

This is an amendment to 16.66.8 NMAC Section 8, 9 and 10 effective 4/23/2024

16.66.8.8 GROUND FOR DISCIPLINARY ACTION: The following are grounds for taking disciplinary action against licensees and unlicensed practitioners, and for denying licenses to applicants:

- A. Substantial misrepresentation;
- B. Violations of the Home Inspector Licensing Act or any rule of the board, including but not limited to the code of ethics and standards of practice as outlined in Parts 5 and 6 of these rules;
- C. Offered or delivered compensation, inducement, or reward to the owner of an inspected property or to the broker or the agent for the referral of any business to the home inspector or the home inspector's company;
- D. A license to perform home inspections revoked, suspended, denied, stipulated or otherwise limited in any state, jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts proscribed in Section 61-24D-11 of the Home Inspector Licensing Act;
- E. Failure to furnish the board, its investigators or its representatives with information requested by the board in the course of an official investigation;
- F. Performance or offer to perform for an additional fee any repair to a structure on which the home inspector or the home inspector's company has prepared a report at any time during the twelve months immediately prior to the repair or offer to repair, except that a home inspection company that is affiliated with or that retains a home inspector does not violate this paragraph if the home inspection company performs repairs pursuant to a claim made pursuant to the terms of a home inspection contract; or
- G. Failure to maintain errors and omissions insurance and professional liability insurance as required by the Home Inspector Licensing Act and the rules of the board.
- H. Failure to comply with a notice of audit or submit evidence of continuing education hours earned during the current renewal cycle may result in disciplinary action by the board.

[16.66.8.8 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.8.9 COMPLAINTS AND RESPONSES:

- A. A complaint against a licensee or applicant may be filed with the board by any person, office, or organization. ~~[In order to be considered by the board, a complaint must be sworn and notarized.]~~ The complaint must also contain specific factual allegations of violations of either the Home Inspector Licensing Act ~~[or the]~~ board's rules, or code of ethics.
- B. Upon receipt of any complaint alleging that a licensee has violated the Home Inspector Licensing Act ~~[or the]~~ board's rules, or code of ethics, board staff shall forward the complaint to the respective licensee and request a response ~~[within ten business days of receipt]~~. The licensee ("respondent") must provide a response to the board within ten business days of receipt. A respondent's failure to respond to the complaint within this specified time frame shall be grounds for disciplinary action, up to and including revocation of the license at the discretion of the board.
- C. The board administrator may authorize the issuance of an investigative subpoena to obtain documents or other evidence relevant to a disciplinary complaint.
- D. Subject to applicable exceptions to confidentiality established by law, all complaints, responses, and other disciplinary and investigatory records are public records available for inspection and copying, pursuant to state law, irrespective of the final disposition of the underlying disciplinary complaint.

[16.66.8.9 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.8.10 REVIEW OF COMPLAINT: All complaints ~~[will, where practicable,]~~ may be reviewed by the board's complaint committee.

- A. Should the board, in its discretion, choose to utilize a complaint committee, the complaint committee shall be responsible for reviewing disciplinary complaints against licensees and applicants and making informal, non-binding recommendations to the board as to their disposition. The complaint committee shall not have any policymaking authority of any kind.
- B. The board's complaint committee shall consist of no more than two board members and no more than two other volunteer members who are not members of the board, for a total of no more than four members at any given time.

C. After completing its review of a complaint, the complaint committee shall either recommend that the board take disciplinary action or that it close the case. As part of any recommendation of disciplinary action, the complaint committee may also make recommendations as to the proper amount of discipline (i.e. letter of reprimand, fine, suspension, revocation, etc.), including discipline that might be obtained through a negotiated settlement agreement with the licensee, applicant, or unlicensed practitioner.

[16.66.8.10 NMAC – N, 1/15/2021; A, 04/23/2024]