

266 CMR: BOARD OF REGISTRATION OF HOME INSPECTORS

266 CMR 8.00: PROFESSIONAL COMPETENCE AND CONDUCT

Section

8.01: Grounds for Imposition of Disciplinary Sanctions

8.02: Prohibition Against Deceptive Advertising and Fee Setting Practices

8.03: Ethical Standards and Professional Conduct

8.01: Grounds for Imposition of Disciplinary Sanctions

(1) Violation of one or more of specified rules of conduct set forth in M.G.L. c. 112, § 225 may be considered unprofessional and improper conduct and subject the Registrant to Board discipline as set forth in M.G.L. c. 30A, c. 112, § 226.

(2) Violation of or failure to comply with any of the laws of the Commonwealth relating to the practice of home inspecting or a violation of or failure to comply with 266 CMR 8.00 may be considered unprofessional and improper conduct subject to Board discipline as set forth in M.G.L. c. 30A, c. 112, § 226.

(3) If a Registrant is convicted of or admits to sufficient facts or pleads *nolo contendere* to a crime in any jurisdiction, whether a felony or misdemeanor regardless of adjudication or sentence, and this crime relates to home inspecting or impacts the Registrant's ability to safely and effectively practice home inspecting, said conviction may be considered unprofessional and improper conduct subject to Board discipline as set forth in M.G.L. c. 30A, c. 112, §§ 61 and 226.

8.02: Prohibition Against Deceptive Advertising and Fee Setting Practices

Deceptive Advertising. The following advertising practices are considered fraudulent, false, deceptive, or misleading, and are prohibited:

(a) No person or persons shall advertise as a Home Inspector and/or hold themselves out as able to Operate a home inspection firm, company, corporation and/or business unless there is a duly licensed Home Inspector on staff and who is responsible for all inspection activities and all inspections are in compliance with 266 CMR 6.00: *Standards of Practice*.

(b) Advertising that contains a misrepresentation of facts or false statements regarding the Registrant's professional achievements, degrees, training, skills, and/or qualifications in the home inspection profession and/or any other profession requiring licensure.

(c) Advertising in which the content or the context makes only a partial disclosure of relevant facts (such as advertising, which advertises a discounted price without identifying the specific product or service to which the discounted price applies and without specifying the usual price for the product or services identified).

(d) Advertising that contains a representation that a continuing education or training program is approved by the Board if the content of the program departs from the content approved by the Board or is not in fact approved.

(e) Advertising that claims the Commonwealth of Massachusetts or any of its political subsidiaries certify the Inspector's Reports and/or its contents.

8.03: Ethical Standards and Professional Conduct

(1) Requirement to Respond to Board.

(a) A Registrant shall respond within ten days to a written communication from the Board or its designee and shall make available to the Board any relevant records with respect to an inquiry or complaint about the Registrant's professional conduct. The ten-day period commences on the date the Board sends the communication to the Registrant's address of record.

(b) A Registrant shall cooperate with any reasonable request from a Division agent or employee acting on behalf of the Board while investigating a complaint or allegations regarding the Registrant's professional conduct as a Home Inspector, Associate Home Inspector, or an Associate Home Inspector or Trainee under his or her supervision.

8.03: continued

(2) Ethical Obligations.

- (a) Registrants shall not misrepresent certifications, qualifications, affiliations, educational background or experience in the profession to the public, colleagues or other individuals or institutions.
- (b) Registrants shall fully inform persons served of the nature, and limitations of services rendered or to be rendered.
- (c) Registrants shall disclose, in writing, including a written statement imbedded in the Report in bold print in an obvious location, any financial or family relationship with the Seller, the Seller's Representative and/or the Seller's Representative office.
- (d) A Registrant shall not charge for services not rendered excepting, but not limited to, cancellation or access not being provided to the dwelling and/or areas to be inspected.
- (e) Unless required by law, the Registrant shall not reveal to any unauthorized person any confidential information obtained from the Home Inspection or individual that the Registrant serves professionally without the Client's permission.
- (f) Registrants shall stamp and/or sign only those documents reviewed or prepared by them certifying they are in conformity with 266 CMR 6.00: *Standards of Practice*.

(3) Professional Objectivity/Conflict of Interest.

- (a) Registrants shall maintain objectivity in all matters concerning the welfare of persons served professionally.
- (b) Registrants must guard against conflicts of professional interest.
 - 1. They shall not engage in commercial activities that conflict with their responsibility to Clients or to colleagues.
 - 2. Registrants shall promptly disclose to a Client or potential Client information about any business interest of the licensee that may affect the Client of the potential Client in connection with the home inspection.
 - 3. Registrants shall not accept fees, gifts, or other forms of gratuities for recommending or not recommending a particular contractor or product or use of a particular referral source.
 - 4. Registrants shall not provide fees, gifts, insurance, waivers of liability, or other forms of gratuities to real-estate offices, Buyer's Brokers, real estate brokers or salespersons (as defined in M.G.L. c. 112, § 87PP and c. 112, § 87YY½) and/or Seller's Representatives.
 - 5. Registrants having knowledge of any alleged violation of 266 CMR shall cooperate with the Board in furnishing such information or assistance as may be required.

REGULATORY AUTHORITY

266 CMR 8.00: M.G.L. c. 13, § 96 and c. 112, §§ 221 through 226.