

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
4100 Board of Home Inspectors
Statutory Authority: 24 Delaware Code, Section 4106(a)(1) (24 **Del.C.** §4106(a)(1))

FINAL

4100 Board of Home Inspectors

ORDER

NATURE AND STAGE OF THE PROCEEDINGS

On June 1, 2013, the Delaware Board of Home Inspectors published proposed regulations in the Delaware *Register of Regulations*, Volume 16, Issue 12. This notice further indicated that written comments would be accepted by the Board for thirty days, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on June 24, 2013 at a regularly scheduled meeting of the Delaware Board of Home Inspectors to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

At the time of the deliberations, the Board considered the following documents:

Board Exhibit 1 – Affidavit of publication of the public hearing notice in the *News Journal*; and

Board Exhibit 2 – Affidavit of publication of the public hearing notice in the *Delaware State News*.

Board Exhibit 3 – Correspondence from Mark R. Valencik, arguing that the proposed regulations are too strict and will limit market share to established home inspectors.

There was no verbal testimony given at the public hearing on June 24, 2013. No written comments were received by the Board during the initial thirty day public comment period. The Board received 1 written comment during the fifteen day 29 **Del.C.** §10118(a) public comment period.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed regulations.

2. There were no public comments provided to the Board during the initial written public comment period or the public hearing, but it did receive one comment during the fifteen day period following the public hearing.

3. Pursuant to 24 **Del.C.** §4106(a)(1), the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. The proposed rules and regulations implement the Board's licensing law, Chapter 41 of Title 24 of the Delaware Code, set forth the process whereby applicants may qualify for licensure under the grandfather provision and adopt standards for continuing education. The rules and regulations further set forth a code of ethics and standards of practice for licensees. The Board has also proposed adoption of a list of crimes substantially related to the practice of home inspection.

5. With regard to the public comment from Mr. Valencik, the Board deliberated on the comments and determined that it had utilized public meetings over the course of at least one year to develop appropriate regulations to best serve the citizens of Delaware. The Board does not believe that the regulations as proposed impose an undue burden on current home inspectors or future applicants. As such, the Board decided not to change the proposed regulations in response to Mr. Valencik's comments.

DECISION AND EFFECTIVE DATE

The Board hereby adopts the rules and regulations as proposed, to be effective 10 days following publication of this order in the *Register of Regulations*. The new regulations are attached hereto as Exhibit A.

SO ORDERED this 10th day of July, 2013.

BY THE DELAWARE BOARD OF HOME INSPECTORS

Donald Pyle, Sr., Chairman

Joyce Edwards

Dennis Theoharis, Vice Chairman

Timothy Harriger

Danial Eichelberger

4100 Board of Home Inspectors

1.0 Applications

- 1.1 All applications for licensure must be submitted on forms approved by the Board and the Division of Professional Regulation and be accompanied by the appropriate fee.
- 1.2 It is the responsibility of each licensee to be familiar, and in compliance, with the Board's licensing law, 24 Del.C. Ch. 41, and Rules and Regulations.
- 1.3 The Board may require additional information or explanation when it has questions about an applicant's qualifications or application materials. An application is not complete until the Board has received all required and requested documents, materials, information and fees.
- 1.4 Applications which are incomplete shall be retained for one year to allow an applicant the opportunity to supplement the application. After one year, incomplete applications are considered abandoned. Thereafter, an applicant must submit a new application with the appropriate fee.
- 1.5 Applicants must meet the requirements for licensure at the time their applications are submitted.

2.0 Definitions

[24 Del.C. §4102]

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Active oversight" shall mean that the supervising home inspector is on the premises with the trainee and is readily available.

"Alarm systems" shall mean warning devices installed or free-standing, including, but not limited to, smoke detectors, carbon monoxide detectors, flue gas, and other spillage detectors, and security equipment.

"Automatic safety controls" shall mean devices designed and installed to protect systems and components from unsafe conditions.

"Component" shall mean a part of a system.

"Decorative" shall mean ornamental; not required for the proper operation of the essential systems and components of a home.

"Describe" shall mean to identify, in writing, a system or component by its type or other distinguishing characteristics.

"Dismantle" shall mean to take apart or remove any component, device, or piece of equipment that would not be taken apart or removed by a homeowner in the course of normal maintenance.

"Engineering" shall mean the application of scientific knowledge for the design, control, or use of building structures, equipment, or apparatus.

"Further evaluation" shall mean examination and analysis by a qualified professional, tradesman, or service technician beyond that provided by the home inspection.

"Household appliances" shall mean kitchen, laundry, or similar appliances, whether installed or free-standing.

"Inspect" shall mean the examination of any system or component or a building using normal operating controls and opening readily openable access panels.

"Installed" shall mean attached, such that removal requires tools.

"Normal operating controls" shall mean devices such as thermostats, switches, or valves intended to be operating by the homeowner.

"Readily accessible" shall mean available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action that will likely involve risk to persons or property.

"Readily openable access panel" shall mean a panel provided for homeowner inspection and maintenance that is readily accessible, within normal reach, can be removed by one person, and is not sealed in place.

"Recreational facilities" shall mean spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic playground or other similar equipment, and associated accessories.

"Report" shall mean communicate in writing.

"Representative number" shall mean one component per room for multiple similar interior components such as windows, and electric receptacles; one component for each side of the building for multiple similar exterior components.

"Roof drainage systems" shall mean components used to carry water off a roof and away from the building.

"Shut down" shall mean a state in which a system or component cannot be operated by normal operating controls.

"Siding" shall mean exterior wall covering and cladding; such as: aluminum, asphalt, brick, cement/asbestos, EIFS, stone, stucco, veneer, vinyl, wood, etc.

"Solid fuel burning appliances" shall mean a hearth and fire chamber or similar prepared place in which a fire may be built and that is built in conjunction with a chimney; or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

"Structural component" shall mean a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

"System" shall mean a combination of interacting or interdependent components, assembled to carry out one or more functions.

"Technically exhaustive" shall mean an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations, or other means.

"Under-floor crawl space" shall mean the area within the confines of the foundation and between the ground and the underside of the floor.

"Unsafe" shall mean a condition that is readily accessible, installed system or component that is judged by the home inspector to be a significant risk of bodily injury during normal day-to-day use; the risk may be due to damage, deterioration or improper installation.

"Wiring methods" shall mean identification of electrical conductors or wires by their general type, such as non-metallic sheathed cable, armored cable, or knob and tube, etc.

3.0 Grandfather provision

[24 Del.C. §4108(d)]

- 3.1 All applications submitted pursuant to the grandfather provision set forth in 24 Del.C. §4108(d) shall be received by the Board on or before November 4, 2013. Only complete applications will be considered by the Board. Applications which are not received on or before November 4, 2013 shall not be eligible for licensure pursuant to the grandfather provision.
- 3.2 An applicant may qualify for the grandfather provision by either one of the following methods:
 - 3.2.1 The applicant shall submit a log documenting no fewer than 250 home inspections in Delaware. The Board retains the discretion to request copies of sample home inspection reports for review to verify experience; or
 - 3.2.2 The applicant shall show not less than five years' experience performing home inspections obtained prior to August 6, 2013. To document this experience, the applicant shall submit one of the following: a notarized affidavit from an employer or employers, or a written explanation as to why an affidavit cannot be obtained, or tax documents showing self-employment.
- 3.3 An application submitted pursuant to the grandfather provision must also include evidence in a form satisfactory to the Board that the applicant, or the applicant's employer, carries errors and omissions insurance in an amount equal to or greater than \$50,000 and liability insurance in an amount equal to or greater than \$250,000. Evidence shall include a notarized certificate of insurance submitted to the Board by the insurance carrier.
- 3.4 Trainee applicants may acquire supervised experience, as documented on a Board approved form, during the time period after the date of enactment of the statute until the deadline for submission of grandfather applications. However, that supervised experience shall satisfy the licensure requirements only if the supervisor becomes licensed under the grandfather provision within three months after making application.

4.0 Licensure Requirements

Each applicant for a home inspector license must provide the Board with the following, or have this information provided from the appropriate source, where indicated:

- 4.1 Evidence in a form satisfactory to the Board that the applicant has successfully completed high school or its equivalent. Such evidence includes a certified transcript or confirmation of G.E.D.
- 4.2 Evidence in a form satisfactory to the Board that the applicant has successfully passed the examination designated by the Board in section 11.0. Evidence shall include confirmation from the authorized testing agency that the applicant has achieved a passing score on the Board-approved examination.
- 4.3 Evidence in a form satisfactory to the Board that the applicant has completed the education requirements set forth in section 5.0. Evidence shall include a certificate or other acknowledgment of completion of the

education requirement that is submitted to the Board by the applicant. This document shall identify the course, the course provider and location, and the date completed.

- 4.4 Evidence in a form satisfactory to the Board that the applicant has completed the trainee requirements. The applicant shall submit a log on a Board-approved form documenting the experience. The Board retains the discretion to request copies of sample home inspection reports for review to verify experience.
- 4.5 Evidence in a form satisfactory to the Board that the applicant, or the applicant's employer, carries errors and omissions insurance in an amount equal to or greater than \$50,000 and liability insurance in an amount equal to or greater than \$250,000. Evidence shall include a notarized certificate of insurance submitted to the Board by the insurance carrier.

5.0 Education

- 5.1 To qualify for licensure, all applicants must successfully complete a course of study, consisting of at least 140 hours of classroom or online training, which has been approved by the American Society of Home Inspectors ("ASHI"), the National Association of Home Inspectors ("NAHI") or the International Association of Certified Home Inspectors ("INTERNACHI").
- 5.2 The classroom or online training must include instruction in the following topics:
 - 5.2.1 Heating systems;
 - 5.2.2 Cooling systems;
 - 5.2.3 Electrical systems;
 - 5.2.4 Plumbing systems;
 - 5.2.5 Structural components;
 - 5.2.6 Foundations;
 - 5.2.7 Roof coverings;
 - 5.2.8 Exterior;
 - 5.2.9 Interior;
 - 5.2.10 Insulation and ventilation;
 - 5.2.11 Manufactured housing;
 - 5.2.12 Home inspection documents, forms and contracts;
 - 5.2.13 Delaware licensure law;
 - 5.2.14 Report writing.

6.0 Registration as Trainee

[24 Del.C. §4109]

A trainee applicant shall submit an application on a Board-approved form, which shall include verification of supervision to be completed and signed by the supervising home inspector.

7.0 Temporary license

[24 Del.C. §4110]

A temporary license issued pursuant to 24 Del.C. §4110 is valid for a single home inspection for a period of ten days from the date of issuance. An applicant may receive a maximum of five temporary licenses per year. The temporary license must be obtained prior to the home inspection.

8.0 Licensure by endorsement (Reciprocity)

[24 Del.C. §4111]

The Board may grant a reciprocal license in accordance with 24 Del.C. §4111 to applicants licensed in another state.

9.0 Responsibilities of supervising home inspector

- 9.1 To qualify as a supervisor, a home inspector shall hold a Delaware home inspector's license in good standing.
- 9.2 The supervising home inspector shall supervise no more than two trainees for each inspection. The supervising home inspector shall notify the Board in writing when the inspector is no longer supervising the trainee.
- 9.3 The registered trainee may assist in the home inspection and completion of the home inspection report and may co-sign the report, provided that:

- 9.3.1 The trainee works under the direct oversight of the supervising home inspector.
- 9.3.2 The supervising home inspector only assigns work to the trainee if the trainee is competent to perform such work.
- 9.3.3 The home inspection report is reviewed and signed by the supervising home inspector.
- 9.3.4 If co-signed by the trainee, the home inspection report shall indicate the trainee's status with the registration number issued by the Board.
- 9.3.5 The supervising home inspector accepts total responsibility for the home inspection report.

10.0 Responsibilities of registered home inspector trainee

- 10.1 The trainee shall complete at least 250 home inspections under the active oversight of a licensed home inspector(s).
- 10.2 The trainee shall maintain a home inspection experience log on a Board-approved form certified by the supervising home inspector(s).
- 10.3 The trainee shall ensure that the log is available at all times for inspection by the Board.
- 10.4 While performing home inspections, the trainee shall carry the registration card issued by the Board.

11.0 Examination.

Prior to submitting an application for licensure as a home inspector, an applicant shall be required to pass the National Home Inspector Examination® as provided by the Examination Board of Professional Home Inspectors, or its predecessor or successor.

12.0 Lapse and Renewal of Licenses

- 12.1 The biennial licenses granted by the Board shall lapse on August 31 of each odd-numbered year beginning in 2015, or on such other date as is specified by the Division of Professional Regulation. It is the responsibility of the licensee to renew his or her license. The failure of the Board to notify a licensee of the expiration date does not in any way relieve the licensee of the requirements of renewal. License renewal shall be accomplished online at the Division of Professional Regulation's website.
- 12.2 At the time of renewal, the licensee shall attest to completion of the continuing education requirements. Extra continuing education hours do not carry over to the next licensing period. Licensees may be audited by the Board for compliance with the continuing education requirements.
- 12.3 A license is lapsed when a licensee has failed to either complete the requirements for renewal or obtain permission for inactive status. A licensee may activate a lapsed license within six months of the date renewal was due by meeting all renewal requirements and paying an additional fee set by the Division of Professional Regulation.
- 12.4 An individual whose license has lapsed for more than six months must reapply as a new applicant.

13.0 Inactive License or Certificate: Expiration; Reactivation

- 13.1 A licensee with a valid license may request in writing to be placed on inactive status. Inactive status can be effective for up to three years.
- 13.2 An inactive license may be reactivated by the Board upon written request on a form designated by the Board, proof that the licensee has completed the continuing education required by section 16.0, and payment of a prorated fee to be computed by the Division of Professional Regulation.
- 13.3 A licensee is not authorized to work as a home inspector in this State during the period of inactive status.
- 13.4 If an individual does not reactivate the individual's license within three years, the individual shall reapply, and in addition must complete 40 hours of continuing education within the past two years.

14.0 License renewal and reactivation for military personnel and military spouses.

License renewal and reactivation for military personnel and military spouses is governed by 29 Del.C. §§8735(p), (q) and (r).

15.0 Change of Address

A licensee shall notify the Board of any change of address from that registered with the Board. Such notice shall be sent to the Board no later than 30 days following the change of address.

16.0 Continuing Education ("CE")

- 16.1 Licensees shall complete 40 hours of approved CE by August 31 of each biennial renewal period.
 - 16.1.1 This requirement is prorated for licensees during their initial licensing period as follows:
 - 16.1.1.1 A person licensed less than one year does not need to complete CE at the first renewal.
 - 16.1.1.2 A person licensed one year but less than two years must submit 20 CE hours at the first renewal.
 - 16.1.2 An "hour" for purposes of continuing education credit shall mean fifty (50) minutes of instruction or participation in an appropriate course or program. Meals and breaks shall be excluded from credit.
- 16.2 Hardship: The Board may consider a waiver of CE requirements or acceptance of partial fulfillment based on the Board's review of a written request with supporting documentation of hardship.
- 16.3 Acceptable CE.
 - 16.3.1 Programs must be structured to maintain or increase a licensee's skill, knowledge, and competency in home inspection.
 - 16.3.2 Courses must be approved by the Board, ASHI, NAHI, or INTERNACHI in order to qualify as CE. Board approved courses appear on the website of the Division of Professional Regulation.
 - 16.3.3 Course providers and licensees may request Board approval of courses at any time by submitting a written request to the Board and including a course outline with the number of classroom hours and the curriculum vitae or resume of the instructor. Course providers and licensees seeking pre-approval should submit the request a sufficient amount of time in advance of the CE course to permit the Board to consider the request at a regularly-scheduled Board meeting. Board approval shall expire 2 years after the approval date. If the course is amended at any time during the 2 years, the sponsor or licensee shall submit a new Application Form.
 - 16.3.4 A licensee may not take the same course more than twice in a licensure renewal period.
 - 16.3.5 Continuing education must fall into one of the following categories:
 - 16.3.5.1 Conferences, meetings, and seminars
 - 16.3.5.2 Distance learning (home study or online learning)
 - 16.3.5.3 Guest inspector on a ride along, up to 2 hours per licensure cycle. These credits may not be used by a trainee.
 - 16.3.5.4 Host inspector on a ride along, up to 2 hours per licensure cycle. These hours may not be used for credit under section 16.3.5.11.
 - 16.3.5.5 Participation as a Delaware Board of Home Inspectors board member, up to 10 hours per licensure cycle
 - 16.3.5.6 Author a published article/paper on inspection issues, up to 5 hours per licensure cycle
 - 16.3.5.7 Author a published book on inspection, up to 10 hours per licensure cycle
 - 16.3.5.8 Instructor/speaker for a course or seminar, up to 3 hours per licensure cycle. Credit may only be given for the first time the course or seminar is taught.
 - 16.3.5.9 Participation in a code authoring agency, up to 1 hour per licensure cycle
 - 16.3.5.10 Host or guest on a radio or TV program on home inspection, up to 2 hours per licensure cycle
 - 16.3.5.11 Board-approved supervising home inspector, training a registered trainee, up to 20 hours per licensure cycle.
- 16.4 Verification
 - 16.4.1 Proof of continuing education is satisfied with an attestation by the licensee that the licensee has satisfied the requirements of section 16.0. Attestation shall be completed electronically.
 - 16.4.2 Licensees selected for audit will be required to supplement the attestation with attendance verification. Verification shall include such information necessary for the Board to assess whether the course or other activity meets the CE requirements in section 16.0.
 - 16.4.2.1 Audits will be performed by the Board to ensure compliance with the license requirements. Licensees selected for the audit shall submit verification of the required CE and verification that they maintained the required liability and errors and omissions insurance and any other information required by the Board to confirm their continued eligibility for the license.
 - 16.4.2.2 In a renewal year, the Board will notify licensees within sixty (60) days after renewal that they have been selected for audit.
 - 16.4.2.3 Licensees selected for audit shall submit verification within thirty (30) days of mailing of notification of selection for audit.
 - 16.4.2.4 The Board shall review all documentation submitted by licensees pursuant to the CE audit. If the Board determines that the licensee has met the CE requirements, his or her license shall remain in

effect. If the Board determines that the licensee has not met the CE requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. The hearing will be conducted to determine if there are any extenuating circumstances justifying the noncompliance with the CE requirements. Unjustified noncompliance with the CE requirements set forth in these rules and regulations shall constitute a violation of 24 Del.C. §4114(a)(5) and the licensee may be subject to one or more of the disciplinary sanctions set forth in 24 Del.C. §4116.

17.0 Code of ethics.

- 17.1 Home inspectors shall avoid conflicts of interest or activities that compromise, or appear to compromise, professional independence, objectivity, or inspection integrity.
 - 17.1.1 Home inspectors shall not inspect property for compensation in which they have, or expect to have, a financial interest.
 - 17.1.2 Home inspectors shall not inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of the property.
 - 17.1.3 Home inspectors, or their employees or employers, shall not directly or indirectly compensate real estate agents, or other parties having a financial interest in closing or settlement of real estate transactions, for the referral of inspections or for inclusion on a list of recommended inspectors, preferred providers, or similar arrangements.
 - 17.1.4 Home inspectors shall not receive compensation for an inspection from more than one party unless agreed to by the client(s).
 - 17.1.5 Home inspectors shall not accept compensation, directly or indirectly, for recommending contractors, services, or products to inspection clients or other parties having an interest in inspected properties.
 - 17.1.6 Home inspectors shall not repair, replace, or upgrade, for compensation, systems or components covered by Delaware standards of practice, for one year after the inspection.
- 17.2 Home inspectors shall act in good faith toward each client and other interested parties.
 - 17.2.1 Home inspectors shall perform services and express opinions based on genuine conviction and only within their areas of education, training, or experience.
 - 17.2.2 Home inspectors shall be objective in their reporting and not knowingly understate or overstate the significance of reported conditions.
 - 17.2.3 Home inspectors shall not disclose inspection results or client information without client approval. Home inspectors, at their discretion, may disclose immediate safety hazards to occupants exposed to such hazards, when feasible.
- 17.3 Home inspectors shall avoid activities that may harm the public, discredit themselves, or reduce public confidence in the profession.
 - 17.3.1 Advertising, marketing, and promotion of home inspectors' services or qualifications shall not be fraudulent, false, deceptive, or misleading.
 - 17.3.2 Home inspectors shall report substantive and willful violations of the Board's Code of Ethics to the Division of Professional Regulation.

18.0 Standards of practice.

- 18.1 Purpose and scope.
 - 18.1.1 The purpose of the Standards of Practice is to establish minimum and uniform standards for home inspectors.
 - 18.1.2 Inspection: Home inspectors shall inspect readily accessible, visually observable, installed systems and components listed in this section.
 - 18.1.3 Written report: The home inspector's report shall be legible and shall include:
 - 18.1.3.1 Identification of those systems and components inspected that, in the professional judgment of the licensee, are not functioning properly, significantly deficient, unsafe, or are near the end of their service lives.
 - 18.1.3.2 Recommendations to correct, or monitor for future correction, the deficiencies reported in section 18.1.3.1, or items needing further evaluation, except that, as set forth in section 18.1.4.2, licensees are not required to determine methods, materials, or costs of corrections.
 - 18.1.3.3 Reasoning or explanation as to the nature of the deficiencies reported in section 18.1.3.1 that is not self-evident.

18.1.3.4 Systems and components designated for inspection as set forth in this section that were present at the time of the home inspection but were not inspected, and the reasons that they were not inspected.

18.1.4 This section does not prohibit home inspectors from:

18.1.4.1 Including other inspections services or systems and components, in addition to those required in section 18.1.2.

18.1.4.2 Designing or specifying repairs, providing the licensee is appropriately qualified and willing to do so.

18.1.4.3 Excluding systems and components from the inspection, if requested by the client.

18.2 Structural components

18.2.1 The home inspector shall inspect:

18.2.1.1 Structural components including the foundation and framing.

18.2.1.2 A representative number of structural components, by probing, where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required when probing would damage any finished surface or where no deterioration is visible or presumed to exist.

18.2.2 The written report shall include description of:

18.2.2.1 The methods used to inspect under-floor crawl spaces and attics.

18.2.2.2 The foundation.

18.2.2.3 The floor structure.

18.2.2.4 The wall structure.

18.2.2.5 The ceiling structure.

18.2.2.6 The roof structure.

18.2.3 The home inspector is not required to:

18.2.3.1 Provide any engineering or architectural services or analysis.

18.2.3.2 Offer an opinion as to the adequacy of any structural system or component.

18.3 Exterior

18.3.1 The home inspector shall inspect:

18.3.1.1 Siding, flashing, and trim.

18.3.1.2 All exterior doors.

18.3.1.3 Attached or adjacent decks, balconies, stoops, steps, porches, and their associated railings.

18.3.1.4 Eaves, soffits, and fascias where accessible from the ground level.

18.3.1.5 Vegetation, grading, surface drainage, and retaining walls that are likely to adversely affect the building.

18.3.1.6 Adjacent or entryway walkways, patios, and driveways.

18.3.2 The written report shall include description of:

18.3.2.1 Siding.

18.3.3 The home inspector is not required to inspect:

18.3.3.1 Screening, shutters, awnings, and similar seasonal accessories.

18.3.3.2 Fences.

18.3.3.3 Geological and/or soil conditions.

18.3.3.4 Recreational facilities.

18.3.3.5 Outbuildings, other than garages and carports.

18.3.3.6 Seawalls, break-walls, and docks.

18.3.3.7 Erosion control and earth stabilization measures.

18.4 Roofing

18.4.1 The home inspector shall inspect:

18.4.1.1 Roofing materials.

18.4.1.2 Roof drainage systems.

18.4.1.3 Flashing.

18.4.1.4 Skylights, chimneys, and roof penetrations.

18.4.2 The written report shall include description of:

18.4.2.1 Roofing materials.

18.4.2.2 Methods used to inspect the roofing.

18.4.3 The home inspector is not required to inspect:

18.4.3.1 Antennae.

18.4.3.2 Interiors of flues or chimneys that are not readily accessible.

18.4.3.3 Other installed accessories.

18.5 Plumbing.

18.5.1 The home inspector shall inspect:

18.5.1.1 Interior water supply and distribution systems, including all fixtures and faucets.

18.5.1.2 Drain, waste, and vent systems, including all fixtures.

18.5.1.3 Water heating equipment and hot water supply system.

18.5.1.4 Vent systems, flues, and chimneys.

18.5.1.5 Visible fuel storage and fuel distribution systems.

18.5.1.6 Drainage sumps, sump pumps, and related piping.

18.5.2 The written report shall include description of:

18.5.2.1 Water supply, drain, waste, and vent piping materials.

18.5.2.2 Water heating equipment, including energy source(s).

18.5.2.3 Location of main water and fuel shut-off valves.

18.5.3 The home inspector is not required to:

18.5.3.1 Inspect:

18.5.3.1.1 Clothes washing machine connections.

18.5.3.1.2 Interiors of flues or chimneys that are not readily accessible.

18.5.3.1.3 Wells, well pumps, or water storage related equipment.

18.5.3.1.4 Water conditioning systems.

18.5.3.1.5 Solar water heating systems.

18.5.3.1.6 Fire and lawn sprinkler systems.

18.5.3.1.7 Private waste disposal systems.

18.5.3.1.8 Backflow prevention device.

18.5.3.2 Determine:

18.5.3.2.1 Whether water supply and waste disposal systems are public or private.

18.5.3.2.2 Water supply quantity or quality.

18.5.3.3 Operate automatic safety controls or manual stop valves.

18.6 Electrical

18.6.1 The home inspector shall inspect:

18.6.1.1 Service drop.

18.6.1.2 Service entrance conductors, cables, and raceways.

18.6.1.3 Service equipment and main disconnects.

18.6.1.4 Service grounding.

18.6.1.5 Interior components of service panels and sub-panels.

18.6.1.6 Visible conductors.

18.6.1.7 Overcurrent protection devices.

18.6.1.8 A representative number of installed lighting fixtures, switches, and receptacles.

18.6.1.9 Ground fault circuit interrupters.

18.6.2 The written report shall include description of:

18.6.2.1 Amperage and voltage rating of the service.

18.6.2.2 Location of main disconnect(s) and panels.

18.6.2.3 Presence of solid conductor aluminum branch circuit wiring and visible knob and tube wiring.

18.6.2.4 Absence of smoke detectors.

18.6.2.5 Type of wiring.

18.6.3 The home inspector is not required to:

18.6.3.1 Inspect:

18.6.3.1.1 Remote control devices.

18.6.3.1.2 Alarm systems and components.

18.6.3.1.3 Low voltage wiring systems and components.

18.6.3.1.4 Ancillary wiring systems and components not part of the primary electrical power distribution system.

18.6.3.1.5 Solar-powered systems and their components.

18.6.3.1.6 Emergency backup power systems.

18.6.3.2 Measure amperage, voltage, or impedance.

18.7 Heating.

18.7.1 The home inspector shall:

18.7.1.1 Open readily accessible access panels.

18.7.1.2 Inspect:

18.7.1.2.1 Installed heating equipment.

18.7.1.2.2 Vent systems, flues, and chimneys.

18.7.2 The written report shall include description of:

18.7.2.1 Energy sources.

18.7.2.2 Heating systems.

18.7.3 The home inspector is not required to:

18.7.3.1 Inspect:

18.7.3.1.1 Interiors of flues or chimneys that are not readily accessible.

18.7.3.1.2 Heat exchangers.

18.7.3.1.3 Humidifiers or dehumidifiers.

18.7.3.1.4 Electronic air filters.

18.7.3.1.5 Solar heating systems.

18.7.3.2 Determine heat supply adequacy or distribution balance.

18.8 Air conditioning.

18.8.1 The home inspector shall:

18.8.1.1 Open readily accessible access panels.

18.8.1.2 Inspect

18.8.1.2.1 Central and through-wall equipment.

18.8.1.2.2 Distribution systems.

18.8.2 The written report shall include description of:

18.8.2.1 Energy source(s).

18.8.2.2 Cooling systems.

18.8.3 The home inspector is not required to:

18.8.3.1 Inspect electronic air filters.

18.8.3.2 Determine cooling supply adequacy or distribution balance.

18.8.3.3 Inspect window air conditioning units regardless of placement.

18.8.3.4 Operate air conditioning units when the outside temperature is below 60 degrees.

18.9 Interior.

18.9.1 The home inspector shall inspect:

18.9.1.1 Walls, ceilings, and floors.

18.9.1.2 Steps, stairways, and railings.

18.9.1.3 Countertops and a representative number of installed cabinets.

18.9.1.4 A representative number of doors and windows.

18.9.1.5 Garage doors and garage door openers.

18.9.2 The home inspector is not required to inspect:

18.9.2.1 Paint, wallpaper, and other finish treatments.

18.9.2.2 Carpeting.

18.9.2.3 Window treatments.

18.9.2.4 Central vacuum systems.

18.9.2.5 Household appliances.

18.9.2.6 Recreational facilities.

18.10 Insulation and ventilation.

18.10.1 The home inspector shall inspect:

18.10.1.1 Insulation and vapor retarders in accessible unfinished spaces.

18.10.1.2 Ventilation of attics and foundation areas.

18.10.2 The written report shall include description of:

18.10.2.1 Insulation and vapor retarders in accessible unfinished spaces.

18.10.2.2 Absence of insulation in accessible unfinished spaces at conditioned surfaces.

18.10.3 The home inspector is not required to disturb insulation.

18.11 Fireplaces and solid fuel burning appliances.

18.11.1 The home inspector shall inspect:

18.11.1.1 System components

18.11.1.2 Chimney and vents.

18.11.2 The written report shall include description of:

18.11.2.1 Fireplaces and solid fuel burning appliances.

18.11.2.2 Chimneys and vents.

18.11.3 The home inspector is not required to:

18.11.3.1 Inspect:

18.11.3.1.1 Interiors of flues or chimneys.

18.11.3.1.2 Fire screens and doors.

18.11.3.1.3 Seals and gaskets.

18.11.3.1.4 Automatic fuel feed devices.

18.11.3.1.5 Mantles and fireplace surrounds.

18.11.3.1.6 Combustion and make-up air devices.

18.11.3.1.7 Heat distribution assists (gravity fed and fan assisted).

18.11.3.1.8 Wood or pellet stoves.

18.11.3.2 Ignite or extinguish fires.

18.11.3.3 Determine draft characteristics.

18.11.3.4 Move fireplace inserts and stoves or firebox contents.

18.12 General limitations.

18.12.1 The home inspector is not required to perform any action or make any determination not specifically stated in these Regulations.

18.12.2 Inspections performed in accordance with these Regulations are not technically exhaustive and are not required to identify concealed conditions, latent defects or consequential damage(s).

18.13 General exclusions.

18.13.1 Home inspectors are not required to determine:

18.13.1.1 Conditions of systems or components that are not readily accessible.

18.13.1.2 Remaining life expectancy of any system or component.

18.13.1.3 Strength, adequacy, effectiveness, or efficiency of any system or component.

18.13.1.4 The causes of any condition or deficiency.

18.13.1.5 Methods, materials, or costs of corrections.

18.13.1.6 Future conditions, including but not limited to failure of systems and components.

18.13.1.7 The suitability of the property for any specialized use.

18.13.1.8 Compliance with regulatory requirements (codes, regulations, laws, ordinances, etc.)

18.13.1.9 Market value of the property or its marketability.

18.13.1.10 The advisability of purchase of the property.

18.13.1.11 The presence of potentially hazardous plants or animals, including, but not limited to, wood destroying organisms or insects or diseases harmful to humans including molds or mold-like substances.

18.13.1.12 The presence of any environmental hazards including, but not limited to, toxins, carcinogens, noise, and contaminants in the soil, water, or air.

- 18.13.1.13 The effectiveness of any system installed or method utilized to control or remove suspected hazardous substances.
- 18.13.1.14 Operating costs of systems or components.
- 18.13.1.15 Acoustical properties of any system or component.
- 18.13.1.16 Soil conditions relating to geotechnical or hydrologic specialties.
- 18.13.2 Home inspectors are not required to offer or perform:
 - 18.13.2.1 Any act or service contrary to law.
 - 18.13.2.2 Engineering services.
 - 18.13.2.3 Any trade or any professional service other than home inspection.
- 18.13.3 Home inspectors are not required to operate:
 - 18.13.3.1 Any system or component that is shut down or otherwise inoperable.
 - 18.13.3.2 Any system or component that does not respond to normal operating controls.
 - 18.13.3.3 Shut-off valves or manual stop valves
- 18.13.4 Home inspectors are not required to enter:
 - 18.13.4.1 Any area that will, in the opinion of the licensee, likely be dangerous to the licensee or other persons or damage the property or its systems or components.
 - 18.13.4.2 Under-floor crawl spaces or attics that are not readily accessible.
- 18.13.5 Home inspectors are not required to inspect:
 - 18.13.5.1 Underground items including but not limited to underground storage tanks or other underground indications of their presence, whether abandoned or active.
 - 18.13.5.2 Items that are not installed.
 - 18.13.5.3 Installed decorative items.
 - 18.13.5.4 Items that are not entered in accordance with section 18.13.4.
 - 18.13.5.5 Detached structures other than residential garages and carports.
 - 18.13.5.6 Common elements or common areas in multi-unit housing, such as condominium properties or cooperative housing.
- 18.13.6 Home inspectors are not required to:
 - 18.13.6.1 Perform any procedure or operation that will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property or its systems or components.
 - 18.13.6.2 Describe or report on any system or component that is not included in these Regulations and was not inspected.
 - 18.13.6.3 Move personal property, furniture, equipment, plants, soil, snow, ice, or debris.
 - 18.13.6.4 Dismantle any system or component, except as specifically required by these Regulations.

19.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

- 19.1 If the report is received by the president of the regulatory Board, that person shall immediately notify the Director of Professional Regulation or the Director's designate of the report. If the Director of Professional Regulation receives the report, the Director shall immediately notify the president of the regulatory Board, or that president's designate or designates.
- 19.2 The president of the regulatory Board or that president's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform the individual in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give the individual the opportunity to enter the Voluntary Treatment Option.
- 19.3 In order for the individual to participate in the Voluntary Treatment Option, the individual shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board president or that president's designate(s).
- 19.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board president or that president's designate or designates or the Director of the Division of Professional Regulation or the Director's designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or the Director's designate and the president of the participating Board or that president's designate for a treatment plan and progresses

satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the president of the participating Board.

- 19.5 Failure to cooperate fully with the participating Board president or that president's designate or designates or the Director of the Division of Professional Regulation or the Director's designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board president or that president's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection (h) of this section.
- 19.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
- 19.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
- 19.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the president of the participating Board or to that president's designate or designates or to the Director of the Division of Professional Regulation or the Director's designate at such intervals as required by the president of the participating Board or that president's designate or designates or the Director of the Division of Professional Regulation or the Director's designate, and such person making such report will not be liable when such reports are made in good faith and without malice.
- 19.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
- 19.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
- 19.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's president or the president's designate or designates or to the Director of the Division of Professional Regulation or the Director's designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
- 19.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 19.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 19.8 The participating Board's president, the president's designate or designates or the Director of the Division of Professional Regulation or the Director's designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 19.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 19.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 19.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have the person's confidentiality protected if the matter is handled in a nondisciplinary matter.
- 19.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have the professional's confidentiality protected unless otherwise specified in a participating Board's rules

and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

20.0 Crimes Substantially Related to the Practice of Home Inspections

20.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of home inspection in the State of Delaware, without regard to the place of conviction:

- 20.1.1 Murder by abuse or neglect in the second degree; class B felony. 11 Del.C. §533
- 20.1.2 Murder by abuse or neglect in the first degree; class A felony. 11 Del.C. §634
- 20.1.3 Murder in the second degree; class A felony. 11 Del.C. §635
- 20.1.4 Murder in the first degree; class A felony. 11 Del.C. §636
- 20.1.5 Unlawful sexual contact in the third degree; class A misdemeanor. 11 Del.C. §767
- 20.1.6 Unlawful sexual contact in the second degree; class G felony. 11 Del.C. §768
- 20.1.7 Unlawful sexual contact in the first degree; class F Felony. 11 Del.C. §769
- 20.1.8 Rape in the fourth degree; class C felony. 11 Del.C. §770
- 20.1.9 Rape in the third degree; class B felony. 11 Del.C. §771
- 20.1.10 Rape in the second degree; class B felony. 11 Del.C. §772
- 20.1.11 Rape in the first degree; class A felony. 11 Del.C. §773
- 20.1.12 Continuous sexual abuse of a child; class B felony. 11 Del.C. §778
- 20.1.13 Dangerous crimes against a child. 11 Del.C. §779
- 20.1.14 Kidnapping in the second degree; class C felony. 11 Del.C. §783
- 20.1.15 Kidnapping in the first degree; class B felony. 11 Del.C. §783A
- 20.1.16 Arson in the third degree; class G felony. 11 Del.C. §801
- 20.1.17 Arson in the second degree; class D felony. 11 Del.C. §802
- 20.1.18 Arson in the first degree; class C felony. 11 Del.C. §803
- 20.1.19 Burglary in the third degree; class F felony. 11 Del.C. §824
- 20.1.20 Burglary in the second degree; class D felony. 11 Del.C. §825
- 20.1.21 Burglary in the first degree; class C felony. 11 Del.C. §826
- 20.1.22 Robbery in the second degree; class E felony. 11 Del.C. §831
- 20.1.23 Robbery in the first degree. 11 Del.C. §832
- 20.1.24 Carjacking in the first degree; class C felony; class B felony. 11 Del.C. §836
- 20.1.25 Extortion; class E felony. 11 Del.C. §846
- 20.1.26 Misapplication of property; class G felony. 11 Del.C. §848
- 20.1.27 Theft of rented property; class G felony. 11 Del.C. §849
- 20.1.28 Theft; class G felony; class A misdemeanor. 11 Del.C. §841
- 20.1.29 Theft; lost or mislaid property; mistaken delivery. 11 Del.C. §842
- 20.1.30 Theft; false pretense. 11 Del.C. §843
- 20.1.31 Theft; false promise. 11 Del.C. §844
- 20.1.32 Theft of services. 11 Del.C. §845
- 20.1.33 Identity theft; class E felony; class D felony. 11 Del.C. §854
- 20.1.34 Forgery; class F felony; class G felony. 11 Del.C. §861
- 20.1.35 Possession of forgery devices; class G felony. 11 Del.C. §862
- 20.1.36 Tampering with public records in the first degree; class E felony. 11 Del.C. §876
- 20.1.37 Issuing a false certificate; class G felony. 11 Del.C. §878
- 20.1.38 Fraudulent conveyance of public lands; class G felony. 11 Del.C. §911
- 20.1.39 Fraudulent receipt of public lands; class G felony. 11 Del.C. §912
- 20.1.40 Insurance fraud; class G felony. 11 Del.C. §913
- 20.1.41 Home improvement fraud; class G felony. 11 Del.C. §916
- 20.1.42 New home construction fraud; class C felony, class F felony, class G felony. 11 Del.C. §917
- 20.1.43 Dealing in children; class E felony. 11 Del.C. §1100
- 20.1.44 Endangering the welfare of a child; class E or G felony. 11 Del.C. §1102
- 20.1.45 Sexual exploitation of a child; class B felony. 11 Del.C. §1108

- 20.1.46 Unlawfully dealing in child pornography; class D felony. 11 Del.C. §1109
- 20.1.47 Possession of child pornography; class F felony. 11 Del.C. §1111
- 20.1.48 Sexual offenders; prohibitions from school zones. 11 Del.C. §1112
- 20.1.49 Sexual solicitation of a child; class C felony. 11 Del.C. §1112A
- 20.1.50 Bribery; class E felony. 11 Del.C. §1201
- 20.1.51 Receiving a bribe; class E felony. 11 Del.C. §1203
- 20.1.52 Perjury in the second degree; class F felony. 11 Del.C. §1222
- 20.1.53 Perjury in the first degree; class D felony. 11 Del.C. §1223
- 20.1.54 Making a false written statement; class A misdemeanor. 11 Del.C. §1233
- 20.1.55 Tampering with physical evidence; class G felony. 11 Del.C. §1269
- 20.1.56 Hate crimes; class G felony, class F felony, class E felony, class D felony, class C felony, class B felony, class A felony. 11 Del.C. §1304
- 20.1.57 Possession of a deadly weapon during commission of a felony; class B felony. 11 Del.C. §1447
- 20.1.58 Possession of a firearm during commission of a felony; class B felony. 11 Del.C. §1447A
- 20.1.59 Removing a firearm from the possession of a law enforcement officer; class C felony. 11 Del.C. §1458
- 20.1.60 Organized crime and racketeering, class B felony. 11 Del.C. §1504
- 20.1.61 Abuse of patient or resident in nursing home; class D felony; class G felony, class A felony. 16 Del.C. §1136(a)
- 20.1.62 Prohibited acts A; class B felony. 16 Del.C. §4751
- 20.1.63 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, lysergic acid diethylamide (LSD), designer drugs, or 3, 4-methylenedioxymethamphetamine (MDMA); class B felony. 16 Del.C. §4753A
- 20.1.64 Knowing or reckless abuse of an infirm adult; class D felony; class E felony; class G felony; class A felony. 31 Del.C. §3913
- 20.2 Crimes substantially related to the practice of home inspection shall be deemed to include any crimes under any federal law, state law or valid town, city, or county ordinance, that are substantially similar to the crimes identified in this rule.