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PROTECTING YOUR LICENSE

The Department of Regulation and Licensing receives approximately twenty complaints each year with regard to home inspectors. Most of these complaints relate to errors or mistakes made by home inspectors. Most of these complaints relate to errors or mistakes made by home inspectors in the inspection of a house.

The Department of Regulation and Licensing has what is called the Division of Enforcement. This is a group of attorneys, investigators and support staff whose job is to investigate complaints received about any person holding professional credentials or licenses issued by the department. These people investigate everyone from barbers, to realtors, to interior designers and even home inspectors. Each year they receive 4,000 to 5,000 complaints with regard to all areas regulated and licensed.

When a complaint is filed, the Department follows four distinct stages:

Intake Stage: This is the stage where the cases are screened to determine whether further investigation is warranted.

Investigation Stage: In this is the stage, the staff gathers information, contacts witnesses and discusses the case with a department attorney. This stage, the staff gathers information, contacts witnesses

Legal Action Stage: in this stage, the department's attorneys prosecute the case and pursue disciplinary action.

Hearing Stage: This is a formal legal hearing before an Administrative Law Judge. The law judge makes the decision, which is reviewed by licensing board. If a violation is found, a home inspector may be reprimanded, be suspended, have their license revoked or maybe limited in their practice.

There are several areas where a home inspector may be subjected to disciplinary action. The statutes require a home inspector to perform a reasonably competent and diligent inspection to detect observable conditions. This doesn't mean that every time a home inspector misses something that a home inspector must discover every defect. This doesn't

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mean that a home inspector misses something that he or she is subjected to disciplinary action. The Department of Regulation and Licensing is only going to pursue a home inspector in this area if the home inspector appears incompetent and is clearly performing adequate inspections.

Another potential area of concern is the requirement that a home inspector not deliver a report to any person other than the client without the client's consent. Home inspectors must not give their home inspection reports to home sellers if the seller did not hire them. This means that you should not give the home inspection report to the realtor if the realtor did not hire you. This also means if you are later called by other persons and are asked for a copy of a former client's report, even years down the road, you should not provide it to them.

Another potential violation is accepting compensation from more than one party. You owe your allegiance to the person who hired you and is paying you. What home inspectors need to be concerned about is developing too close of a relationship with real estate sales people. A home inspector should be very cautious about receiving any type of gifts, benefits or compensation from real estate agents that may somehow be considered compensation, which might influence the home inspector's objectivity.

Also, a home inspector may not pay a referral fee to any person who is not a home inspector. Each home inspector may not pay a referral fee to any person who is not a home inspector. Each home inspector has their base of referrals, which may include real estate agents, builders, contractors and attorneys. A home inspector must be very careful about not paying referral fees or offering compensation of any form to parties who refer customers.

A final area of concern to home inspectors is the requirement that a home inspector not make false, deceptive or misleading statements in advertising. As I look at brochures from various home inspectors and read the yellow pages, I have noticed many representations that could be characterized as false, deceptive or misleading. There is a fine line between "puffing" and false advertising. There is little difference between an exaggeration or embellishment and deceptive advertising.

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The real key in dealing with the Department of Regulation and Licensing is not becoming a target. You can make lots of mistakes and errors and the Department will probably not pursue you. However, if a number of people complain about you, and the Department believes you are pushing the envelope, they may decide to pursue you. If they do, everything that you do gets put under a microscope. Every representation, every clause in your contract, your standard reporting form, all is investigated. In this case, many of your standard practices will be called into question. It is not a defense to say that other inspectors are doing the same thing.

Once one of the Department's lawyers is after you, their goal is to compile as many complaints against you as they possibly can. The reason they do this is fairly simple. They have a limited number of attorneys and investigators and a large number of people that they must investigate. What they attempt to do is work out a plea bargain or compromise with the individual being investigated. In order to do this, they must have bargaining power. By compiling as many complaints and potential violations as possible, the home inspector becomes intimidated and agrees to a plea bargain. This is a voluntary acceptance of some form of punishment.

The first thing a home inspector should do is to understand the regulations to avoid getting into trouble. If you are reported to the Department of Regulations and Licensing, you need to respond, but do not go into any great detail and don't provide pages of documents. Cooperate, but be concise. By staying on good terms with the customers, realtors, banks and other home inspectors, you probably won't get reported.