



NCHILB Newsletter - Winter 2016

North Carolina Home Inspector Licensure Board

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Website: <http://www.nchilb.com/>

Facebook: <https://www.facebook.com/nchilb>

Mission Statement

The mission of the N.C. Home Inspector Licensure Board is to safeguard 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.

Chairman's Message – Fred Herndon

Greetings to the N.C. Home Inspection community. I hope you have all had a good year and are prepared for another busy spring season. As you know, the real estate market has improved drastically over the last four years, for which we can all be thankful. Along with the increase in real estate sales we have seen a corresponding increase in the number of licensed Inspectors, from a low of under 900 in 2011 to almost 1,200 today.

Of course, every silver lining comes with its own black cloud, and the increase in inspections also has led to an increase in consumer complaints to the Board. First of all I want to compliment you on the relatively small number of complaints that are submitted to the Board. Partial market sales statistics of existing home from NCAR show 129,914 homes sold in North Carolina in 2015. A 10% increase over 2014. The real numbers are likely somewhat higher, since some MLS districts do not report their numbers to NCAR, and a good number of houses are sold without the benefit of a Realtor®. If half of them were inspected then there were nearly 60,000 home inspections performed in the state. According to our 2015 survey, 268 licensees reported a total of 54,134 home inspections. We had a total of only 35 complaints last year. That tells me you guys are doing a pretty good job.

That being said, I would like to offer a little advice on how to avoid complaints, or at least keep them to a minimum.

First of all, the obvious.

- NEVER do an inspection without a signed contract with your client! It should go without saying, but without the contract you have no legal protection or limitations on your liability whatsoever. A well written contract can limit your liability and the scope of your inspection, sets your client's expectations and helps make sure you get paid. Plus, it's the law.
- Always follow the Standards of Practice and Code of Ethics. If you question whether your report meets the Standards, most of the Home Inspector associations in NC offer report review to their members, or as part of a peer review program. These are both highly recommended. We also have a free checklist on the Board's web site to help you make sure your report is in compliance. One mistake newer inspectors sometimes make is to assume that a commercially available report is NC compliant, but most of these are designed to comply with a national standard that may not meet NC requirements. Ultimately it is *your* responsibility to make sure that your report meets the SOP.

Of course, everyone should understand that it is not possible to completely avoid mistakes in our inspections. No matter how hard we try to do our jobs to the best of our abilities, there will be a few things that slip by. It is unavoidable. The real question is how we deal with our mistakes. In almost five years on this Board one thing I have noticed about the complaints that do come in is that *most* of the time (not always, of course), the Inspector ignored the complaint until the clients felt they had no choice but to go to the Board for some kind of resolution. If the Inspector had been willing to recognize that he missed something he shouldn't have, and dealt directly with the client, most of these complaints could have been resolved before hitting our investigator's desk.

Ignoring problems rarely makes them go away. Yes, it may cost a few dollars in the short term, but from a customer service perspective it is likely to be cheaper to address an issue proactively yourself. Some of us

choose to carry E&O insurance for these instances, but most Inspectors are self-insured. I am not going to tell you how to run your business, but I will say that if you go the self-insured route, be sure to keep a reserve account with a few thousand in it just in case.

Keep in mind, word gets around. If you are an Inspector who stands behind your work when you make a mistake, people will know, and that gets you referrals. If you are someone who does not, that kind of reputation gets around even faster. Doing the right thing has the added benefit of being good marketing.

A couple of other things:

This spring our Education Committee is putting the final touches on the update class for the 2016-2017 licensure year. The class will be on moisture issues in homes, focusing on its sources and ramifications. What is required by the Standards, what our clients should reasonably expect, and how we should go about reporting conditions conducive to mold or fungal growth. If you feel that you have something to contribute to such a class, please feel free to contact either me, our Executive Director Mike Hejduk, or Education Committee members Butch Upton and Marion Peeples.

When possible, the Board tries to hold meetings in various locations around the state to give you a chance to see how business is handled and to get your feedback on what you would like to see done. All Board meetings and committee meetings are open to the public (that means you!) except the Investigation and Application Review Committees, which are exempt due to the nature of information discussed. Our next meeting will be at the NCLHIA educational conference in Winston Salem, February 26th at 9:00 AM. If you want to see how the regulatory process is handled, or if you would like to be involved in how decisions are made that affect your livelihood, you are welcome to attend. The real business is taken care of at the committee level, so if you would like to serve on any of our standing committees, please contact the committee chair and let him know.

Have a good 2016, and stay safe out there!

Fred Herndon, Chairman NCHILB

Jim Liles

The Board notes with regret the passing of Jim Liles February 6, 2016. Jim served the Board as the Governor's appointee from July 2004 to June 2008. Staff received the following comments from colleagues - "Jim was instrumental in organizing and implementing a strong home inspector presence in licensing, regulation

and implementation of many board rules." See the link below for information on the News & Observer web site.

<http://www.legacy.com/obituaries/newsobserver/obituary.aspx?pid=177651173>

Director's Message – Mike Hejduk

The rebounding economy has seen a noticeable "uptick" in applications and exam registrations for licensure as a home inspector. We are routinely scheduling morning and afternoon exam seating to accommodate nearly 60 candidates on testing days.

Licenseses may recall that Session Law 2009-509 included a "Sunset" provision for associate home inspector licensure. The board could not accept an application for licensure as an associate after April 1, 2011; could not issue a license for an associate on or after October 1, 2011, and; could not renew an associate license on or after October 1, 2013.

This Session Law also authorized Pre-Licensing programs as an avenue to licensure. Between October 2013 and December 2015 staff has administered 492 exams to applicants qualified as follows:

Pre-Licensing	288
General Contractor (licensed)	125
Other Experience - App Eval Comm.	31
6 Yrs Supervisory Experience	13
Bachelor of Science + 2 Yrs	10
Other	9
Code Official Level I (4) Disciplines	5
Professional Engineer	5
Associate Inspector	4
Architect	1
Reciprocity - Other States	1

The overall passing rate for all examinees regardless of qualification was 76%. This suggests that while the test is difficult, it appears to be a fair indicator of minimum competency. Nearly 60% of all examinees were graduates of pre-licensing education programs during this time period. 84% of those who qualified through pre-licensing passed the state exam compared to 64% of those who qualified as licensed general contractors. 58% passed of those who qualified through other experience, such as home inspectors from other states.

Priorities for 2015/2016

The board's priorities for the current license period are:

- Board-developed Update Course for 2016/2017 "Condensation/Water Penetration"
- Computer based testing

Committees 2015/2016

Standing:

Application Evaluation – W. Sawyer

Exam – C. Noles

Finance – J. Ramsey

Legislative – T. Jarrett

Education – B. Upton

Standards of Practice – B. Upton

Investigation Review – M. Peoples

Advisory:

New Licensee Report Audits – **F. Herndon**

Spotlight on Standards

Licensees are responsible for staying up-to-date with the laws and rules affecting their practice and are strongly encouraged to regularly read and review the Standards of Practice and Code of Ethics. Please note that the new edition of the regulations, with all amendments effective through [Oct. 1, 2014](#), is available on the website.

Rules Review

From time to time, legislation is approved that requires the board to create or modify rules to fully implement the law. All proposed rules are subject to the rule-making process, which includes a public hearing conducted by the agency. The Legislative Committee monitors bills under consideration by the N.C. General Assembly.

[Session Law 2013-413](#) authorized changes to N.C. Gen. Stat. § 150B-21.3A and required periodic review and expiration of existing rules. At least once every 10 years each agency shall conduct a review of the agency's existing rules and make a determination as to whether the rule is:

1. Necessary *with* substantive public interest
2. Necessary *without* substantive public interest
3. Unnecessary

The Office of Administrative Hearings (OAH) has posted a schedule that requires HILB rules review to be completed by November 2017. [N.C. Gen. Stat. § 150B-21.3A](#) describes the review process which includes posting of the initial agency determination on the web site and inviting the public to comment on the rules and the agency's initial determination.

Licensing

As of January 31, 2016 there were 1,134 licensed home inspectors on active status.

Home Inspection Reports

Licensees using commercially available report software packages should ensure that automated report default settings provide an accurate report for the property inspected. Specifically, licensees should check that the summary statement required by [N.C. Gen. Stat. § 143-151.58\(a1\)](#) is included and written as quoted in the statute. Licensees may consider including the general statute to establish the source of this consumer notice at the beginning or end of this statement as shown below.

[N.C. Gen. Stat. § 143-151.58\(a1\)](#):

"This summary page is not the entire report. The complete report may include additional information of interest or concern to you. It is strongly recommended that you promptly read the complete report. For information regarding the negotiability of any item in this report under the real estate purchase contract, contact your North Carolina real estate agent or an attorney." [N.C. Gen. Stat. § 143-151.58(a1)]

Licensees are also reminded that this statute states *"the summary must also describe any system or component that appears not to function as intended, based upon documented tangible evidence, and that requires either subsequent examination or further investigation by a specialist."* Licensees should note that Board Rule 11 NCAC 08.1103(b)(3) was amended effective Oct. 1, 2014 to make the summary and report requirements more consistent.

Board Disciplinary Action

Rule changes effective Feb. 1, 2014, require the Investigation Review Committee to make recommendations to the board for final resolution of all complaints, including dismissal and letters of caution, in addition to the recommendations the committee currently makes for consent agreements and hearings. Disciplinary action taken against a licensee within the past three years is now available through the DIRECTORY menu of the website by selecting the "Discipline" link at the far right. Licensees are encouraged to read the ["TOP TEN TIPS FOR AVOIDING COMPLAINTS WITH YOUR LICENSING BOARD."](#) written by the board's N.C. Dept. of Justice assigned legal counsel, Ms. M. Denise Stanford, included at the end of this newsletter and available through the board web site under the CONSUMERS, Disciplinary Actions link.

Building Codes

Occasionally, home inspectors may observe a defect or condition that affects the safety or habitability of a dwelling that they also think may be a code violation. While [N.C. General Statute § 143-151.58\(a2\)](#) does allow home inspectors to state a deficiency as a violation of code, there are very specific requirements that must be met, as summarized below. Licensees are urged to read the law carefully before making such statements to ensure compliance with these statutory requirements.

- (1) Licensees must determine the date of construction, renovation, and any subsequent installation or replacement of any system or component of the home and include this information in the home inspection report.
- (2) Licensees must determine the State Building Code (i.e., Residential, Electrical, Mechanical, Plumbing/Gas) in effect at the time of construction, renovation, and any subsequent installation or replacement of any system or component of the home and include photocopies of the applicable sections of the code quoted/cited in the home inspection report.
- (3) Licensees must use the code in effect at the time of construction, renovation, and any subsequent installation or replacement. In other words, just because a condition observed does not meet current code requirements, you cannot cite it as a code violation if it was not required by the code that was in effect when the house was built or renovated.

The N.C. Department of Insurance Office of State Fire Marshal Engineering Division produces a free e-newsletter. Most of the articles are code-related, including interpretations, research on construction methods and materials, etc. To read previously posted newsletters, go to:
http://www.ncdoi.com/OSFM/Engineering_and_Codes.aspx

To subscribe, go to:
https://lists.ncmail.net/mailman/listinfo/ncdoi_engineering

The 2012 N.C. Residential Code posted on the ICC website at the link below is the final free (view-only) document:
http://www.ecodes.biz/ecodes_support/Free_Resources/2012NorthCarolina/12NorthCarolina_main.html

The soft-cover books are available for sale in the OSFM office at 322 Chapanoke Road, Raleigh, NC, or through the ICC online store:
<http://www.iccsafe.org/Store/Pages/Product.aspx?category=15408&cat=ICCSafe&id=5711S12>

N.C. Home Inspector Licensure Board Appointees

- Chairman..... Fred Herndon^{2A}**
Vice Chairman Tony Jarrett^{1C}
Secretary Chris Noles⁴
Treasurer..... Joseph Ramsey^{3B}
Member Butch Upton^{3A}
Member Marion Peoples^{1A}
Member Arthur Hall^{2A}
Member Waverly Sawyer^{1D}

Appointed by:

1. Governor
2. President Pro Tempore Senate
3. Speaker of the House of Representatives
4. Commissioner of Insurance

Representing:

- A. Home Inspectors
- B. Public Member
- C. N.C. Association of Realtors®
- D. N.C. Home Builders Association®

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TOP TEN TIPS FOR AVOIDING COMPLAINTS WITH YOUR LICENSING BOARD

By M. Denise Stanford, NCDOJ



Dealing with complaints is time-consuming and stressful, regardless of the outcome. At times, complaints are unavoidable. However, there are preventive actions you can take to minimize your chances of having a complaint filed against you and to maximize your chances of successfully defending yourself in front of your board if a complaint is filed. Here are the top ten tips for avoiding complaints with your licensing board.

10. Keep up with the law. When a complaint is filed against you, the first thing the board will consider is whether you have violated your licensing practice act. Educate yourself on what your act requires and how your board has interpreted those requirements. The board's newsletter and website are good resources for this information. Be sure to keep yourself current on any recent amendments to your licensing act by the legislature. The corollary to knowing your practice act is complying with the practice act. Be sure you comply with everything your act requires.

9. Keep up with your board rules. The board will also review the complaint for any violations of its rules. Stay current on your board's rules. The board is required to give notice and receive comment on any rule before its adoption. Stay informed about rules that your board is considering. Once the rule is adopted and goes into effect, you will be better prepared to comply with it.

8. Educate/Supervise your staff. You are responsible for what your staff does. Be sure they know what the law and board rules require. In some instances, your board could discipline your license for the illegal actions of your employees. Be sure that they are operating within the confines of the law and your board's rules. Make sure that your staff is following your dictates. Don't ignore red flags. Implement a system of checks and balances. Take corrective action early if you do find any wrongdoing on the part of your staff.

7. Think twice before suing your clients. Before suing your clients in court, be sure that the services you provided were above reproach. Many times, clients who have been sued by a licensee will file a complaint with the licensee's board. This will subject the services you provided to a heightened scrutiny. Clients may not be paying you because they have a complaint about the service that you rendered. Be sure that you have addressed any complaints your clients may have before serving them with a lawsuit.

6. Communicate with your clients. One of the main reasons that complaints are filed with licensing boards is because of poor client management on the part of the licensee. If clients feel that they have been dealt with fairly and honestly, they are less likely to file a complaint with the board. Don't ignore complaints from your clients. Communication is essential. Be accessible to your clients. Always communicate with your clients in a courteous manner. Be sure your staff does, as well. What you say, and the way you say it, can and will come back to haunt you. Document your communications with clients.

5. Write it down. Be sure that your documentation is more than adequate. If there is a dispute, you will gain a lot of credibility if you have documented in advance what occurred. Be sure to document any problems that have occurred and the steps that you took to correct them. If any staff was involved, have them document their version. Failure to document can also be a potential violation of your practice act or board rules. Implement a recordkeeping system so that your documents are readily retrievable. Backup your records when appropriate.

4. Implement reminder systems. Be sure you are doing what you are supposed to be doing and following up when required. Implement and follow a reminder system to be sure that all deadlines are met.

3. Deal with problems early. Don't ignore problems hoping they will go away. What starts as a small problem can, in time, lead to a complaint with your licensing board. Dealing with the problem early can help to resolve it and may avoid a future complaint to your board.

2. Get legal advice early. Taking appropriate legal steps may resolve problems or protect you in the future should you end up before your board or in court. Consult with counsel before taking action to be sure that you are aware of all the legal ramifications of your actions.

1. Encourage and promote professionalism. Above all else, remember that you are a professional. Treat your clients and colleagues with respect and courtesy. Commit yourself to practicing your profession at the highest skill level and with the utmost integrity.