors. Employers who are willing to invest in their workforce should have some limited protection for at least the paid enrollment period.

In the proposed rule, the Department encourages sponsors to compensate apprentices for time spent in related technical instruction. PHCC believes this would be a significant departure from



the current practice of most employers involved with apprenticeship. This concept presents some practical issues. The requirement for 2,000 hours of on-the-job training (OJT) represents 40 hours per week for 50 weeks of the year. Overtime is not allowed to be included in OJT accumulated time. If one were to assume apprentices work at least 40 hours per week, the employer would be required to pay overtime for instructional time, or the apprentice would be given time off from work to offset the classroom time, this of course creates a shortage for the 2,000 hours of OJT. Both options are negative incentives to participate in the program. The concept is certainly different from what individuals would encounter when going to community college or a university, and the college students are not typically earning while learning.

PHCC supports the development of the CTE apprenticeship although the Association thinks calling the program “apprenticeship” is somewhat misleading in that it is a more general program that does not necessarily lead to a career. Nonetheless, PHCC finds value in the concept of outreach to secondary and postsecondary students. Career awareness has been a major hurdle in attracting candidates to apprenticeships, this is a positive step forward for that. The Association also believes that when properly crafted, the CTE apprenticeship could be an excellent way to achieve advanced placement in specific apprentice programs. This could accelerate students’ transition to the workforce, particularly for those completing high school programs.

PHCC supports the requirements of 29 CFR Part 30 promoting Equal Employment Opportunity. The Association does question the Department’s sprinkling of various elements throughout Part 29. We are concerned that there may be conflicts created in the future when certain EEO elements may be revised without connecting the two parts of the regulations. Anyone participating in apprenticeship is required to comply with both Part 29 and Part 30, maintaining these distinct sections would reduce confusion when organizations transition to the new regulations. Does the Department believe that Part 30 is being ignored or not enforced as a basis for this change?

Perhaps the biggest concern for PHCC is the additional administrative requirements proposed in the NOPR. Most of this Association’s members who participate in the PHCC apprentice programs are small businesses. The opportunity to enroll apprentices is a key to attracting workers for these businesses. The proposed rule significantly increases the regulatory burden on these small businesses. We agree that apprentices need to be protected from bad actors, programs should be detailed as to their plans of operation and provide expected resource allocations. It should not be necessary to furnish detailed financial reports, small businesses may be at a disadvantage in this regard and be unnecessarily eliminated from the program.

We do agree that the Department should have follow-up evaluations of newly created programs, including apprentice interviews, which would allow assessment of performance. Again, making the programs too burdensome will only discourage participation.

PHCC believes the costs for program implementation are not necessarily applicable to small business and are understated. This Association would recommend DOL revisit its projections for



compliance costs with an eye towards the impacts of smaller employers and consider what options may be available to keep these contractors working with apprentices.

Part of this burden relates to completion factors. Sponsors are evaluated on their ability to retain and fully train apprentices. Yet, the Department encourages apprentices to leave programs for better pay. It should not matter if an apprentice leaves employer A for employer B provided they remain in the same industry. PHCC members in Texas have this current problem, apprentices may train in a registered apprentice program or follow a more traditional method of working with a journeyworker or contractor. The state recognizes either method. When an apprentice moves from a registered apprentice sponsor, that sponsor loses some level of respectability, but the apprentice remains in the trade and the workforce. Was employer A a bad employer or did employer B lure away a worker? Is employer B a better employer because they pay more wages?

Completion rates as a raw metric do not always tell the story. As apprenticeship gains traction with younger candidates, there may well be some buyer's remorse, as individuals mature, they gain more insight into their decisions. What seemed like a good career for someone at age 18 may turn out to be a miserable decision at age 20. At the same time, a sponsor that routinely only keeps apprentices for half the training period probably has some problems.

The NOPR goes even farther down this road related to fiscal year completion rates. It is not fair to eliminate the probationary period in this metric. Neither the contractor nor the apprentice knows everything they are getting into with this new relationship. Both parties should have a trial period to make an evaluation. PHCC strongly supports maintaining the probationary period and excluding that period from the evaluation of program performance.

PHCC reiterates its support for Registered Apprenticeship as a valuable pathway to high paying jobs and career advancement. PHCC and its chapters have provided opportunity for thousands and thousands of workers for more than 40 years and looks forward to continuing that service to our members. This Association encourages the Department to consider the impacts of this rule on small businesses, the very businesses that are the drivers of job and economic growth in communities large and small across this country. Creating an overly burdensome pathway to these careers is not in America's best interest.

Respectfully submitted,

Charles R. White
VP Regulatory Affairs
PHCC—National Association