ADMINISTRATIVE AGENCY RULE REPORT
75 O.S. Supp. 2000, § 303.1
SUBMITTED TO THE GOVERNOR AND TO THE LEGISLATURE

1. **Date the Notice of Intended Rulemaking was published in the Oklahoma Register:**
   October 1, 2013, Vol. 31, No. 2 Ok Reg 5, Docket No. 13-1187

2. **Name and address of the Agency:**
   Oklahoma State Department of Health
   1000 N.E. Tenth Street
   Oklahoma City, Oklahoma 73117-1299

3. **Title and Number of the Rule:**
   Title 310. Oklahoma State Department of Health
   Chapter 276. Home Inspection Industry

4. **Citation to the Statutory Authority for the Rule:**
   Title 63 O.S. Section 1-104; and Title 59 O.S. § 1000.4

5. **Brief Summary of the Content of the Adopted Rule:**
   This proposal revokes the rules of the Board of Health concerning the home inspection industry. Effective November 1, 2008, the authority to "adopt, amend, repeal, and promulgate rules as may be necessary to regulate . . . home inspectors" was transferred from the Oklahoma State Department of Health to the Construction Industries Board [see 59 O.S., § 1000.4]. The Construction Industries Board promulgated emergency rules, effective November 11, 2008, and later superseded those emergency rules with permanent rules, effective July 11, 2009 [see Construction Industries Board rules OAC 158:70 and 158:10-3-5].

6. **Statement explaining the Need for the Adopted Rule:**
   To comply with a change in authority implemented by statute.

7. **Date and Location of the Meeting at which such Rules Were Adopted:**

   Adopted January 14, 2014, in the offices of the Oklahoma State Department of Health.

8. **Summary of the Comments and Explanation of Changes or Lack of any Change Made in the Adopted Rules as a Result of Testimony Received at Public Hearings:**

   No comments were received during the comment period or during the public hearing.

9. **List of Persons or Organizations Who Appeared or Registered For or Against the Adopted Rule at Any Public Hearing Held by the Agency or Those Who Have Commented in Writing Before or After the Hearing:**

   None.

10. Rule Impact Statement: Hereto annexed as Exhibit A.

11. Incorporation by Reference Statement: "n/a"

12. Members of the Governing Board of the Agency Adopting the Rules and the Recorded Vote of Each Member:

Murali Krishna, President, M.D. – aye
Ronald Woodson, Vice-President, M.D. – aye
Martha Burger, M.B.A, Secretary-Treasurer – absent
Jenny Alexopulos, D.O. – aye
Charles W. Grim, D.D.S., M.H.S.A. – aye
Terry Gerard, D.O. – aye
Robert S. Stewart, M.D. – aye
Tim Starkey, M.B.A. – aye
Cris Hart-Wolfe – aye

13. Additional information: Information regarding this rule may be obtained by contacting James Joslin, Service Director, Health Resources Development Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, phone 405-271-6868, or by e-mail to james@health.ok.gov.

RULE IMPACT STATEMENT

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 276. HOME INSPECTION INDUSTRY

Before the Oklahoma State Board of Health December 10, 2013

1. **DESCRIPTION:**
   This proposal revokes the rules of the Board of Health concerning the home inspection industry. Effective November 1, 2008, the authority to "adopt, amend, repeal, and promulgate rules as may be necessary to regulate . . . home inspectors" was transferred from the Oklahoma State Department of Health to the Construction Industries Board [see 59 O.S., § 1000.4]. The Construction Industries Board promulgated emergency rules, effective November 11, 2008, and later superseded those emergency rules with permanent rules, effective July 11, 2009 [see Construction Industries Board rules OAC 158:70 and 158:10-3-5].

2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**
   No persons are affected by this revocation. The authority to "adopt, amend, repeal, and promulgate rules as may be necessary to regulate . . . home inspectors" was transferred from the Oklahoma State Department of Health to the Construction Industries Board in 2008. All licensure and oversight of Home Inspectors continues without change under the oversight of the Construction Industries Board.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:**
   This revocation eliminates confusion to the industry and public in determining the correct regulatory authority applicable to the industry.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:**
   There will be no economic impact to Home Inspectors or the industry as a whole.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:**
   There will be no cost to the Department of Health to implement and these rule changes other than the cost of promulgating this rule revocation.

6. **IMPACT ON POLITICAL SUBDIVISIONS:**
   There will be no impact on Political subdivisions.

7. **ADVERSE EFFECT ON SMALL BUSINESS:**
   There will be no adverse impact or effect on small business with the revocation of this Chapter.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:**
   No less costly or nonregulatory methods have been identified.

9. EFFECT ON PUBLIC HEALTH AND SAFETY:
Implementation of the revocation of this Chapter eliminates potential confusion regarding the applicable requirements for licensure of Home Inspectors.

10. DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:
If these rules are not revoked, there could be a detrimental effect on the regulated community by causing potential confusion regarding the agency with authority for licensure, which is now the Construction Industries Board.

11. This rule impact statement was prepared on September 24, 2013.

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 276. HOME INSPECTION INDUSTRY [REVOKED]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:276-1-1. Purpose [REVOKED]

~~The rules in this Chapter implement the Home Inspection Licensing Act, Title 59 O.S. 2001, § 858-621 et seq.~~

310:276-1-2. Definitions [REVOKED]

~~The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~**"Act"** means the Home Inspection Licensing Act, found at 59 O.S. § 858-621 et seq.~~

~~**"Alarm systems"** means warning devices, installed or free-standing, including but not limited to: carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.~~

~~**"Applicant"** means any person applying for an examination for a license or registration under the Act.~~

~~**"Architectural service"** means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.~~

~~**"Board"** means the State Board of Health.~~

~~**"Certificates of course completion"** means a document acceptable to the Committee which signifies satisfactory completion of course work and reflects the hours of credit earned.~~

~~**"Cheating"** means any unapproved deviation from any official instruction given before, during or after a home inspector license examination for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.~~

~~**"Classroom hour"** is equal to fifty (50) minutes out of each sixty (60) minute segment.~~

~~**"Client"** means a person with a direct material interest in the outcome of a home inspection who hires and compensates a home inspector for the performance of a home inspection.~~

~~**"Commissioner"** means the State Commissioner of Health.~~

~~**"Committee"** means the Committee of Home Inspector Examiners~~

~~established by the Home Inspector Licensing Act, 59 O.S. 858-624.~~

~~**"Component"** means a part of a system.~~

~~**"Continuing education"** means education that is approved by the Committee to satisfy education requirements in order to renew licensure as a home inspector.~~

~~**"Continuing education verification form"** means a form acceptable to the Committee and completed by the course provider, that documents compliance with the continuing education requirements.~~

~~**"Decorative"** means ornamental; not required for the operation of the essential systems and components of a home.~~

~~**"Defect"** means a condition, malfunction or problem, which is not decorative, that would have a materially adverse effect on the value of a system or component, or would impair the health or safety of the occupants or client.~~

~~**"Department"** means the Oklahoma State Department of Health.~~

~~**"Describe"** means to report a system or component by its type or other observed, significant characteristics to distinguish it from other systems or components.~~

~~**"Dismantle"** means 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 and routine homeowner maintenance.~~

~~**"Engineering service"** means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works or processes.~~

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

~~**"Home"** or **"residence"** means any dwelling, from one to four (1-4) units in design, intended principally for residential purposes by one (1) or more individuals.~~

~~**"Home inspection" or "inspection"** *means a visual examination of any or all of the readily accessible physical real property and improvements to real property consisting of four or fewer dwelling units, including structural, lot drainage, roof, electrical, plumbing, heating and air conditioning and such other areas of concern as are specified in writing to determine if performance is as intended.* [59:858-622(5)]~~

~~**"Home inspection license unit"** means the staff and administrative support unit to the Committee of Home Inspector~~

~~Examiners.~~

~~**"Home inspection report"** means a written opinion of the functional and physical condition of property written by the licensed home inspector pursuant to home inspection.~~

~~**"Home inspector"** means an individual licensed pursuant to the Home Inspection Licensing Act who, for compensation, conducts home inspections.~~

~~**"Inspect"** means to examine readily accessible systems and components of a building in accordance with these Standards of Practice, using normal operating controls and opening readily openable access panels.~~

~~**"Installed"** means attached such that removal requires tools.~~

~~**"Instructor"** means a person who presents course materials approved for qualifying education and continuing education credit hours that has the experience, training, and/or education in the course subject matter and has been approved by the Committee.~~

~~**"Normal working order"** means the system or component functions without defect for the primary purpose and manner for which it was installed.~~

~~**"Normal operating controls"** means devices such as thermostats, switches or valves intended to be operated by the homeowner.~~

~~**"Professional craftsman"** means a person who can demonstrate by certification, education or experience, specialized skill in the construction or repair of homes, duplexes, apartment buildings or similar structures. Persons demonstrating specialized skill by experience alone must be able to show that they have been actively engaged in their profession, trade or craft for at least one (1) year prior to the performance of a single item inspection.~~

~~**"Provider"** means a person, corporation, professional association or its local affiliates, or any other entity, which is approved by the Committee and provides approved qualifying and continuing education to home inspectors.~~

~~**"Readily accessible"** means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.~~

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

~~**"Reciprocity agreement"** means an agreement whereby a home inspector who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.~~

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

~~**"Report"** means to communicate in writing.~~

~~**"Representative number"** means one component per room for multiple similar interior components such as windows and electric outlets; one component on each side of the building for multiple similar exterior components.~~

~~**"Roof drainage systems"** means components used to carry water off a roof and away from a building.~~

~~**"Shut down"** means a state in which a system or component cannot be operated by normal operating controls.~~

~~**"Solid fuel burning appliances"** means a hearth and fire chamber or similar prepared place in which a fire may be built and which 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"** means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).~~

~~**"System"** means a combination of interacting or interdependent components, assembled to carry out one or more functions.~~

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

~~**"Under-floor crawl space"** means the area within the confines of the foundation and between the ground and the underside of the floor.~~

~~**"Unsafe"** means a condition in a readily accessible, installed system or component which is judged to be a significant risk of personal injury during normal operation. The risk may be due to damage, deterioration, improper installation or a change in accepted residential construction standards.~~

~~**"Wiring methods"** means identification of electrical conductors or wires by their general type, such as "non-metallic sheathed cable" ("Romex"), "armored cable" ("bx") or "knob and tube", etc.~~

310:276-1-3. Standards of workmanship and practice [REVOKED]

~~(a) **General requirements and limitations.**~~

~~(1) The inspector shall be governed by the following general requirements:~~

~~(A) Only readily accessible systems and components of homes listed in these Standards shall be required to be inspected.~~

~~(B) Only installed systems and components of homes listed in these Standards shall be required to be inspected.~~

~~(C) The inspector shall report on those systems and components inspected which, in the professional opinion of the inspector, are not in normal working order.~~

~~(D) The inspector shall report a reason why, if not self-evident, the system or component is not in normal working order.~~

~~(E) The inspector shall report the inspector's recommendations to correct or monitor the reported deficiency.~~

~~(F) The inspector shall report on any systems and components designated for inspection in these Standards which were present at the time of the Home Inspection but were not inspected and a reason they were not inspected.~~

~~(G) These Standards are not intended to limit inspectors from including other inspection services, systems or components in addition to those required by these Standards.~~

~~(H) These Standards are not intended to limit inspectors from specifying repairs and providing an opinion of the costs to cure, provided the inspector is appropriately qualified and willing to do so.~~

~~(I) These Standards are not intended to limit inspectors from excluding systems and components from the inspection if requested by the client.~~

~~(J) Beginning July 1, 2006, all home inspectors shall maintain a log or record of all home inspections performed for a minimum period of five years from the date of inspection. The log shall include the name of the client, the address of the property, and the date of the inspection. The home inspector shall maintain a copy of all home inspections completed within the past 36 months. The log may be a hard file or an electronic file and shall be maintained at the home inspector's principal business address. The files shall be available for review upon the request of an authorized representative of the Oklahoma State Department of Health.~~

~~(2) Inspections performed in accordance with these Standards are not technically exhaustive, will not identify concealed conditions or latent defects, and are applicable to buildings with four or fewer dwelling units and their garages or carports.~~

~~(3) The inspector is not required to perform any action or make any determination unless specifically stated in these Standards, except as may be required by lawful authority.~~

~~(4) Inspectors are not required to determine the condition of systems or components which are not readily accessible, the remaining life of any system or component, the strength, adequacy, effectiveness, or efficiency of any system or component, the causes of any condition or deficiency, the methods, materials, or costs of~~

~~corrections, future conditions including, but not limited to, failure of systems and components, the suitability of the property for any specialized use, compliance with any regulatory requirements other than this Chapter (codes, regulations, laws, ordinances, etc.), the market value of the property or its marketability, the advisability of the purchase of the property, the presence of potentially hazardous plants or animals including, but not limited to wood destroying organisms or diseases harmful to humans, the presence of any environmental hazards including, but not limited to toxins, carcinogens, noise, and contaminants in soil, water, and air, the effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances, the operating costs of systems or components, or the acoustical properties of any system or component.~~

~~(5) Inspectors are not required to offer or perform any act or service contrary to law, perform engineering services, perform work in any trade or any professional service other than home inspection, or warranties or guarantees of any kind.~~

~~(6) Inspectors are not required to operate any system or component which is shut down or otherwise inoperable, any system or component which does not respond to normal operating controls, or shut-off valves.~~

~~(7) Inspectors are not required to enter any area which 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, or the under-floor crawl spaces or attics which are not readily accessible.~~

~~(8) Inspectors are not required to inspect underground items including, but not limited to underground storage tanks or other underground indications of their presence, whether abandoned or active, systems or components which are not installed, decorative items, systems or components located in areas that are not entered in accordance with these Standards, detached structures other than garages and carports, or common elements or common areas in multi-unit housing, such as condominium properties or cooperative housing.~~

~~(9) Inspectors are not required to perform any procedure or operation which 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, move suspended ceiling tiles, personal property, furniture, equipment, plants, soil, snow, ice, or debris, or dismantle any system or component, except as explicitly required by~~

~~these Standards.~~

~~(b) **Structural system inspection requirements.**~~

~~(1) The inspector shall inspect the structural components including foundation and framing, by probing a representative number of structural components 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.~~

~~(2) The inspector shall describe the foundation and report the methods used to inspect the under-floor crawl space, the floor structure, the wall structure, the ceiling structure, and the roof structure and report the methods used to inspect the attic.~~

~~(3) The inspector is not required to provide any engineering service or architectural service, or offer an opinion as to the adequacy of any structural system or component.~~

~~(c) **Exterior inspection requirements.**~~

~~(1) The inspector shall inspect the exterior wall covering, flashing and trim, all exterior doors, attached decks, balconies, stoops, steps, porches, and their associated railings, the eaves, soffits, and fascias where readily accessible from the ground level, the vegetation, grading, surface drainage, and retaining walls on the property when any of these are likely to adversely affect the building, and the walkways, patios, and driveways leading to dwelling entrances.~~

~~(2) The inspector shall describe the exterior wall covering.~~

~~(3) The inspector is not required to inspect screening, shutters, awnings, and similar seasonal accessories, fences, geological, geotechnical or hydrological conditions, recreational facilities, outbuildings, seawalls, break-walls, and docks, and erosion control and earth stabilization measures.~~

~~(d) **Roof system inspection requirements.**~~

~~(1) The inspector shall inspect the roof covering, the roof drainage systems, the flashings, the skylights, chimneys, and roof penetrations.~~

~~(2) The inspector shall describe the roof covering and report the methods used to inspect the roof.~~

~~(3) The inspector is not required to inspect antennae, interiors of flues or chimneys which are not readily accessible, or other installed accessories.~~

~~(e) **Plumbing system inspection requirements.**~~

~~(1) The inspector shall inspect the interior water supply~~

~~and distribution systems including all fixtures and faucets, the drain, waste and vent systems including all fixtures, the water heating equipment, the vent systems, flues, and chimneys, the fuel storage and fuel distribution systems, and the drainage sumps, sump pumps, and related piping.~~

~~(2) The Inspector shall describe the water supply, drain, waste, and vent piping materials, the water heating equipment including the energy source, and the location of main water and main fuel shut-off valves.~~

~~(3) The inspector is not required to inspect, the clothes washing machine connections, the interiors of flues or chimneys which are not readily accessible, wells, well pumps, or water storage related equipment, water conditioning systems, solar water heating systems, fire and lawn sprinkler systems, or private waste disposal systems.~~

~~(4) The inspector is not required to determine whether water supply and waste disposal systems are public or private, the quantity or quality of the water supply, or operate safety valves or shut-off valves.~~

~~(f) **Electrical system inspection requirements.**~~

~~(1) The Inspector shall inspect the service drop, the service entrance conductors, cables, and raceways, the service equipment and main disconnects, the service grounding, the interior components of service panels and sub panels, the conductors, the overcurrent protection devices, all readily accessible installed lighting fixtures, switches, ceiling fans, and receptacles, the ground fault circuit interrupters, and accessible wiring and splicing including the basement and attic.~~

~~(2) The Inspector shall describe the amperage and voltage rating of the service, the location of main disconnect(s) and sub panels, and the wiring methods.~~

~~(3) The Inspector shall report the presence of solid conductor aluminum branch circuit wiring, and the absence of smoke detectors.~~

~~(4) The inspector is not required to inspect the remote control devices unless the device is the only control device, the alarm systems and components, the low voltage wiring, systems and components, the ancillary wiring, systems and components not a part of the primary electrical power distribution system, or measure amperage, voltage, or impedance.~~

~~(g) **Heating system inspection requirements.**~~

~~(1) The inspector shall inspect the installed heating equipment, the vent systems, flues, and chimneys.~~

~~(2) The inspector shall describe the energy source, and the~~

~~heating method by its distinguishing characteristics.~~

~~(3) The inspector is not required to inspect the interiors of flues or chimneys, which are not readily accessible, the humidifier or dehumidifier, the electronic air filter, the solar space heating system, or determine heat supply adequacy or distribution balance.~~

~~(h) **Air conditioning systems inspection requirements.**~~

~~(1) The inspector shall inspect the installed central and through-wall cooling equipment.~~

~~(2) The inspector shall describe the energy source, and the cooling method by its distinguishing characteristics.~~

~~(3) The inspector is not required to inspect electronic air filters, or determine cooling supply adequacy or distribution balance.~~

~~(i) **Interior inspection requirements.**~~

~~(1) The inspector shall inspect the readily accessible walls, ceilings, and floors, the steps, stairways, and railings, the countertops and a representative number of installed cabinets, and the readily accessible doors and windows, garage doors and garage door openers, and the following installed household appliances: garbage disposal, stove, cook top, dishwasher, vent hood, and free-standing stove.~~

~~(2) The inspector is not required to inspect the paint, wallpaper, and other finish treatments, the carpeting, the window treatments, the central vacuum systems, the household appliances not listed in OAC 310:276-1-3(i)(1), or recreational facilities.~~

~~(j) **Insulation and ventilation inspection requirements.**~~

~~(1) The inspector shall inspect the insulation and vapor retarders in unfinished spaces, the ventilation of attics and foundation areas, and the mechanical ventilation systems.~~

~~(2) The inspector shall describe the insulation and vapor retarders in unfinished spaces, and the absence of insulation in unfinished spaces at conditioned surfaces.~~

~~(3) The inspector is not required to disturb insulation or vapor retarders, or determine indoor air quality.~~

~~(k) **Fireplaces and solid fuel burning appliances inspection requirements.**~~

~~(1) The inspector shall inspect the vent systems, flues, and chimneys and the readily accessible portion of the firebox.~~

~~(2) The inspector shall describe the fireplaces and solid fuel burning appliances, and the chimneys.~~

~~(3) The inspector is not required to inspect the interiors of flues or chimneys, the firescreens and doors, the seals~~

~~and gaskets, the automatic fuel feed devices, the mantels and fireplace surrounds, the combustion make-up air devices, or the heat distribution assists whether gravity controlled or fan assisted.~~

~~(4) The inspector is not required to ignite or extinguish fires, determine draft characteristics, or move fireplace inserts or stoves or firebox contents.~~

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE [REVOKED]

310:276-3-1. Procedures of the Committee [REVOKED]

~~(a) Committee meetings are generally, and unless otherwise stated by the Committee, held in the State Department of Health Building at 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299. The committee shall meet as often as is necessary, but at least once each quarter. Meetings of the committee will comply with the Oklahoma Open Meetings Act.~~

~~(b) The Committee shall provide oversight to the overall licensure examination process; shall set minimum standards for certifying qualified applicants; may write examinations; may recommend regulations to the Commissioner and to the Board of Health; and, shall act as advisor to the Commissioner on home inspection matters.~~

~~(c) The only formal procedure available to the public is to apply for a home inspection license. Application for a home inspection license shall be accomplished by filling out an application for examination on a form provided by the Committee.~~

~~(d) The public may communicate with the Committee in person or by mail through the Department. The Department will make available all forms and instructions used by the Committee, rules, and all other written statements of policy or interpretations, all final orders, decisions and opinions. Copies of same may be provided in accordance with OAC 310:2-3-5.~~

SUBCHAPTER 5. LICENSE REQUIREMENTS, LICENSE FEES, LICENSE PERIOD, RE-EXAMINATION, DISPLAY AND INSURANCE [REVOKED]

310:276-5-1. Home inspection license requirements [REVOKED]

~~No person, on behalf of himself or a firm or company engaged in home inspection work shall engage or offer to engage in, by advertisement or otherwise, any home inspection work who does not possess a valid and appropriate license from the Department, unless otherwise exempt by law.~~

310:276-5-2. License fees, license period, re-examination, display, and insurance requirements [REVOKED]

~~(a) **Initial license fees.** The following fees apply to home inspection industry licensure:~~

~~(1) Approval fees for schools, instructors and home inspection organizations - $100.00~~

~~(2) Approval fees for educational course content - $50.00~~

~~(3) Application for license - $30.00~~

~~(4) Licensure for reciprocity - $50.00~~

~~(5) Examination fee - $200.00~~

~~(6) License fee - $250.00~~

~~(7) License Renewal - $150.00~~

~~(8) License reactivation - $50.00~~

~~(b) **License period.**~~

~~(1) A license shall expire twelve months after issuance, and may be renewed without penalty during the month following expiration.~~

~~(2) A license which has been expired for more than one (1) year shall not be renewed. An individual may obtain a valid license by successful completion of the appropriate examination and other licensure requirements.~~

~~(c) **Re-examination.** Any applicant who fails an examination must wait thirty (30) days before retaking the home inspection examination.~~

~~(d) **License display.** The state issued license number shall be placed on all letterhead stationery, business cards, bids, estimates and printed advertisements, and shall be included in electronic media advertisements. Decals and yard signs shall display the state issued license number.~~

~~(e) **Personal license display.** All persons subject to these rules shall possess the state issued card any time the person is working. The card shall be shown when requested.~~

~~(f) **Insurance requirements.** Each licensee must maintain insurance coverage and furnish and maintain in effect a certificate of insurance therefor which indicates that the licensee has a comprehensive general liability policy. Limits of liability are to be no less than $50,000.00 combined single limit for bodily injury and property damage. The certificate of insurance shall provide for thirty (30) days notice to the Home Inspection License Unit, prior to cancellation or material alteration of the required insurance.~~

SUBCHAPTER 7. [RESERVED] [REVOKED]

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS, COURSE APPROVAL REQUIREMENTS, INSTRUCTOR REQUIREMENTS, CONTINUING EDUCATION, DENIED APPLICATION APPEAL, SUBMISSION OF RECORDS, AND SUBSTANTIAL COMPLIANCE AND RECIPROCITY [REVOKED]

310:276-9-1. Qualifications and examination applications [REVOKED]

~~Applicants for home inspection license examinations must be eighteen (18) years of age or older and be of good moral character, and every application must be accompanied by evidence of successful completion of fifty (50) clock hours of home inspection training that is approved pursuant to 310:276-9-3, or its equivalent.~~

310:276-9-2. Examinations [REVOKED]

~~(a) Home inspection license examinations may include, without limitation, written questions, consisting of open book, closed book and problems, based on current national standards, and other related questions.~~

~~(b) The maximum grade value of each part of the examination shall be 100 points. A passing score is 70% or more on each part.~~

~~(c) Each applicant shall pay the examination fee before undertaking any examination. Reexamination fees shall be the same as the initial examination fees.~~

~~(d) Unless authorized by the Committee, only examinees shall be permitted in the examination area.~~

~~(e) Applicants shall present positive identification before undertaking an examination.~~

~~(f) Any applicant who fails an examination must wait thirty (30) days before retaking the home inspection examination.~~

~~(g) An examinee cheating or fraudulently representing an applicant shall immediately be expelled from the examination. A written record of the proceedings shall be made and become a part of the applicant's file. The Committee shall determine when the applicant may retake the exam, which time shall be no fewer than three hundred sixty-five (365) days.~~

310:276-9-3. Course approval requirements [REVOKED]

~~(a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application and submit documents, statements and forms as may reasonably be required by the Committee in accordance with~~

~~Section 310:276-5-2.~~

~~(b) Applications shall include the following information:~~

~~(1) Name and address of the provider;~~

~~(2) Contact person and his or her address, telephone number and fax number;~~

~~(3) The location of the courses or programs;~~

~~(4) The number and type of education credit hours requested for each course;~~

~~(5) Topic outlines, which list the summarized topics, covered in each course and upon request a copy of any course materials;~~

~~(6) If a prior approved course has substantially changed, a summarization of these records;~~

~~(7) The names and qualifications of each instructor who is qualified in accordance with Section 310:276-9-4 and,~~

~~(8) Information as to how the proposed course meets the standard provided in Section 310:276-9-5(b).~~

~~(c) The Department may automatically accept without further review, courses pre-approved by the Committee.~~

~~(d) The Committee may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.~~

~~(e) No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Committee. Such person or entity may indicate that the Committee has approved a course of study if that course of study has been pre-approved by the committee before it is advertised or held.~~

~~(f) The Committee may decline to renew, or revoke the approval of any qualifying course or any instructor or entity previously approved to conduct a pre-licensing course upon a showing or demonstration that the course, instructor or entity has substantially failed to adequately prepare its attendees or participants to pass the national Home Inspection Examination or similar qualifying examination.~~

310:276-9-4. Instructor requirements [REVOKED]

~~(a) **Instructor Qualifications.** An instructor should have one of the following qualifications:~~

~~(1) Three (3) years of recent experience in the subject matter being taught; or~~

~~(2) A degree related to the subject area being taught; or~~

~~(3) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college credit and/or vocational technical school technical credit hours in the subject being taught.~~

~~(4) Other educational, teaching, or professional~~

~~qualifications determined by the Committee which constitute an equivalent to one or more of the qualifications in the previously stated sub-paragraphs (1), (2), and (3) of this paragraph.~~

~~(b) **Instructor Renewal.** In order to maintain approved status, an instructor must furnish evidence that the instructor has taught a Committee approved course, or any other CEU course the Committee determines to be equivalent, within a required thirty-six (36) month period.~~

~~(c) **Re-application.** Any instructor not meeting the requirements of this subsection will be required to re-apply as an original instructor applicant.~~

310:276-9-5. Continuing education [REVOKED]

~~(a) **Continuing education hours.** No home inspection license shall be renewed unless the licensee has completed at least five (5) clock hours of continuing education prior to the date of renewal.~~

~~(b) **Special Approval requirements for continuing education.** All continuing education providers shall abide by the following requirements:~~

~~(1) Course content should be designed to update knowledge and improve inspection skills directly related to the components and systems described in Subchapter 1 of this Chapter.~~

~~(2) All courses shall be at least two (2) hours in length.~~

~~(3) Unless provided after regular working hours, the training location shall be outside the regular work place.~~

~~(4) Each attendee shall complete a course evaluation on a form provided by the Department. The CEU provider shall return the completed evaluation forms to the home inspection license unit with the sign-in sheets.~~

310:276-9-6 Denied application appeal [REVOKED]

~~(a) **Denied Instructor/Provider Application.** If the Committee fails to approve or rejects any proposed instructor or entity seeking to conduct an approved course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision. The applicant may appeal the decision by filing a written request for a hearing before the Committee within thirty (30) days after notice of denial. The Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter. No part of the application fee is refundable.~~

~~(b) **Denied Course Application.** If the Committee fails to~~

~~approve or rejects any proposed continuing education offering or fifty (50) hour home inspection training course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision to the party applying for approval. Upon the written request from such party, filed within thirty (30) days after such notice of denial, the Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter for an appeal of the determination of the cause for rejection. No portion of the fee is refundable.~~

310:276-9-7 Submission of records [REVOKED]

~~(a) An entity conducting an offering shall, within five (5) working days of the completion thereof, submit to the Committee on a form approved by the Committee, a list of the names and license numbers or social security numbers of the licensees who successfully completed the said offering. Each licensee successfully completing an offering shall be furnished a certificate certifying completion.~~

~~(b) Providers shall maintain course records for at least five (5) years. The Committee may order an examination of the records for good cause shown.~~

310:276-9-8 Substantial compliance and reciprocity [REVOKED]

~~(a) In addition to accepting courses approved as described in this Subchapter, qualifying and continuing education credits may be granted to an individual in such case that said individual supplies acceptable documentation showing that the offering meets applicable Committee requirements for the category of credit applied for, including proof that said individual attended and successfully completed the offering.~~

~~(b) If a non-resident licensee satisfies a continuing education requirement in another state for license renewal, the Committee will exempt the non-resident licensee from the continuing education requirement in the state. In order to qualify for the exemption, the non-resident licensee must file with the license renewal of this state a certificate from the state in which the continuing education was satisfied stating that the non-resident licensee had completed the continuing education requirement for license renewal in that state. The certificate from the state verifying the non-resident's compliance with continuing education in the other state must be received by the Committee within sixty (60) days of issuance by the other state and must be received in conjunction with license renewal.~~

SUBCHAPTER 11. LICENSE REVOCATION AND SUSPENSION AND ADDITIONAL PROHIBITED ACTS [REVOKED]

310:276-11-1. License revocation and suspension [REVOKED]

~~(a) The employment or use of unlicensed individuals may be grounds to suspend, revoke, or deny renewal of the license of the person so employing or using unlicensed individuals.~~

~~(b) The repeated violation of any rule or provision of the Act, or the violation of multiple sections of this Chapter or provisions of the Act, may be grounds to suspend or revoke a licensee's license.~~

~~(c) Any person convicted in a court of competent jurisdiction of forgery, fraud, conspiracy to defraud, or any similar offense, or pleading guilty or nolo contendre to any such offense may be subject to license suspension or revocation.~~

~~(d) Any person failing to comply with a fine assessment or other administrative order of the Department within ninety (90) days of issuance of such assessment or order shall be subject to license suspension.~~

~~(e) Any person whose license is suspended pursuant to these Rules may not perform a home inspection and, prior to reinstatement, must make application therefor, which must be accompanied by evidence of successful completion of the continuing education requirements set forth in OAC 310:276-9-3.~~

~~(f) Any person whose license is revoked pursuant to these rules may not perform a home inspection before attaining licensure pursuant to OAC 310:276-9-1.~~

~~(g) Failure to cooperate or provide information regarding an investigation may be grounds to suspend or revoke a licensee's home inspection license.~~

~~(h) Failure to maintain and furnish a certificate of insurance coverage as provided in OAC 310:276-5-2(f) may be grounds to suspend or revoke a licensee's home inspection license.~~

310:276-11-2. Additional prohibited acts [REVOKED]

~~(a) No person, entity, or firm may perform home inspection work without first obtaining a license or registration pursuant to these Rules.~~

~~(b) No person shall offer to engage in work as a home inspector during the period his or her license is suspended or revoked.~~

~~(c) No employing home inspection firm shall employ or use an unlicensed home inspector to perform home inspection work.~~

~~(d) No person, entity, or firm may transfer a license or registration.~~

~~(e) No home inspector, licensed pursuant to this Chapter, shall enter into an agreement for the use of his or her license with any firm or person who is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Department.~~

~~(f) No person shall make a materially false or fraudulent statement in an application for license or for approval of continuing education, engage in cheating, or otherwise commit an act in violation of 310:276-9-2(g).~~

~~(g) No person shall falsify or fail to disclose in a home inspection report a material defect.~~

~~(h) No person shall accept inspection assignments when the employment itself is contingent upon reporting a predetermined estimate, analysis or opinion.~~

~~(i) No person shall accept inspection assignments when the fee to be paid is contingent upon the opinion, the conclusion, analysis, or report reached, or upon the consequences resulting from such assignments.~~

~~(j) No person shall perform a home inspection upon a home, or any part thereof, where the home inspector has solicited or performed any work or repair service therein upon a system or component described in Subchapter 1 of this Chapter, within the previous thirty days. If the person performing the home inspection has performed such work within the previous one-hundred eighty days, such prior work must be disclosed to the client.~~

~~(k) No person shall solicit or perform work or repair services upon, home, or any part thereof, that the home inspector has inspected for one (1) year after the date of the inspection.~~

~~(l) No person shall knowingly accept compensation from more than one client for a single home inspection, unless the home inspector has informed all clients who are paying a fee for that home inspection that such compensation is sought or anticipated.~~

~~(m) Unless upon demand in writing by the Department, a law enforcement agency, or by order of a court of competent jurisdiction, no person shall disclose the results of a home inspection to any person other than the client without the written consent of the client.~~

~~(n) No person shall fail to disclose to the client any conflict of interest of which the inspector knows or should have known that may adversely affect the client. Based upon the potentially adverse affect to the home inspector's ability to produce an unbiased report, some circumstances or conditions are presumed to adversely affect the client and must be disclosed to the client in writing prior to the inspection. These include, but are not limited to, the following:~~

~~(1) Situations where the payment of remuneration or other consideration is made by the home inspector to a third party and representing a reward or compensation to the third party for the home inspector receiving inspection employment.~~

~~(2) Situations where the payment of remuneration or other consideration is received by the home inspector from a third party and representing a reward or compensation for the home inspector recommending services or products to the client or other persons having an interest in the inspected real property.~~

~~(3) In those cases where the client is the buyer of real property, situations where the home inspector has had some prior connection, relationship or association with the seller, his or her assigns or family members related to the seller within the second degree.~~

~~(4) Situations where prior reports or inspections have been made or conducted upon any system or component of the real property that the home inspector has agreed to inspect.~~

~~(o) No person shall fail to submit a written home inspection report within a reasonable time as determined by the Board to the client after compensation has been paid to the home inspector.~~