



Joint Education & Investigation Review Committee

# **Code of Ethics**

Board-developed Update Course 2013 -2014

# 2013 - 2014

## Board-developed Update

- Course Objective
  - 4 hours Continuing Education Credit (4 @ 50 min)
  - NC Gen. Stat. § 143-151.56; 11 NCAC 08.1116
  - Licensees should be able to consider the ethical implications of their activities.
  - Read course-related student guide
- Learning Outcomes
  - Licensees should know how various participants in the home inspection may perceive licensee actions.
  - Licensees should understand the perspective and authority of appointed board members.

# Course Overview

- 1<sup>st</sup> hour – Concepts in Ethics / Workshop Discussion
  - Client/Complainant is the Buyer
- 2<sup>nd</sup> hour – Concepts in Ethics / Workshop Discussion
  - Client/Complainant is the Seller
- 3<sup>rd</sup> hour – Concepts in Ethics / Workshop Discussion
  - Complainant is another Professional
- 4<sup>th</sup> hour – Complaint, Investigation & Board Discipline

# NCHILB

## N.C. Gen. Stat. § 143-151.44 Purpose (Mission)

The mission of the NC Home Inspector Licensure Board is to safeguard the public health, safety, and welfare and protect the public from being harmed by unqualified persons by regulating the use of the title "Licensed Home Inspector" and by providing for the licensure and regulation of those who perform home inspections for compensation.

# Why we are here today

Imagine that many realtors and home inspectors in coastal North Carolina are in cahoots and engaged in negligent behavior...simply to make a buck. Imagine a realtor and a home inspector that have been personally involved; imagine that realtor hiring this home inspector to inspect property and telling a trusting buyer that a house is structurally sound, when it is not. Imagine they both make nice profits from the sale. Is this negligence....yes....unethical....yes....a great scam....absolutely. Imagine the poor buyer when the house begins to collapse a few months later and no one will help the buyer. Imagine that buyer trying to stop such deceit, fraud, and deceptive trade in her home state. It happens....it happened to me. And when I report this to the N. C. Home Inspector Licensure Board, the response is because we had no rules prior to October 1, 1996, we will do nothing. To me that is just another example of negligent and incompetent behavior. The least you can do is write Mr. [REDACTED] a letter stating I have filed a complaint against him.



# 11 NCAC 08.1116 Code of Ethics

- a) Licensees shall discharge their duties with fidelity to the public and to their clients, with fairness and impartiality to all.
- b) Opinions expressed by licensees shall be based only on their education, experience, and honest convictions.
- c) A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's designated representative.
- d) No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.
- e) No licensee shall compensate realty agents or other parties with a financial interest in closing or settlement of real estate transactions for the following:
  - 1) Referral of inspections; or
  - 2) Inclusion on a list of recommended inspectors or preferred providers.
- f) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.
- g) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest he or she has in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be called upon to perform.
- h) A licensee shall not solicit for repairs of systems or components found defective in the course of a home inspection performed by the licensee or that licensee's company.
- i) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.
- j) Licensees shall not inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of a property.

# Aspirational

1. Licensees shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.
2. Opinions expressed by licensees shall only be based on their education, experience, and honest convictions.
3. Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest in a business that may affect the client.

# Prohibitions

1. A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's designated representative.
2. No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.
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# How is the Public Health, Safety and Welfare Protected by the Home Inspector Code of Ethics?

Defective conditions that could cause harm, injury or otherwise have a bearing on a decision to purchase the property will be reported and disclosed to client.

- Assurance?
- Expectations?
- Integrity?
- Honesty?
- Fairness?
- Service?
- Complaints?

# IMPARTIAL PROFESSIONAL?

In our discussion of ethics there are several roles from which to view the concept of what constitutes fair treatment:

- 1) Client – Buyer/Seller
- 2) Real Estate Agents – Listing / Selling / Buyer
- 3) Home Inspector –
  - advertising representations / experience / education
- 4) General Public –
  - licensed professionals / industry / manufacturers

# 4 Case Study / Scenarios

## 1. Complainant is the Buyer

- Inspector recommended by Realtor®

## 2. Complainant is the Seller

- Buyer decided to withdraw offer

## 3. Complainant is an “Other”

- Marketing & Advertising

## 4. Complaint, Investigation & Board Discipline

- Contract & Report

# Concepts

- Where do ethics come from?
- How did civilized people decide how they would treat one another?
- Why is the government involved?

# *“You can’t teach ethics!”*

## **11 NCAC 08.1347 STUDENT PARTICIPATION STANDARDS**

- (a) In addition to requiring student compliance with the attendance requirement, sponsors and instructors shall require that students comply with the following student participation standards:
- (1) **A student shall direct his or her attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction.**
  - (2) **A student shall refrain from engaging in any activities that are distracting to other students or the instructor, or that otherwise disrupt the orderly conduct of a class.**
  - (3) A student shall comply with all instructions provided by the sponsor or instructor related to providing information needed to properly report completion of a course by the student.
- (b) **Instructors and sponsors may dismiss from a class session any student who fails to comply with the student participation standards prescribed in Paragraph (a) of this Rule.**
- (c) Sponsors shall not issue a course completion certificate to any student who fails to comply with the student participation standards set forth in Paragraph (a) of this Rule, nor shall a sponsor include the name of that student on a report verifying completion of a continuing education course. A sponsor shall submit to the Board with the report for the class session a written statement that includes the name and license number of the student for whom the sponsor does not report course credit, details concerning the student's failure to comply with the student participation standards, and names of other persons in attendance at the class who witnessed the student's conduct.

# North Carolina

## General Statute § 143-151.56

### **Suspension, revocation, and refusal to renew license.**

- (a) The Board may deny or refuse to issue or renew a license, may suspend or revoke a license, or may impose probationary conditions on a license if the license holder or applicant for licensure has engaged in any of the following conduct:
- 1) Employed fraud, deceit, or misrepresentation in obtaining or attempting to obtain or renew a license.
  - 2) Committed an act of malpractice, gross negligence, or incompetence in the practice of home inspections.
  - 3) Without having a current license, either performed home inspections for compensation or claimed to be licensed.
  - 4) Engaged in conduct that could result in harm or injury to the public.
  - 5) Been convicted of or pled guilty or nolo contendere to any misdemeanor involving moral turpitude or to any felony.
  - 6) Been adjudicated incompetent.
  - 7) Engaged in any act or practice that violates any of the provisions of this Article or any rule issued by the Board, or aided, abetted, or assisted any person in a violation of any of the provisions of this Article.
  - 8) Failed to maintain the requirements provided in G.S. 143-151.58(b).

# Definitions from the American Heritage dictionary

## **ETHICS**

1. A principle of right or good conduct or a body of such principles. ***PRINCIPLES***
2. A system of moral principles or values.
3. The study of the general nature of morals and of specific moral choices; moral philosophy. ***VIRTUES***
4. The rules or standards governing the conduct of the members of a profession. ***DUTY***

# Contemporary Culture: Character

**“Predisposition to behave consistently with one’s espoused values and principles.”**

(Cooper 2004 )

## **6 Pillars of Character** (Josephson Institute 1988)

1. Trustworthiness – *honesty, integrity, loyalty, reliability*
2. Respect – *civility, courtesy, decency, dignity, autonomy, tolerance*
3. Responsibility – *accountability, self-restraint, pursuit of excellence*
4. Fairness – *process, impartiality, equity*
5. Caring – *kindness, compassion, gratitude, forgiveness, help*
6. Citizenship – *cooperation, community, volunteer*



# Definitions from the American Heritage dictionary

## ***DUTY***

- 1. An act or course of action required of one.**
- 2. Moral obligation.**
- 3. A task assigned to one, esp. in the armed forces.**
- 4. Function or work; service: jury duty.**
- 5. A tax charged by a government, esp. on imports.**

# Client/Complainant is the Buyer

- Scenario # 1

- Real estate professional recommended you.

- Typically, the buyer has moved into the house and subsequently discovered a defective condition that was not noted by the home inspector.

- Did the inspector have a motive to “overlook” or minimize the problem to facilitate the sale?

# Client/Complainant is the Buyer

Once a month you host an “info/marketing” lunch for a 10-person realty office. You and the broker-in-charge are golfing buddies and his agents routinely schedule home inspections for buyers as a convenience through their web site. During an inspection last winter, you could not operate the heat pump in A/C mode because the temperature was below freezing. Your report simply indicated the unit was inspected, but not operated for this reason.

It is now summer and the buyer says the A/C is not working. He has called you and demanded that you pay for needed repairs or a new unit. The buyer also states his real estate agent recommended that you inspect the house and now believes the A/C problem was “covered up” in order to sell the house. The buyer tells you he is submitting a complaint to the board and plans to sue for the cost of buying and installing a new A/C system.

# Group Discussion Questions

- 1) What concerns might a buyer have with a home inspector who was recommended by the listing agent?
- 2) What violations of the Code of Ethics might the complainant cite, if any?
- 3) What is the importance of the contract and the buyer understanding the home inspection will be performed in accordance with the Standards of Practice?
- 4) Do you think providing a report that meets the minimum requirements of the Standards of Practice is sufficient to avoid such a complaint?
- 5) What would you do in this situation?

# Possible Code of Ethics Violations?

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# Risk Management?

- Pre-Inspection Agreement / Contract
- Your money back if not completely satisfied?

**BREAK**

# Client/Complainant is the Seller

- Scenario #2

- Client withdrew his/her offer on the house.

- A home inspection report that runs 60 pages, with numerous defects cited, may elicit an angry response from the seller, who believes the report was biased or intended to drive down the price.

- Did the home inspector exaggerate the extent and severity of the defective conditions?

# Complainant is the Seller

Your summary includes two dozen items of significant defects, including rotten floor joists in the crawlspace, evidence of prior roof leaks, apparent mold, mildew, and unsafe wiring conditions, all requiring either repair or further investigation by specialists. Neither your summary nor your report state the implications or consequences of the defective conditions cited as required by the SOP. The seller has lived in the house for ten years with no adverse affects and thinks your report has unfairly exaggerated the problems, unnecessarily scaring the buyer and causing him to withdraw his offer.

The seller and his listing agent were at the home when you were inspecting the house with the buyer. The seller claims he and the agent overheard you tell the buyer the home “was dirty and had a moldy smell” and the house was not worth the price advertised. The seller knows you also run a mold remediation business and believes this is a conflict of interest for you. The seller blames the loss of the sale on you and plans to submit a complaint to the board and sue you for slander.

# Group Discussion Questions

- 1) What aspects of a complaint by the seller might have merit?
- 2) How would you respond to a notice of the complaint?
- 3) What violations of the Code of Ethics might the complainant cite, if any?
- 4) Do you think providing a report that meets the minimum requirements of the Standards of Practice is sufficient to avoid such a complaint?
- 5) What would you do in this situation?

# Possible Code of Ethics Violations?

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# Risk Management?

- Contentious defects?
  - Interpretations
  - Recommended Language
- General Liability Insurance
  - NC Gen. Stat. § 143-151.51(b)

# Mold and Mildew Reporting

The screenshot shows a Facebook post from the North Carolina Home Inspector Licensure Board. The post text reads: "At the regular quarterly meeting of the Board last Friday, July 12, 2013, the Standards of Practice Committee recommended the Board rescind the Board's existing Interpretation on reporting of Mold & Mildew. Accordingly, the link to the Interpretation has been removed from the Board website. The interpretation as written appears to provide confusing and conflicting guidance to licenses and may set unreasonable expectations for clients and the public. Whether or not a licensee decides to report on such observed conditions may be at the inspector's discretion under the SOP and/or as required by client contractual obligations. At this time the Board neither prohibits nor promotes the reporting of such observed conditions citing the arguments raised pro and con by several existing Board Rules: 11 NCAC 08.1103(b)(3)(C) and (c)(1), 11 NCAC 08.1105(a)(9) and (b)(7), 11 NCAC 08.1106(c)(4), 11 NCAC 08.1113(b)(2), 11 NCAC 08.1116(b) and (i)." The post also shows interaction metrics like "1 comment" and "209 people saw this post".

## Official Interpretation

By Order of the  
North Carolina Home Inspector Licensure Board

Subject: **Mold and Mildew Reporting**

### Interpretation:

At a meeting in November of 2003, the Board issued an interpretation regarding mold and mildew reporting. Home Inspectors are not required to determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including but not limited to toxins, carcinogens, noise, and contaminants in the building or in soil, water, and air.

It is the interpretation of the Board that the presence of mold or mildew is considered to be a suspected adverse environmental condition or hazardous substance. Therefore, it is the interpretation of the Board that home inspectors are NOT required to report on the presence of mold or mildew.

However, for Structural Components and for Interiors, home inspectors shall report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components.

It is the interpretation of the board that an organic growth such as mold or mildew may be a sign of abnormal or harmful water penetration into the building or a sign of abnormal or harmful condensation on building components.

It is the interpretation of the Board that home inspectors are not required to report on mold or mildew growth, unless evidence suggests to the home inspector that the mold or mildew growth is a sign of abnormal or harmful water penetration into the building or a sign of abnormal or harmful condensation on building components.

**Date Approved:** November 21, 2003

**Effective Date:** Immediately

**Gerald W. Canipe**  
Chairman  
North Carolina Home Inspector Licensure Board

# Probing Exterior Wood

## Official Interpretation

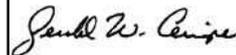
By Order of the  
North Carolina Home Inspector Licensure Board

**Subject: Probing exterior wood components.**

- Q. The new rules regarding probing exterior wood components “where deterioration is suspected” may force me to incur liability for damage to those components. How should I proceed?
- A. Proceed with caution and use common sense. The Board does not expect inspectors to go around poking holes in soft wood and leaving the house looking like Swiss cheese. However, most experienced inspectors know how to gently and carefully press on material that looks damaged to determine if they are. The point of this rules change is this: we have found in disciplinary hearings that some inspectors fail to report extensive exterior damage, and use the excuse that they couldn’t find it with out damaging it. This change is intended to close this apparent loophole. We believe it will protect the public without unduly increasing the liability of the inspector.

**Date Approved:** June, 2000

**Effective Date:** July, 2000



**Gerald W. Canipe**

Chairman

North Carolina Home Inspector Licensure Board

# Adhered Masonry Veneer

## Home Inspection Report & Summary Page recommended language related to incorrect installation of artificial stone siding.

### Background:

In recent years artificial stone has been used with increased frequency on the exteriors of buildings. In many cases the installation has been found to be improper and not in compliance with the installation instructions of the stone manufacturers. Incorrect installation can result in water penetration, structural damage, and mold growth. The following language is recommended for use by home inspectors with regard to incorrectly installed artificial stone siding. The bulleted items should be used as deemed appropriate for the building inspected.

### Recommended Language:

Manufactured stone veneer has been installed on the (list areas) of this house. An inspection of the visible components has revealed that the stone veneer has not been installed in compliance with installation guidelines provided by the Masonry Veneer Manufacturer's Association (MVMA). A PDF copy of the installation guidelines is available at <http://www.masonryveneer.org/>.

[http://www.masonryveneer.org/pdf/MVMA%20Installation%20Guide\\_3rd%20Edition\\_Final.pdf](http://www.masonryveneer.org/pdf/MVMA%20Installation%20Guide_3rd%20Edition_Final.pdf)

Specific problems noted with the visible components include, but may not be limited to: (list all that apply)

- Weep screeds are missing at the base of the wood frame walls.
- Weep screeds are missing at the tops of window and door openings.
- There is no caulk between other materials and the masonry veneer at windows, doors, and adjacent trim.
- The masonry veneer is in contact with the ground.
- The masonry veneer is in contact with paved surfaces.
- The masonry veneer is in contact with roofing materials.
- Kick-out flashings are missing where roof eaves meet the masonry veneer.
- Metal lath is visible between stones, indicating that the proper base coats of mortar were not applied prior to installation of the stone.

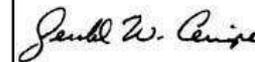
The lack of proper detailing and flashing may result in water penetration behind the siding, resulting in structural damage. The installation of the manufactured stone veneer should be evaluated, compared to the specific installation requirements of the stone manufacturer and the MVMA, and repaired or replaced as deemed necessary by a licensed general contractor or masonry contractor experienced with installation requirements for manufactured stone veneer.

Please note that because the water resistive barrier, metal lath, and base coat(s) of cement stucco are completely concealed behind the manufactured stone veneer, they cannot be evaluated by a visual inspection.

Standards of Practice/Rules/Interpretations Committee approved: 10/30/09

NCHILB Board approved: 2/26/10

Effective Date: 2/26/10



**Gerald W. Canipe**

Chairman

North Carolina Home Inspector Licensure Board

# CSST

Home Inspection Report / Summary –

Recommended language for houses with non-bonded CSST

The gas piping in this house includes corrugated stainless steel tubing (CSST). There is no electrical bonding connection between the gas piping system and the electrical system, other than connections at the gas appliances that utilize the grounding conductors for the appliances. The lack of strong electrical bonding may increase the potential for lightning strikes to cause arcing at the CSST gas piping that may result in perforation of the piping, gas leaks, and fires. For safety, it is recommended that this installation be further investigated by a licensed electrical contractor.

**Standards of Practice/Rules/Interpretations Committee approved: 5-12-11**

**NCHILB Board approved: 5-13-11**

**Effective Date: 5-13-11**



**William Talmadge Jones**

Chairman

North Carolina Home Inspector Licensure Board

# Polybutylene Pipe

Home Inspection Report / Summary Page

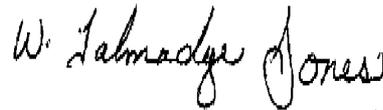
Recommended language for Polybutylene piping (PB)

Polybutylene plumbing supply lines (PB) are installed in this house. PB was used as water distribution piping in many homes built from the mid 1980's until the mid 1990's. The piping and associated fittings have had a failure rate and subsequent leakage sufficient to have been the subject of several nationwide class action lawsuits. Copper and brass fittings used in later years seem to have reduced the failure rate, but the piping may still fail due to problems with poor installation, improper handling, or chemical reaction with the water supply. The piping in this house has (circle which apply) **Brass/Copper – Plastic** - fittings. You may wish to have the plumbing system evaluated by a licensed plumbing contractor.

**Standards of Practice/Rules/Interpretations Committee approved revisions: 4/12/12**

**NCHILB Board approved: 4/13/12**

**Effective Date: 4/13/12**



**Wm. Talmadge Jones**

Chairman

North Carolina Home Inspector Licensure Board

**BREAK**

# Complainant is “Other”

- Case Study #3

- Marketing /Advertising

- Some licensees expect the board to maintain a level playing field in a competitive marketplace. There are also concerns about the kinds of claims or offers licensees make in their advertising.

- When should a home inspector complain about another inspector?

# Marketing / Advertising

A home inspector's yellow page and web site ads offer substantial discounts on inspection fees for members of the military, first-time home buyers and real estate professionals. These ads say he is a "Preferred Partner" for XYZ Realty and also provides better service than other inspectors in the region because he fixes minor items during the course of the inspection for the convenience of the seller and the buyer so they do not have to be reported. The home inspector pays \$5,000 per year for the exclusive "Preferred Partner" designation. In addition, the home inspection fee includes a courtesy "re-inspection" after negotiated repairs are completed prior to closing. The inspector provides a "90-day free home warranty" with each home inspection in association with a third party service provider.

Six months after moving in, the buyer hired a chimney sweep to inspect and clean a cabin fireplace before winter usage. This contractor showed the buyer a crack in the hearth that showed evidence of a recent unprofessional repair. The buyer said this item had not been noted on the original home inspection report by the home inspector prior to closing. The chimney sweep stated the home inspector also owns and operates a handyman business maintaining rental properties. After reading the home warranty, the buyer noticed the warranty did not include the fireplace or hearth. The home inspector was recommended by the listing agent.

# Group Discussion Questions

1. Given the information in this case, what, if any, possible violations of the Code of Ethics are raised by the events described?
2. What does “Preferred Partner” imply to you?
3. Suppose the prior owners of the cabin had hired the home inspector as a handyman to maintain this property....what ethical concerns may arise with third-party service providers (TPSP)?

# Possible Code of Ethics?

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# “Preferred Partner”

Spring 2009 Newsletter



Adobe Acrobat  
Document

March 10, 2010 letter



Adobe Acrobat  
Document

# “Pay to Play”

“Preferred Partner / Preferred Vendor”

Two general situations:

- 1) No indication to the general public that the home inspector has paid for participation in the program and has a contractual relationship with the real estate company – no disclosure of paid advertisement.
- 2) Fees provide exclusive access to real estate industry professionals and, by implication, their clients. Certain enrollments (Gold, Silver, Bronze) ensure the participant is the exclusive vendor for their industry, or that only a certain number of vendors from each industry will be listed.

General public may get the erroneous impression that “preferred” inspectors provide higher quality service.

# Constitutional Issue: Free Speech

Restrictions on Advertising by Government agency?

Central Hudson Gas & Electric Corp. v. Public Service Commission (PSC) of New York, 447 U.S. 557 1980

Major test of the validity of government restrictions on commercial and corporate speech. The PSC had issued rules forbidding advertising that might encourage consumption of electricity. The Supreme Court used the case to issue a four part test for determining whether government restrictions are valid:

1. Does the ad involve a lawful activity?
2. Is there a substantial government interest?
3. Does the regulation advance this interest?
4. Is the regulation the least restrictive means to serve the interest?

# Improper Dealing?

The board has sought the cooperation of the industry professional organizations below to resolve this issue:

- NC Real Estate Commission (NCREC)
- NC Association of Realtors<sup>®</sup> (NCAR)

NCGS 93A-6(a)(10) prohibits real estate licensees from engaging in conduct which constitutes improper, fraudulent or dishonest dealing....One category of conduct which violates this provision is any breach of the duty to exercise skill, care, and diligence in behalf of a client under the Law of Agency.

# Unresolved Ethics Questions

## Marketing, Advertising & Related Promotional Activities

Is there an appearance of impropriety created when a home inspector has paid a realty agent or firm to have exclusive access to that real estate firm's clients or business associations?

Can the home inspector remain impartial in his assessment of the condition of the house if the inspector has paid for the privilege of exclusive access to the people selling the homes?

Are there other strings attached, such as future referrals?

# Just Tell Me What is OK

1. How do I legitimately promote my services. What about “branding” arrangements?
2. Can I give lottery tickets to real estate agents?
3. Can I let my clients enter a raffle offered by my office for a free home inspection? A free gift card to a local restaurant? Free repair work offered by me (I am also a licensed general contractor.)
4. Can I sponsor a golf hole at a charity event? Does it matter who is hosting the event?
5. Can I buy donuts, breakfast, etc. for realtor’s monthly team meetings?
6. Can I pay for advertising / promotional materials provided by real estate agents?
7. Can I provide free inspections to a realtor or to a client on subsequent home inspections?
8. Can I rent office space in a realty office?
9. Can I put my sign rider on a realty firm sign on a property?
10. What is the difference between paid advertising that is ok and preferred vendor programs that are a violation of the Code of Ethics?
11. Can I use free software provided by home security companies in exchange for having their logo or advertisement in the body of the online home inspection report?
12. I am also licensed as a radon inspector/environmental inspector/home alarm system installer. Do I have to disclose this before the contract is signed? Am I allowed to provide these services to my home inspection clients?
13. A home alarm company allows me to offer a 10% discount to my clients. Is it a problem for me to provide their advertising materials to my clients during the inspection? Can I receive any benefit for doing so?
14. Can I pay to have a booth at a home show convention? What about a local realtor’s convention?

Break

# Complaints, Investigations, Discipline

Relatively speaking, only a few hundred home inspectors out of over 3,000 licensees have been disciplined by the board as a result of a complaint.

This portion of the course provides information about the complaint investigation process, the Investigation Review Committee and the board's role in a disciplinary hearing.

# Complainant Process

- Scenario # 4
  - Client signed the Contract after the inspection.
  - Complaint submitted to the Board by Client.

# Contract & Report

In response to a call from a listing agent, an inspector conducted a home inspection with the buyer present and emailed the summary page to the buyer and listing agent. The client never signed the pre-purchase inspection agreement. Two weeks later the inspector gave the complete home inspection report to the listing agent, asked her to give it to the buyer at settlement and asked if she could pick up his check for the home inspection fee, and the signed pre-purchase agreement from the attorney at closing.

Three days after moving in, the buyer flushed a commode in the foyer half bath. The water closet backed up and flooded the first floor ruining an expensive handmade rug in the living room nearby. The buyer called the listing agent who gave the buyer the name of a plumber. After snaking the drain, the plumber said the home inspector should have noticed the toilet was clogged. The buyer then called the home inspector demanding he pay for the plumber and the damaged rug. In his written response to the complaint, the home inspector provided a copy of the pre-purchase agreement signed by his client bearing the date of the home inspection.

# Group Discussion

Is there sufficient evidence in the given scenario to support any violation(s) of the Standards of Practice?

# Complaint Form



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Document**

# Investigation

- Staff provides copy of complaint to licensee requesting submission of a written response.
- Staff conducts telephone interviews, gathers evidence and may conduct a site visit of the property.
- Staff compiles all information gathered and prepares a written report.

# Investigation Review Committee

- Established by the NCHILB By-Laws
- Generally “closed session”
- Discusses terms and conditions of disciplinary action suitable for a Consent Agreement with licensee
- Makes recommendations to board for hearings

# Board Hearing

- Notice of Hearing
- No Ex Parte communication
- Chairman presides

# North Carolina

## General Statute § 143-151.56

### **Suspension, revocation, and refusal to renew license.**

- (a) The Board may deny or refuse to issue or renew a license, may suspend or revoke a license, or may impose probationary conditions on a license if the license holder or applicant for licensure has engaged in any of the following conduct:
- 1) Employed fraud, deceit, or misrepresentation in obtaining or attempting to obtain or renew a license.
  - 2) Committed an act of malpractice, gross negligence, or incompetence in the practice of home inspections.
  - 3) Without having a current license, either performed home inspections for compensation or claimed to be licensed.
  - 4) Engaged in conduct that could result in harm or injury to the public.
  - 5) Been convicted of or pled guilty or nolo contendere to any misdemeanor involving moral turpitude or to any felony.
  - 6) Been adjudicated incompetent.
  - 7) Engaged in any act or practice that violates any of the provisions of this Article or any rule issued by the Board, or aided, abetted, or assisted any person in a violation of any of the provisions of this Article.
  - 8) Failed to maintain the requirements provided in G.S. 143-151.58(b).

# Board Discipline

How does the board address behavior and conduct issues?

Board Standing Committees:

- Application Evaluation Committee
- Investigation Review Committee
- Standards of Practice / Rules / Interpretations

Consent Agreements & Board Hearings in a quasi-judicial capacity under N.C. General Statutes, Chapter 150B  
Administrative Procedure Act, Article 3A Other Administrative Hearings

# Board Appointees

- Governor
  - One home inspector, one licensed general contractor and one licensed real estate agent
- President Pro Tempore of the Senate
  - Two home inspectors
- Speaker of the House of Representatives
  - One home inspector, one public member
- Commissioner of Insurance
  - Designee



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# N.C. General Statute 138A

## State Government Ethics Act



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The purpose of this Chapter is to ensure that elected and appointed State agency officials exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence. To this end, it is the intent of the General Assembly in this Chapter to ensure that standards of ethical conduct and standards regarding conflicts of interest are clearly established for elected and appointed State agency officials, that the State continually educates these officials on matters of ethical conduct and conflicts of interest, that potential and actual conflicts of interests are identified and resolved, and that violations of standards of ethical conduct and conflicts of interest are investigated and properly addressed.

<http://www.ethicscommission.nc.gov/>

# Methodology for Solving Ethics Problems

- Clarify facts of the situation
- Assess the interests of all parties who have stakes in the outcome of the situation and how they are potentially affected
- Determine the obligations of role
  - Position and place in the organization / situation
  - Professional obligations
- Choose the best alternative, provide justification, monitor and evaluate

# Ethical Dilemma

Is it ethical to disclose a gas leak to the listing agent/owner or utility when your inspection results are confidential, and your client has not authorized you to discuss your inspection findings with anyone else?

Does your duty to your client and adherence to the board rule outweigh a moral obligation or principle to protect the innocent occupants of the adjacent townhouse?

As written, our rules do not currently include a specific exception for emergency situations like the one described in which protection of someone other than your client would be considered a virtuous, noble action that might save a life.

# Consequences

Clearly the benefits of alerting neighbors and other appropriate authorities to a potentially dangerous and deadly condition outweigh the risk of committing an ethics violation.

A contributing factor to this conclusion is that someone other than the home inspector benefitted from the action. In other words, the home inspector had nothing to gain for himself.

Many of the board's Code of Ethics rules prohibit conduct that would likely benefit the home inspector at the expense of the client or some other party affected by the inspection being performed.



CONTINUING EDUCATION SPONSOR  
COURSE EVALUATION/SURVEY FORM FOR STUDENTS

This is an evaluation form for licensees who are taking CE courses. On a scale of 1 to 5 please rate the quality of the instructor and course material. Please complete the questionnaire as thoroughly as possible. The information provided will be reviewed by staff and presented to the Board and will be used in planning and approving future classes.

# Course Evaluations

Course Name: <b>CODE OF ETHICS</b>	Date:
Course Number: <b>CUC12</b>	
Sponsor Name:	
Course Instructor(s):	

	Poor (NO) <b>1</b>	Below Average <b>2</b>	Average (MAYBE) <b>3</b>	Above Average <b>4</b>	Outstanding (YES) <b>5</b>
<b>SPONSOR EVALUATION</b>					
1. Have you taken CE from this Sponsor before?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Were the classroom facilities comfortable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Poor (NO) <b>1</b>	Below Average <b>2</b>	Average (MAYBE) <b>3</b>	Above Average <b>4</b>	Outstanding (YES) <b>5</b>
<b>INSTRUCTOR EVALUATION</b>					
1. How well do you rate the overall quality of teaching?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Did the instructor have a good knowledge of the material?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Did the instructor manage the group discussion activities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Poor (NO) <b>1</b>	Below Average <b>2</b>	Average (MAYBE) <b>3</b>	Above Average <b>4</b>	Outstanding (YES) <b>5</b>
<b>COURSE EVALUATION</b>					
1. How do you rate the overall value of this course?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Did you learn something new about the Code of Ethics?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Did you enjoy the group discussion activities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Did you read the Student Guide in its entirety before attending the course?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Can you apply this course to your practice?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Do you prefer online courses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**ADDITIONAL COMMENTS (please print in box below):**

# The End

