

NOTICE OF PUBLIC RULE HEARING AND BOARD MEETING

The Regulation and Licensing Department (Department) in consultation with the New Mexico Home Inspector Board (Board) will hold a rule hearing on April 2, 2024 at 1:00 pm pursuant to 61-24D-3(F) NMSA 1978, immediately followed by a Regular meeting of the Board to discuss and consider adoption of the proposed rules listed below. The rule hearing and subsequent Board meeting will be held at the Regulation and Licensing Department, 5500 San Antonio Drive NE, Albuquerque, NM 87109.

The hearing and subsequent board meeting may also be accessed via Cisco Webex Meetings by using the following link: <https://nmrld.webex.com/nmrld/j.php?MTID=m09e13c7f4ba3e25191767eae970de58a>

Meeting Number: 2662 333 5653

Meeting Password: Z9imM23yWX3

Join by Phone: 1 (844)621-3956

The purpose of the rule hearing is to receive public comments related to proposed amendments, repeal, and/or replacement of the following rules that address changes to

16.66.1 NMAC – General Provisions

16.66.2 NMAC - Fees

16.66.3 NMAC – Applications and Licenses

16.66.4 NMAC – License Renewals and Reactivations

16.66.5 NMAC – Continuing Education

16.66.8 NMAC – Disciplinary Proceedings

On February 13, 2024 copies of the proposed rules may be obtained by going to the Boards and Commissions Division, Home Inspector Board website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/home-inspectors/statutes-rules-and-rule-hearings/> or by contacting the Board Administrator for the Board at (505) 222-9826.

The Department and the Board will begin accepting public comments on the proposed rules beginning February 13, 2024. Please submit written comments on the proposed changes to Roxanne Romo, Board Administrator, via electronic mail at: home.inspectors@rld.nm.gov or by regular mail at 5500 San Antonio Drive NE, Albuquerque, NM 87109 no later than April 2, 2024 by 9:00 am.

Written comments received during the public comment period will be posted to the Board's website page linked above. Any person in attendance will be given the opportunity to present their comments at the rule hearing.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing or the board meeting, please contact Roxanne Romo, Board Administrator (505) 222-9826 at least 7 days prior to the rule hearing and board meeting. Public documents, including the proposed rules, meeting agenda and minutes, can be provided in various accessible formats.

Statutory Authority: 61-24D-3(F) NMSA 1978

Purpose of Proposed Rules: The above proposed rules by the Board at 16.66.1 through 16.66.5 NMAC govern the application requirements and process for licensure and licensure renewal, and establish the requirements for reactivation of licensure for individual applicants and licensees. The proposed rules intend to create consistency between the Board's rules and recent legislative amendments to the Home Inspector Licensing Act, improve Board efficiency, and improve the functioning of the profession for the benefit of the public.

The above proposed rules by the Board at 16.66.8 NMAC govern disciplinary proceedings against licensees.

Summary of Proposed Changes: The proposed amendments to the rules previously promulgated by the Board at 16.66.1 through 16.66.5 and at 16.66.8 NMAC would (1) amend the requirements for board examination and licensure to comport with recent legislative amendments, (2) define and incorporate “ancillary services” “pre-inspection agreements” and “business relationship,” (3) repeal state of emergency provisions, (4) amend the continuing education provisions to require minimum Board meeting attendance, (5) mandate exclusive three-year license periods, (6) amend the grounds for discipline to include failure to comply with continuing education requirements or the Board’s code of ethics, and (7) require satisfactory evidence of E&O insurance as a condition of renewal.

Proposed Rule Changes are shown below, with information to be removed with a strikethrough and bracketed ~~removed~~ and information to be added is underlined added.

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 1 GENERAL PROVISIONS**

16.66.1.1 ISSUING AGENCY: New Mexico home inspectors’ board.
[16.66.1.1 NMAC – N, 1/15/2021]

16.66.1.2 SCOPE: All licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in home inspectors.
[16.66.1.2 NMAC – N, 1/15/2021]

16.66.1.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Home Inspector Licensing Act, Sections 61-24D-1 through 16 NMSA 1978 (2019).
[16.66.1.3 NMAC – N, 1/15/2021]

16.66.1.4 DURATION: Permanent.
[16.66.1.4 NMAC – N, 1/15/2021]

16.66.1.5 EFFECTIVE DATE: January 15, 2021, unless a later date is cited at the end of a section.
[16.66.1.5 NMAC – N, 1/15/2021]

16.66.1.6 OBJECTIVE: The objective of Part 1 of Chapter 66 is to set forth the provisions which apply to all of Chapter 66 of Title 16 and to define the terms and terminology related to home inspectors used through Chapter 66 of Title 16.
[16.66.1.6 NMAC – N, 1/15/2021]

16.66.1.7 DEFINITIONS: These rules adopt, as if stated herein, all of the definitions contained in Section 61-24D-2 NMSA 1978.

A. Definitions beginning with the letter “A”:

(1) “Access panel” means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person. Its edges and fasteners are not painted in place. Access panels are limited to those panels within normal reach at human height or from a stepladder, and those which are not blocked by stored items, furniture, or building components.

(2) “Adverse condition” means a condition which is producing, or which has the potential to produce, a detrimental effect on a system or component that either impairs the system or component’s normally intended function or operation or which is inconsistent with generally established practice(s) regarding the historically or conventionally applied and acknowledged methods of installation, assembly, and operation or use.

(3) “Alarm” means a warning device that is either permanently installed or freestanding, including but not limited to smoke detectors and alarms, carbon-monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps, and smoke alarms.

(4) “Ancillary services” means a service or inspection provided by a licensee or other provider but beyond the scope of the Standards of Practice for Home Inspection provided in 16.66.7 NMAC including but not limited to Mold Inspection, Lead Paint Assessment, Commercial Building Inspection, Pool and Spa Inspection, Termite Inspection, and other Ancillary Services.

~~[(4)]~~ (5) **“Appliance”** means a permanently installed household device powered by electricity or gas, but not including central heating, central cooling, or plumbing components.

(6) **“Approved examination”** means an examination that has been third-party accredited as complying with the prevailing standards of the *Standards for Educational and Psychological Testing* as published in 2014 by the American Educational Research Association et. Al. and otherwise is approved by the board.

~~[(5)]~~ (7) **“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, design development, preparation of construction contract documents, and administration of the construction contract.

~~[(6)]~~ (8) **“Automatic safety controls”** means devices designed and installed to protect systems and components.

B. Definitions beginning with the letter “B”:

(1) **“Board”** means the New Mexico Home Inspectors Board.

(2) **“Business relationship”** means a former, current or prospective relationship between a person or a person’s licensed agent, a home inspection company and its clients, a home inspection company and the company providing ancillary services, and between a client and a company providing ancillary services. The business relationship is based upon a financial contract between a person and a consumer which is in force including those relationships in which the individual benefits by receiving a salary, royalty, intellectual property rights, consulting fee, honoraria, ownership interest (e.g., stocks, stock options or other ownership interest, excluding diversified mutual funds), or other financial benefit. A former relationship if it occurred within a twelve-month time period of the contract, a current or prospective relationship shall be disclosed in writing to the client and the client must acknowledge in writing receipt and acceptance of the disclosure. The receipt and acceptance of the disclosure may be by electronic signature.

C. Definitions beginning with the letter “C”:

(1) **“Component”** means a constituent element or part of a system.

(2) **“Concealed, latent, or intermittent condition”** means any condition affecting any system or component which occurs after the inspection or is intermittent or otherwise not reasonably detectable by a competent and professional home inspector for any reason during the inspection.

(3) **“Condition”** means the visible and conspicuous state of being of an object regarding its appearance, quality, or working order.

(4) **“Cooling and air conditioning”** means:

(a) designed to be permanently installed for central cooling and or heating (ducted) or modular (non-ducted) systems. Systems may include evaporator coil(s), condenser unit(s), heat pump(s), air handler(s) and furnace(s) or

(b) permanently installed evaporative cooling ducted systems. This definition does not include cooling units or appliances that are designed and intended to be portable, non-permanent and are designed for installation at windows.

(5) **“Cosmetic imperfection”** means an irregularity or imperfection which does not affect a component’s normally intended function or operation, and which could but is not required to be repaired.

(6) **“Crawlspace”** or **“underfloor crawlspace”** means the area within the confines of the foundation and between the ground and the underside of the lowest floor's structural components.

D. Definitions beginning with the letter “D”:

(1) **“Describe”** means to document in writing.

(2) **“Dismantle”** means the act of taking apart or removing any component, device, or piece of equipment that is bolted, screwed, or fastened by other means and which would not otherwise be taken apart or removed by a homeowner in the course of normal household maintenance.

E. Definitions beginning with the letter “E”:

(1) **“Electronic signature”** means an electronic sound, signal, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

~~[(4)]~~ (2) **“Engineering”** means the application of scientific knowledge for the design, control, or use of building structures, equipment, or apparatus.

~~[(2)]~~ (3) **“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.

F. Definitions beginning with the letter “F”:

- (1) **“Foundation”** means the base upon which a structure or wall rests, typically constituted by masonry, concrete, or stone, and typically located at least partially underground.
- (2) **“Fuel burning appliance”** means any natural gas, LP gas, wood, coal, or other similar organic fuel burning device or appliance, including but not limited to fireplaces, whether masonry or factory built; fireplace inserts and stoves, woodstoves (room heaters), central furnaces, and combinations of said devices or appliances.
- (3) **“Function”** means the action for which an item, component, or system is specially fitted or used, or for which an item, component, or system exists.
- (4) **“Functional”** means the ability of an item, component, or system to perform its function.
- (5) **“Functional drainage”** means the act or ability of a drain to empty in a reasonable amount of time without overflowing when another fixture is drained simultaneously.
- (6) **“Functional flow”** means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.
- (7) **“Further evaluation”** means examination and analysis by a qualified professional, tradesman, or service technician beyond that provided by a home inspection. Further evaluation may provide additional clarification, provide needed repairs, or discover additional adverse conditions that need modifications or repairs for the component or system to perform its normally intended function or operation provided by an appropriately licensed or qualified individual.

G. Definitions beginning with the letter “G”: **“Generally established practice”** means a practice of or pertaining to one or more of the following: the historically or conventionally applied and acknowledged methods of installation, assembly, and operation or use of residential systems and their related materials and components. Generally established practices may vary based on whether they were applicable at the time of construction or whether modifications to the property were made after the original construction.

H. Definitions beginning with the letter “H”:

- (1) **“Home inspection”**, as defined by Subsection [E] (F) of Section 61-24D-2 NMSA 1978, means a noninvasive, nondestructive examination by a person of the interior and exterior components of a residential real property, including the property's structural components, [heating,] foundation and roof, for the purposes of providing a professional written opinion regarding the site aspects and condition of the property and its attached or detached carports, garages and reasonably accessible installed components. “Home inspection” includes the examination of the property's heating, cooling, plumbing and electrical systems, including the operational condition of the systems' controls that are normally operated by a property owner.
- (2) **“Home inspector”**, as defined by Subsection [F] (G) of Section 61-24D-2 NMSA 1978, means a person who performs home inspections for compensation.

I. Definitions beginning with the letter “I”:

- (1) **“Identify”** means to describe a specific system or component by its type and to distinguish it by characteristics such as general or specific materials, energy sources, etc., which differentiate that system of components from other similar systems and components.
- (2) **“Inspected Property”** means the readily accessible areas of the buildings, site, items, components and systems included in the Home Inspection.
- ~~(3) **“Inter-NACHI examination”** means the examination offered, conducted, and proctored by the international association of certified home inspectors (Inter-NACHI).~~

J. Definitions beginning with the letter “J”: [RESERVED]

K. Definitions beginning with the letter “K”: [RESERVED]

L. Definitions beginning with the letter “L”:

- (1) **“Licensure by credentials”** means the process by which an individual applicant applies for a license as a home inspector in New Mexico on the basis of the applicant’s pre-existing license in another jurisdiction.
- (2) **“Licensure by training and examination”** means the process by which an individual applicant applies for a license in New Mexico as a home inspector on the basis of the applicant’s education, training, and passage of [the national home inspector examination (NHIE) or the proctored Inter-NACHI examination.] a board approved examination.
- (3) **“Licensure by experience and examination”** means the process by which an individual applicant applies for a license in New Mexico as a home inspector on the basis of the applicant’s previous work in New Mexico as a home inspector in each of the 24 months immediately preceding January 1, 2020, the applicant’s performance of at least 100 home inspections for compensation in the 24 months immediately preceding January 1,

2020, and the applicant's passage of a [~~national home inspector examination, whether the NHIE or the proctored Inter NACHI examination~~] a board approved examination.

M. Definitions beginning with the letter "M": [RESERVED]

N. Definitions beginning with the letter "N":

~~[(1) "National home inspector examination" or "NHIE" means the examination offered, conducted, and proctored by the examination board of professional home inspectors (EBPHI); or the examination offered, conducted and proctored by the international association of certified home inspectors (Inter NACHI.)~~

~~[(2)] (1) "Normal operating controls" means thermostats, switches, valves, and other devices intended by design and manufacture to be used by homeowners or occupants in the normal and regular day-to-day operation of systems or components.~~

~~[(3)] (2) "Normally intended function or operation" means the customary or conventional purpose or use for which a system or component is installed and for which it is designed or intended by its manufacturer.~~

O. Definitions beginning with the letter "O":

(1) "On-site water supply quality" means water quality based on the bacterial, chemical, mineral, and solids content of the water.

(2) "On-site water supply quantity" means the rate of flow of water.

P. Definitions beginning with the letter "P":

(1) "Permanently installed" means an item, system, or component designed or intended to remain where originally placed, not easily moved, and which is attached, connected, or set in place for use so as to render moving or removing the item, system, or component impossible without the use of tools or equipment.

~~(2) "Pre-inspection agreement" means a signed agreement between the home inspector and their client executed prior to the commencement of the inspection detailing the services that the home inspector will provide.~~

~~[(2)] (3) "Proctored examination" means a test taken under the supervision of testing staff. The proctor's function is to ensure procedural integrity and security of the examination in a secure environment. Examination passage must be in writing and written by the organization or entity that administered the examination.~~

~~[(3)] (4) "Professional liability insurance" means errors and omissions insurance.~~

Q. Definitions beginning with the letter "Q": "Qualified" means having the training, skills, knowledge, expertise, competence and any special tools or equipment necessary to address adverse conditions and routine maintenance conditions and, where applicable, holding all required licenses and meeting all applicable industry standards and all governmental and statutory requirements.

R. Definitions beginning with the letter "R":

(1) "Reactivation" means the process and board act of reactivating an inactive or expired license, thereby permitting the licensee to engage in the practice of home inspection.

(2) "Readily accessible" means visually observable and able to be examined without requiring destructive measures; without risk to the inspector or others; without risk of damage to any item of personal or real property; without requiring the inspector to move, remove, damage, or disturb any wall, floor, ceiling, or window coverings; or any interior or exterior claddings or finish treatments; to move, remove, damage, disturb, climb upon, climb over, or straddle any item of personal property; to move, remove, damage, or disturb any landscape elements; or to interrupt the business of occupants, and not requiring disassembly or the use of any special protective clothing or special tools or equipment.

(3) "Readily openable access panel" means a panel located within normal reach or from a four-foot stepladder, and which is not blocked by stored items, furniture, or building components, provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person, and its edges and fasteners are not painted in place, but not including electrical panel board enclosure dead front covers.

(4) "Residential recreational facilities" means residential spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground and other similar equipment, and associated accessories that are installed at the inspected property.

(5) "Reinstatement" means the process and board act of reinstating a suspended or revoked license, thereby permitting the licensee to engage in the practice of home inspection either with or without future conditions.

(6) "Representative number" means all readily accessible identical components such as windows, electric switches and electric receptacles that serve as a typical or characteristic example of the items or

components inspected. When one or a number of components or systems has identified “adverse conditions,” the report should indicate further evaluation of all identical components by qualified personnel.

(7) **“Roof drainage systems”** means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.

(8) **“Routine maintenance”** means typical, regular, ongoing, and expected maintenance that is part of an ongoing and prudent overall property and building systems upkeep program.

S. Definitions beginning with the letter “S”:

(1) **“Safety glazing”** means tempered glass, laminated glass, or rigid plastic.

(2) **“Shut down”** means a piece of equipment whose safety switch or circuit breaker is in the “off” position, or its fuse is missing or blown, or a system that cannot be operated by the device or control that a homeowner should normally use to operate it.

(3) **“Structural component”** means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads). For purposes of this definition, a dead load is the fixed weight of a structure or piece of equipment, such as a roof structure on bearing walls, and a live load is a moving variable weight added to the dead load or intrinsic weight of a structure.

(4) **“System”** means a permanently-installed group of interacting, interrelated, or interdependent components historically and conventionally designed and intended to perform one or more specific functions.

T. Definitions beginning with the letter “T”: **“Technically exhaustive”** means a comprehensive and detailed examination beyond the scope of a real estate home inspection that would involve or include, but would not be limited to: dismantling, specialized knowledge or training, special equipment, measurements, calculations, testing, research, analysis, or other means.

U. Definitions beginning with the letter “U”: [RESERVED]

V. Definitions beginning with the letter “V”: [RESERVED]

W. Definitions beginning with the letter “W”:

(1) **“Wall cladding”** means a protective or insulating layer fixed to the outside of a building such as aluminum, brick, EIFS, stone, stucco, vinyl, or wood.

(2) **“Wiring method”** means the identification of electrical conductors or wires by their general type, such as nonmetallic sheathed cable, armored cable, and knob and tube.

[16.66.1.7 NMAC – N, 1/15/2021; A, 1/14/2022; A, 04/23/2024]

16.66.1.8 OFFICES: The office of the New Mexico home inspectors board will be located in Albuquerque, New Mexico.

[16.66.1.8 NMAC – N, 1/15/2021]

16.66.1.9 TELEPHONIC MEETING ATTENDANCE: A board member may participate in a board meeting by means of a conference telephone or similar communications equipment only when it is difficult or impossible for the board member to physically attend the meeting. ~~[A board member attending by means of conference telephone or similar communications equipment must attest in open session during the meeting that his or her in person attendance was difficult or impossible.]~~

[16.66.1.9 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.1.10 ADVISORY COMMITTEES: To assist and advise the board in its functions and mission, the board may, at its discretion, utilize advisory committees consisting of board members, volunteers, or both. Any committee serving the board shall have a purely advisory role and shall not have any policymaking authority of any kind. The board has absolute discretion with respect to the number of individuals who may serve on a committee, provided that in no case shall a quorum of the members of the board serve on a committee. The committees the board may create and utilize include, but are not necessarily limited to, the following:

A. Rules Committee: The board may utilize a rules committee to study the board’s rules and provide nonbinding recommendations as to future changes and improvements.

B. Complaint Committee: The board may utilize a complaint committee to review disciplinary complaints against licensees and unlicensed practitioners and provide recommendations as to the final disposition of those complaints.

C. Application Committee: The board may utilize an application committee to review applications for licensure and provide recommendations as to whether the board should grant or deny those applications;

D. Continuing Education Committee: The board may utilize a continuing education committee for the purpose of providing nonbinding recommendations as to whether to accept a proposed continuing education course towards licensees' continuing education requirements.
[16.66.1.10 NMAC – N, 1/15/2021]

16.66.1.11 LISTS AND STATEMENTS:

- A.** The board staff shall maintain a list of the names and addresses of all licensees.
B. The board staff shall maintain a list of all persons whose licenses have been suspended or revoked in that particular calendar year.
C. The board staff shall maintain a statement of all funds received and a statement of all disbursements.
[16.66.1.11 NMAC – N, 1/15/2021]

16.66.1.12 SIGNATURES: A record, contract, or other document requiring a signature from an authorized person on behalf of the board may be signed by the Chair, Vice-Chair, or Board Administrator.
[16.66.1.12 NMAC – N, 1/15/2021]

16.66.1.13 RULE IMPLEMENTATION PERIOD:

A. ~~[Within six months of the effective date of these rules any]~~ Any individual engaged in the practice of home inspection in New Mexico shall be required to obtain a license issued by the board as a condition of engaging in the future practice of home inspection in New Mexico.

(1) ~~[On the date falling six months after the effective date of these rules or on the date declared by the Board in the event of a state of emergency as provided in subsection (2) of this rule, whichever is later]~~ Effective January 15, 2021, any individual engaged in the unlicensed practice of home inspection in New Mexico shall be subject to disciplinary action by the board. The board may also, as it deems appropriate, request the attorney general or district attorney of the judicial district in which the person resides or in which the violation is occurring or has occurred to maintain an action in the name of the state to prosecute the unlicensed practitioner or to enjoin the act or practice.

~~**(2)** Extension of Implementation Period due to State of Emergency: In the event that the Governor declares a state of emergency due to the spread of an infectious disease that extends beyond the six months provided for in this rule, the Board may vote at an open meeting to extend the rule implementation period beyond those initial six months if, in the opinion of the Board, the state of emergency hinders prospective applicants from completing the necessary prerequisites to licensure. Any extension of the rule implementation period shall last no longer than 30 days after the expiration of the state of emergency declared by the Governor.]~~

B. Nothing in this rule permits any person engaged in the practice of home inspection, whether licensed or unlicensed, to violate the code of ethics or standards of conduct as adopted by the board, nor does it permit such a person to violate the Home Inspector Licensing Act. Any action in violation of these rules or the Home Inspector Licensing Act may be considered by the board as part of an individual's application for licensure.
[16.66.1.13 NMAC – N, 1/15/2021; A, 04/23/2024]

HISTORY OF 16.66.1 NMAC

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 2 FEES**

16.66.2.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.2.1 NMAC – N, 1/15/2021]

16.66.2.2 SCOPE: All licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in home inspectors.
[16.66.2.2 NMAC – N, 1/15/2021]

16.66.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Home Inspector Licensing Act, Sections 61-24D-1 through 16 NMSA 1978 (2019).
[16.66.2.3 NMAC – N, 1/15/2021]

16.66.2.4 DURATION: Permanent
[16.66.2.4 NMAC – N, 1/15/2021]

16.66.2.5 EFFECTIVE DATE: January 15, 2021, unless a later date is cited at the end of a section.
[16.66.2.5 NMAC – N, 1/15/2021]

16.66.2.6 OBJECTIVE: The objective of Part 2 of Chapter 66 is to establish fees to generate revenues necessary for the home inspector licensing board to carry out its administrative functions.
[16.66.2.6 NMAC – N, 1/15/2021]

16.66.2.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.2.7 NMAC – N, 1/15/2021]

16.66.2.8 FEES: The board shall establish, charge and collect:

- A. For each initial application for a home inspector license, a fee of \$250;
- B. For an initial three-year license, a fee of \$1,000. [~~If a new licensee receives an initial one- or a two-year license pursuant to Part 3 of these rules, this fee shall be prorated as follows:~~
 - ~~(1) For an initial one-year license, a fee of \$333;~~
 - ~~(2) For an initial two-year license, a fee of \$666;~~
- C. For renewal of a three-year license, a fee of \$1,000;
- D. For reactivation of an inactive license, a fee of \$50;
- E. For reactivation of an expired license, a fee of \$100;
- F. For reinstatement of a suspended or revoked license, a fee of \$200;
- G. For each duplicate license issued because a license is lost or destroyed, a fee of \$50, provided that the licensee shall submit an affidavit attesting to the loss or destruction of the license before the board issues a duplicate license.
- H. Administrative Fee for Licensee List, a fee of \$100

[16.66.2.8 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.2.9 FEES NON-REFUNDABLE: Fees paid to the board pursuant to 16.66.2.8 NMAC of the board rules are non-refundable. Requests for refunds or exceptions to this rule shall not be considered by the board.
[16.66.2.9 NMAC – N, 1/15/2021]

HISTORY OF 16.66.2 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 3 APPLICATIONS AND LICENSES

16.66.3.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.3.1 NMAC – N, 1/15/2021]

16.66.3.2 SCOPE: All licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in home inspectors.
[16.66.3.2 NMAC – N, 1/15/2021]

16.66.3.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Home Inspector Licensing Act, Sections 61-24D-1 through 16 NMSA 1978 (2019).
[16.66.3.3 NMAC – N, 1/15/2021]

16.66.3.4 DURATION: Permanent.
[16.66.3.4 NMAC – N, 1/15/2021]

16.66.3.5 EFFECTIVE DATE: January 15, 2021, unless a later date is cited at the end of a section.
[16.66.3.5 NMAC – N, 1/15/2021]

16.66.3.6 OBJECTIVE: The objective of Part 3 of Chapter 66 is to set forth provisions governing applications for licensure as a home inspector and examinations.
[16.66.3.6 NMAC – N, 1/15/2021]

16.66.3.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.3.7 NMAC – N, 1/15/2021]

16.66.3.8 APPLICATION FOR LICENSURE BY TRAINING AND EXAMINATION:

A. The board shall issue a license to an applicant for licensure by training and examination if the applicant fulfills the following requirements and provides the following information and evidence:

- (1) Completion of the board-issued application form;
- (2) Payment of the non-refundable application fee in full as provided in Part 2;
- (3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;

(4) Provision to the board of sufficient documentation to establish that the applicant is at least 18 years of age;

(5) Completion of at least 80 hours of classroom training:
(a) The cumulative total of 80 hours of classroom training must include all of the following subjects:

- (i) Site characteristics and exterior;
- (ii) Structural components;
- (iii) Roofing;
- (iv) Plumbing;
- (v) Electrical;
- (vi) Heating, cooling, and air conditioning;
- (vii) Interiors, appliances, and garages;
- (viii) Insulation and ventilation;
- (ix) Fireplaces and fuel burning appliances;
- (x) New Mexico standards of practice and code of ethics;
- (xi) Business practices, including New Mexico rules and regulations, pre-inspection agreements, and report writing.

(b) All 80 hours of classroom training must be obtained through an educational course that satisfies one of the following criteria:

- (i) The course is approved or accepted by another governmental state home inspector licensing authority;
- (ii) The course is approved by the United States Department of Education or the New Mexico Department of Education; or
- (iii) The course is designated as pre-licensing education and is certified or approved by any society, institute, council, or association of home inspectors;

(c) All 80 hours of classroom training may be completed online;

(6) Passage of ~~the national home inspector examination (NHIE); or the proctored home inspector examination of the international association of certified home inspectors (Inter NACHI);~~ a board approved examination.

(7) Completion of a total of at least 80 hours of field training spent conducting a minimum of 30 parallel home inspections, evidenced by documents including, but not necessarily limited to, a completed board-issued inspection log, pre-inspection agreements, notarized affidavits, and other similarly-reliable evidence;

(8) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.[8]9.9 NMAC; and

(9) Satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.[8]9.10 NMAC.

B. For the purposes of this rule, parallel home inspections mean inspections that are either:

- (1) Conducted in New Mexico prior to the effective date of this rule; or
- (2) Those home inspections at which the applicant, for observational, experiential, and educational purposes, accompanied another home inspector who:

- (a) Is legally engaged in the practice and profession of home inspection in the jurisdiction in which the home inspection is conducted;
 - (b) Has at least two years of experience in the profession of home inspection; and
 - (c) Has previously completed at least 100 home inspections for compensation.
- [16.66.3.8 NMAC – N, 1/15/2021; A, 1/14/2022; A, 04/23/2024]

16.66.3.9 APPLICATION FOR LICENSURE BY EXPERIENCE AND EXAMINATION:

A. An individual is eligible for licensure by experience and examination if the individual satisfies both of the following criteria:

- (1) The applicant worked as a home inspector in each of the 24 months immediately preceding January 1, 2020; and
- (2) The applicant performed at least 100 home inspections for compensation in the 24 months immediately preceding January 1, 2020.

B. The board shall issue a home inspector license to applicant for licensure by experience and examination if the applicant fulfills the following requirements and provides the following information and evidence:

- (1) Completion of the board-issued application form;
- (2) Payment of the non-refundable application fee in full as provided in Part 2;
- (3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) Provision to the board of sufficient documentation to establish that the applicant is at least 18 years of age and a legal resident of the United States;
- (5) Passage of a ~~national home inspector examination. For the purposes of this rule, the applicant must either have passed the national home inspector examination (NHIE), or the proctored home inspector examination of the international association of certified home inspectors (Inter NACHI);~~ board approved examination, subject to the following limitations:

- (a) Evidence of the applicant's examination passage must be in writing and written by the organization or entity that administered the examination; and
- (b) The examination must have been proctored and the applicant must provide evidence as to this requirement.

(6) Satisfactory evidence that the applicant has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.[8]9 NMAC; and

(7) Provision to the board of sufficient documentation and evidence to establish the applicant's home inspector activities in the 24 months immediately preceding January 1, 2020. Such documentation may include, but is not limited to, tax records, notarized affidavits from persons other than the applicant, pre-inspection agreements, and other similarly reliable evidence of the applicant's home inspection activities in the 24 months immediately preceding January 1, 2020.

C. For the purposes of this rule, the phrase "worked as a home inspector in each of the 24 months immediately preceding January 1, 2020" means having personally conducted any business activity directly associated with the profession of home inspection but is not limited to having conducted an actual home inspection. To qualify for licensure by experience and examination, an individual does not need to have personally conducted a home inspection in each of the 24 months immediately preceding January 1, 2020, if that individual conducted another business activity directly associated with the profession of home inspection during each of the 24 months.

[16.66.3.9 NMAC – N, 1/15/2021; A, 1/14/2022; A, 04/23/2024]

16.66.3.10 APPLICATION FOR LICENSURE BY CREDENTIALS:

A. An applicant who holds a license in good standing to practice as a home inspector in another state may be granted a license by virtue of the applicant's credentials if the applicant's resident state license requirements are the same as or similar to the requirements set forth in the Home Inspector Licensing Act as determined by the board.

B. An applicant applying for licensure on the basis of the applicant's credentials as described in subsection A of this rule shall be required to provide to the board:

- (1) Completion of the board-issued application form;
- (2) Payment of the non-refundable application fee in full as provided in Part 2;

(3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;

(4) Provision to the board of sufficient documentation to establish that the applicant is at least 18 years of age ~~and a legal resident of the United States~~;

(5) A certificate, letter, or other documentation from the licensing authority in the applicant's resident state attesting to the fact that the applicant holds a license in good standing to practice as a home inspector in that state;

(6) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.~~[8]~~9.9 NMAC; and

(7) Satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.~~[8]~~9.10 NMAC.

C. Pursuant to the Home Inspector Licensing Act, the board may negotiate agreements with other states or licensing jurisdictions to allow for reciprocity regarding licensure. A license granted pursuant to a reciprocity agreement shall be issued upon:

(1) Completion of the board-issued application form;

(2) Payment of the non-refundable application fee in full as provided in Part 2;

(3) Provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;

(4) Provision to the board of sufficient documentation to establish that the applicant is at least 18 years of age ~~and a legal resident of the United States~~;

(5) The applicant's provision to the board of a certificate, letter, or other documentation from the licensing authority in the applicant's resident state attesting to the fact that the applicant holds a license in good standing to practice as a home inspector in that state.

(6) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.~~[8]~~9.9 NMAC; and

(7) Satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.~~[8]~~9.10 NMAC.

[16.66.3.10 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.3.11 EXAMINATIONS:

A. Licensure by training and examination: All applicants for licensure by training and examination must ~~[either] pass [the national home inspector examination (NHIE) or the proctored examination of the international association of certified home inspectors (Inter NACHI) following the date of application for licensure with the board or have previously passed the national home inspector examination (NHIE) or the proctored Inter NACHI examination]~~ a board approved examination prior to the date of the applicant's application for licensure.

B. Licensure by experience and examination: All applicants for licensure by experience and examination must ~~[either:] pass a board approved examination, subject to the following limitations:~~

~~[(1) — Pass the national home inspector examination (NHIE); or~~

~~(2) — Have passed prior to the date falling six months after the effective date of these rules the proctored home inspector examination of the international association of certified home inspectors (Inter NACHI) subject to the following limitations:]~~

~~[(a)]~~ (1) Evidence of the applicant's examination passage must be in writing and written by the organization or entity that administered the examination; and

~~[(b)]~~ (2) The examination must have been proctored and the applicant must provide evidence as to this requirement.

C. Licensure by credentials: Applicants for licensure by ~~[licensure by]~~ credentials are not required to provide the Board with evidence as to prior examination passage. However, the Board will consider whether the applicant's prior licensing jurisdiction requires the passage of a national examination in determining whether the prior licensing jurisdiction's standards are substantially equivalent to those in New Mexico.

D. It is the applicant's responsibility to make all arrangements ~~[with the examination board of professional home inspectors (EBPHI) to take the NHIE or with Inter NACHI to take the proctored Inter NACHI home inspectors examination]~~ to take a board approved examination.

E. The applicant shall send the applicant's examination score to the board, provided that the examination score must be in a document originally written by the organization or entity that administered the examination.

~~[F. — Any applicant who fails the NHIE may retake the exam at the next available opportunity.]~~

[16.66.3.11 NMAC – N, 1/15/2021; A, 1/14/2022; A, 04/23/2024]

16.66.3.12 EXPEDITED LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES, CHILDREN, AND VETERANS:

- A.** Application requirements:
- Board.
- information:
- (1) Applications for licensure shall be completed on a form provided by the Home Inspectors
 - (2) The applicant shall provide a complete application that includes the following information:
 - (a) applicant's full name;
 - (b) current mailing address;
 - (c) current electronic mail address, if any;
 - (d) date of birth;
 - (e) background check, if required; and
 - (f) proof as described in subsection C below.
 - (3) The applicant shall provide the following satisfactory evidence as follows:
 - (a) applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;
 - (b) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the licensing requirements for New Mexico; and
 - (c) the following documentation:
 - (i) for military service member: a copy of military orders;
 - (ii) for spouse of military service members: copy of military service member's military orders, and copy of marriage license;
 - (iii) for spouses of deceased military service members: copy of decedent's DD 214 and copy of marriage license;
 - (iv) for dependent children of military service members: a copy of military service member's orders listing dependent child, or a copy of military orders and one of the following: a copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;
 - (v) for veterans (retired or separated): a copy of DD 214 showing proof of honorable discharge.
 - (4) The license shall be issued by the board as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background check if required for a license, and any required fees.
 - (5) Military service members and veterans as defined in Subsection E of Section 61-1-34 NMSA 1978 shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.
 - (6) A license issued pursuant to this section shall be valid for the time period that is specified in the Home Inspectors Licensing Act.

B. Renewal requirements:

- (1) A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for renewal set forth in 16.66.4.8 NMAC pursuant to 61-24D-8 NMSA 1978.
- (2) As a courtesy, the board will send via electronic mail license renewal notifications to licensees before the license expiration date to the last known email address on file with the board. Failure to receive the renewal notification shall not relieve the licensee of the responsibility of timely renewal on or before the expiration date.

[16.66.3.12 NMAC – N, 1/15/2021; A, 1/14/2022; A, 04/23/2024]

16.66.3.13 [RESERVED]

[16.66.3.13 NMAC – N, 1/15/2021; Repealed 1/14/2022]

16.66.3.14 LICENSURE PROCEDURE:

A. Upon receipt of a completed application, including all required documentation and fees, the Board's application committee, should the Board choose in its discretion to utilize such a committee, may provide a non-binding and purely advisory recommendation as to whether the Board should grant or deny the application.

B. No license may be issued until the applicant has paid the non-refundable~~[, but potentially prorated as provided in these rules,]~~ initial license fee in full.
[16.66.3.14 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.3.15 POTENTIALLY DISQUALIFYING CRIMINAL CONVICTIONS:

A. Convictions for any of the following offenses, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining a license issued by the board. This includes conviction of an offense which if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere. The term "conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon or an appeal of the conviction has been sought.

- (1) homicide, voluntary or involuntary manslaughter;
- (2) trafficking in controlled substances, manufacturing of controlled substances or distribution of controlled substances;
- (3) human trafficking, kidnapping, false imprisonment, aggravated assault or aggravated battery;
- (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;
- (5) crimes involving adult abuse, neglect, or financial exploitation;
- (6) crimes involving child abuse or neglect;
- (7) crimes involving robbery, larceny, extortion, burglary, possession of burglary tools, destruction of property, criminal damage to property, unlawful or dangerous uses of explosives, breaking and entering, arson, making a bomb scare, tampering with evidence or receiving stolen property;
- (8) financial crimes involving fraud, forgery, embezzlement, credit card fraud,

B. The board shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

C. The board shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

D. Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Home Inspector Licensing Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection A of this rule.

E. In connection with an application for licensure, the board/commission shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

- (1) an arrest not followed by a valid conviction;
- (2) a conviction that has been sealed, dismissed, expunged or pardoned;
- (3) a juvenile adjudication; or
- (4) a conviction for any crime other than the disqualifying criminal convictions listed in

Subsection A of this rule.

[16.66.3.15 NMAC – N, 1/14/2022; A, 04/23/2024]

HISTORY OF 16.66.3 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 66 HOME INSPECTOR LICENSING PART 4 LICENSE RENEWALS AND REACTIVATIONS

16.66.4.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.4.1 NMAC – N, 1/15/2021]

16.66.4.2 SCOPE: All licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in home inspectors.
[16.66.4.2 NMAC – N, 1/15/2021]

16.66.4.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Home Inspector Licensing Act, Sections 61-24D-1 through 16 NMSA 1978 (2019).
[16.66.4.3 NMAC – N, 1/15/2021]

16.66.4.4 DURATION: Permanent.
[16.66.4.4 NMAC – N, 1/15/2021]

16.66.4.5 EFFECTIVE DATE: January 15, 2021, unless a later date is cited at the end of a section.
[16.66.4.5 NMAC – N, 1/15/2021]

16.66.4.6 OBJECTIVE: The objective of Part 4 of Chapter 66 is to set forth provisions governing renewals of home inspector licenses and reactivation of expired and inactive licenses.
[16.66.4.6 NMAC – N, 1/15/2021]

16.66.4.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.4.7 NMAC – N, 1/15/2021]

16.66.4.8 LICENSE RENEWAL:

A. ~~[A] An initial~~ home inspector license shall be valid ~~[during the dates specified in the license itself and as provided in these rules]~~ for three years. Once renewed, all licenses shall be for a duration of three years.

B. Renewal Date: A licensee may apply for renewal of the licensee's license no later than the date specified as the expiration date on the applicant's license.

C. A licensee seeking the renewal of the license shall provide to the board in accordance with the deadlines specified in this rule:

(1) A completed renewal application;

(2) Payment of the non-refundable renewal fee in full as provided in Part 2;

(3) Proof of completion of required continuing education as provided in Part 5;

~~[(4) Provision to the board of all information necessary for the board to complete a state and national criminal background check; and]~~

~~[(5)]~~ (4) Satisfactory evidence that the licensee has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.[8]9 NMAC.

D. The board office will send, either through electronic means or through postal mail, a renewal notice to each licensee no later than 45 days prior to the expiration of the license at the licensee's address on record. Timely renewal of a license is the full and complete responsibility of the licensee. If the licensee does not receive a renewal notification from the board, it is the responsibility of the licensee to contact the board office.

E. The licensee's failure to receive the board's renewal notification will not exempt the licensee from licensure expiration or late penalty fees.

F. Each licensee is responsible for submitting the required renewal fee by the expiration date irrespective of whether a renewal notice is received by the licensee, and licensees shall not practice on expired licenses under any circumstances.

[16.66.4.8 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.4.9 INACTIVE STATUS:

A. A license in good standing may, upon written request to the board by the licensee, be placed on inactive status prior to its expiration.

B. A licensee possessing an inactive license may not engage in the practice of home inspection in the State of New Mexico.

C. A license may remain on inactive status indefinitely.

D. A licensee must renew an inactive license no later than the expiration date specified on the license. A licensee seeking to renew an inactive license must complete all continuing education as would a full licensee as provided in Part 5 of these rules.

[16.66.4.9 NMAC – N, 1/15/2021]

16.66.4.10 EXPIRED LICENSES:

A. Former licensees may reactivate an expired license within 90 days of expiration. A licensee who fails to reactivate an expired license within 90 days of expiration must, to obtain licensure, reapply as a new applicant for licensure.

B. For the purposes of this rule, expired licenses include those that have expired after being placed on inactive status by the former licensee.
[16.66.4.10 NMAC – N, 1/15/2021]

16.66.4.11 REACTIVATION OF EXPIRED OR INACTIVE LICENSES: Former licensees may reactivate an expired or inactive license within the deadlines provided in these rules. A former licensee seeking the reactivation of an expired or inactive license shall provide to the board in accordance with the deadlines specified in these rules:

- A.** A completed renewal application;
- B.** Payment of the non-refundable renewal fee in full as provided in Part 2;
- C.** Payment of the expired license reactivation fee in full as provided in Part 2;
- D.** Proof of completion of all required continuing education;
- ~~**E.** Provision to the board of all information necessary for the board to complete a state and national criminal background check.~~
- (E)** Satisfactory evidence that the licensee has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.9 NMAC.

[16.66.4.11 NMAC – N, 1/15/2021; A, 04/23/2024]

HISTORY OF 16.66.4 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 5 CONTINUING EDUCATION

16.66.5.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.5.1 NMAC – N, 1/15/2021]

16.66.5.2 SCOPE: All licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in home inspectors.
[16.66.5.2 NMAC – N, 1/15/2021]

16.66.5.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Home Inspector Licensing Act, Sections 61-24D-1 through 16 NMSA 1978 (2019).
[16.66.5.3 NMAC – N, 1/15/2021]

16.66.5.4 DURATION: Permanent.
[16.66.5.4 NMAC – N, 1/15/2021]

16.66.5.5 EFFECTIVE DATE: January 15, 2021, unless a later date is cited at the end of a section.
[16.66.5.5 NMAC – N, 1/15/2021]

16.66.5.6 OBJECTIVE: The objective of Part 5 of Chapter 66 is to set forth provisions governing continuing education requirements.
[16.66.5.6 NMAC – N, 1/15/2021]

16.66.5.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.5.7 NMAC – N, 1/15/2021]

16.66.5.8 CONTINUING EDUCATION: As provided by the Home Inspector Licensing Act, all home inspectors shall be required to satisfy continuing education requirements in the interest of ensuring the highest quality professional services.

A. As a condition of license renewal, a home inspector licensee shall complete at least 60 hours of board-approved continuing education instruction that is related to the practice of home inspection during each three-year license period as outlined in 16.66.4.8 NMAC. This includes licensees holding initial licenses.

B. At least six hours of continuing education instruction during each three-year license period must be in ethics.

C. A licensee may take continuing education instruction online.

D. Initial licenses of a duration of less than three years: Those licensees possessing initial licenses of a duration of one or two years shall complete a pro-rated amount of continuing education as follows:

(1) For licensees possessing an initial one year license, 20 hours of board-approved continuing education instruction that is related to the practice of home inspection, including at least two hours of ethics;

(2) For licensees possessing an initial two year license, 40 hours of board-approved continuing education instruction that is related to the practice of home inspection, including at least four hours of ethics.

E. Attendance at one New Mexico Home Inspector Board meeting, rule hearing, or disciplinary hearing for at least three hours, or until the board meeting goes into closed session, or the hearing/meeting ends, whichever comes first. Attendance may be by live meeting/hearing or by live or recorded distance broadcast; but must be documented by signing into and out of the meeting/hearing. In the event of home inspector hardship, approved by the board, the Home Inspector Board may authorize an equivalent to attendance at a board meeting by an online download, attendance at any approved equivalent, or by other approved participation.
[16.66.5.8 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.5.9 APPROVAL OF CONTINUING EDUCATION HOURS:

A. The Board shall automatically accept any educational course towards a licensee's continuing education requirements if the course satisfies one of the following criteria:

(1) The course is approved or accepted by another governmental state home inspector licensing authority;

(2) The course is approved by the United States Department of Education or the New Mexico Department of Education; or

(3) The course is certified or approved by any society, institute, council, or association of home inspectors.

B. A course that does not satisfy the criteria set forth in subsection A of this section may still be accepted by the board through the following process:

(1) A continuing education course may be submitted to the board for approval, by either the course instructor or the licensee, along with the following documentation:

(a) Course description, objectives, and goals;

(b) Course syllabus, including the number of educational hours, detailed timeline, provisions for make-up work, required text, and reading resources, instructional materials and handouts, requirements for successful completion and method of evaluation; and

(c) Documentation as to the course instructor's qualifications, background, and expertise.

(2) Any continuing education course submitted to the board for approval shall be reviewed, along with its supporting documentation, by the board's continuing education committee, which will make a non-binding recommendation to the board as to whether to approve or disapprove the course. The board shall vote on approval of the course, either as part of its consent agenda or otherwise, at its next regularly-scheduled meeting. In the event that the continuing education committee recommends the disapproval of a course, this information shall be conveyed to the course instructor, who may request in writing the opportunity to be heard at the next regularly-scheduled board meeting. Where the instructor has made a request to be heard and the board votes to deny the application, the board will issue a final written decision no later than 15 business days following the board's meeting.

(3) The board, and its application committee, shall consider the following criteria in determining whether to approve a continuing education course:

(a) Whether the content of the course is related to the practice of home inspection;

(b) Whether the instructor is qualified to teach the course; and

(c) Whether the instructor has violated the Home Inspector Licensing Act, the board's rules, or any criminal laws that are substantially related to the practice of home inspection or a failure to pay child support.
[16.66.5.9 NMAC – N, 1/15/2021]

16.66.5.10 CONTINUING EDUCATION AUDITS: The board shall audit ten percent of renewal applications each year, selected anonymously and at random, to verify completion of continuing education. ~~[If the licensee is audited, proof of participation in or presentation of continuing education activity must be submitted along with a renewal form.]~~

A. If a notice of audit is received ~~[with the license renewal notice]~~, the licensee must submit evidence of continuing education hours earned during the current renewal cycle to the board as required in the Home Inspector Licensing Act and the board's rules.

B. ~~[If the licensee is not audited, the licensee must,]~~ All licensees as a condition of renewal, attest to the completion of the required hours of continuing education. The licensee shall, throughout the period of each license, retain all documentation of continuing education attendance for the previous cycle of licensure.

C. The board may audit any licensee's continuing education attendance upon notification to the licensee.

D. Failure to comply with a notice of audit or submit evidence of continuing education hours earned during the current renewal cycle may result in disciplinary action by the board.

[16.66.5.10 NMAC – N, 1/15/2021; A, 04/23/2024]

HISTORY OF 16.66.5 NMAC

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 66 HOME INSPECTOR LICENSING PART 8 DISCIPLINARY PROCEEDINGS

16.66.8.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.8.1 NMAC – N, 1/15/2021]

16.66.8.2 SCOPE: All licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in home inspectors.
[16.66.8.2 NMAC – N, 1/15/2021]

16.66.8.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Home Inspector Licensing Act, Sections 61-24D-1 through 16 NMSA 1978 (2019).
[16.66.8.3 NMAC – N, 1/15/2021]

16.66.8.4 DURATION: Permanent.
[16.66.8.4 NMAC – N, 1/15/2021]

16.66.8.5 EFFECTIVE DATE: January 15, 2021, unless a later date is cited at the end of a section.
[16.66.8.5 NMAC – N, 1/15/2021]

16.66.8.6 OBJECTIVE: The objective of Part 8 of Chapter 66 is to establish the procedures for denying applications for licensure, processing complaints against licensees and applicants, reinstatement of suspended or revoked licenses, and taking disciplinary action against licensees.
[16.66.8.6 NMAC – N, 1/15/2021]

16.66.8.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.8.7 NMAC – N, 1/15/2021]

16.66.8.8 GROUNDS FOR DISCIPLINARY ACTION: The following are grounds for taking disciplinary action against licensees and unlicensed practitioners, and for denying licenses to applicants:

A. Substantial misrepresentation;

B. Violations of the Home Inspector Licensing Act or any rule of the board, including but not limited to the code of ethics and standards of practice as outlined in Parts 5 and 6 of these rules;

C. Offered or delivered compensation, inducement, or reward to the owner of an inspected property or to the broker or the agent for the referral of any business to the home inspector or the home inspector's company;

D. A license to perform home inspections revoked, suspended, denied, stipulated or otherwise limited in any state, jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts proscribed in Section 61-24D-11 of the Home Inspector Licensing Act;

E. Failure to furnish the board, its investigators or its representatives with information requested by the board in the course of an official investigation;

F. Performance or offer to perform for an additional fee any repair to a structure on which the home inspector or the home inspector's company has prepared a report at any time during the twelve months immediately prior to the repair or offer to repair, except that a home inspection company that is affiliated with or that retains a home inspector does not violate this paragraph if the home inspection company performs repairs pursuant to a claim made pursuant to the terms of a home inspection contract; or

G. Failure to maintain errors and omissions insurance and professional liability insurance as required by the Home Inspector Licensing Act and the rules of the board.

H. Failure to comply with a notice of audit or submit evidence of continuing education hours earned during the current renewal cycle may result in disciplinary action by the board.

[16.66.8.8 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.8.9 COMPLAINTS AND RESPONSES:

A. A complaint against a licensee or applicant may be filed with the board by any person, office, or organization. [~~In order to be considered by the board, a complaint must be sworn and notarized.~~] The complaint must also contain specific factual allegations of violations of either the Home Inspector Licensing Act [~~or the~~], board's rules, or code of ethics.

B. Upon receipt of any complaint alleging that a licensee has violated the Home Inspector Licensing Act [~~or the~~], board's rules, or code of ethics, board staff shall forward the complaint to the respective licensee and request a response [~~within ten business days of receipt~~]. The licensee ("respondent") must provide a response to the board within ten business days of receipt. A respondent's failure to respond to the complaint within this specified time frame shall be grounds for disciplinary action, up to and including revocation of the license at the discretion of the board.

C. The board administrator may authorize the issuance of an investigative subpoena to obtain documents or other evidence relevant to a disciplinary complaint.

D. Subject to applicable exceptions to confidentiality established by law, all complaints, responses, and other disciplinary and investigatory records are public records available for inspection and copying, pursuant to state law, irrespective of the final disposition of the underlying disciplinary complaint.

[16.66.8.9 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.8.10 REVIEW OF COMPLAINT: All complaints [~~will, where practicable,~~] may be reviewed by the board's complaint committee.

A. Should the board, in its discretion, choose to utilize a complaint committee, the complaint committee shall be responsible for reviewing disciplinary complaints against licensees and applicants and making informal, non-binding recommendations to the board as to their disposition. The complaint committee shall not have any policymaking authority of any kind.

B. The board's complaint committee shall consist of no more than two board members and no more than two other volunteer members who are not members of the board, for a total of no more than four members at any given time.

C. After completing its review of a complaint, the complaint committee shall either recommend that the board take disciplinary action or that it close the case. As part of any recommendation of disciplinary action, the complaint committee may also make recommendations as to the proper amount of discipline (i.e. letter of reprimand, fine, suspension, revocation, etc.), including discipline that might be obtained through a negotiated settlement agreement with the licensee, applicant, or unlicensed practitioner.

[16.66.8.10 NMAC – N, 1/15/2021; A, 04/23/2024]

16.66.8.11 HEARINGS AND DISCIPLINARY PROCEEDINGS:

A. All disciplinary proceedings conducted by the board shall fully conform to the provisions of the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -34 (1957, as amended through 2019).

B. In the event that the board seeks to proceed with formal disciplinary action and issue a notice of contemplated action pursuant to the Uniform Licensing Act, the board shall send a request to the litigation division of the New Mexico Office of the Attorney General, which shall, if it elects to do so, serve as the administrative prosecutor on behalf of the board.

C. If a respondent requests an evidentiary hearing in response to a notice of contemplated action, the board chair shall designate a hearing officer to preside over the hearing. Alternatively, at the discretion of the board chair or upon vote of the board, the entire board may preside over the hearing.

D. Any continuance of an evidentiary hearing requested or stipulated by a respondent shall only be considered by the hearing officer, or board chair if the hearing is conducted by the full board, if the respondent has knowingly, voluntarily, and intelligently signed a waiver of the applicable time limits set forth by the Uniform Licensing Act.

[16.66.8.11 NMAC – N, 1/15/2021]

16.66.8.12 SETTLEMENT AGREEMENTS: As a means of resolving disciplinary complaints against licensees, applicants, and unlicensed practitioners without the time and expense of formal hearings, settlement agreements are encouraged at any stage in the disciplinary process prior to the adjournment of the evidentiary hearing.

A. Prior to the board voting on a disciplinary complaint or the matter being referred to the Office of the Attorney General for administrative prosecution, the board staff may negotiate a settlement agreement with the respondent. However, the board itself must vote to approve the settlement agreement at an open meeting, and no settlement agreement is valid under any circumstances until the board so votes.

B. Prior to the issuance of a notice of contemplated action or the adjournment of an evidentiary hearing, the board's administrative prosecutor may negotiate a settlement agreement with the respondent. However, the board itself must vote to approve the settlement agreement at an open meeting, and no settlement agreement is valid under any circumstances until the board so votes.

C. Following the conclusion of an evidentiary hearing, no settlement agreement shall be considered by the board.

[16.66.8.12 NMAC – N, 1/15/2021]

16.66.8.13 REINSTATEMENT OF SUSPENDED OR REVOKED LICENSES:

A. Reinstatement of Suspended Licenses: Licensees whose licenses have been suspended by the board may apply to reinstate those licenses in accordance with the terms of the suspension. Any licensee seeking reinstatement of a suspended license shall be required to provide to the board:

- (1) A completed board-issued application form;
- (2) Payment of the non-refundable renewal fee in full as provided in Part 2;
- (3) Payment of the non-refundable reinstatement fee in full as provided in Part 2;
- (4) Any evidence necessary to demonstrate that the licensee has satisfactorily completed any terms of the licensee's suspension.

B. Reinstatement of Revoked Licenses: Former licensees whose licenses were revoked by the board may apply to reinstate those licenses no sooner than five years following the date of the order of revocation, unless the former licensee's license was revoked pursuant to the Parental Responsibility Act, in which case the former licensee may apply for reinstatement immediately upon the name of the former licensee's removal from the certified list issued by the New Mexico department of human services. Any former licensee seeking reinstatement of a revoked license shall, pursuant to the terms of the Uniform Licensing Act, carry the burden of demonstrating to the board the former licensee's qualifications for licensure. The former licensee shall be required to provide to the board:

- (1) A completed board-issued application form;
- (2) Payment of the non-refundable renewal fee in full as provided in Part 2;
- (3) Payment of the non-refundable reinstatement fee in full as provided in Part 2;
- (4) A letter, affidavit, or other evidence necessary to demonstrate that the former licensee

will, in the future, comply with all of the provisions of the Home Inspector Licensing Act and the board's rules.

[16.66.8.13 NMAC – N, 1/15/2021]

16.66.8.14 PARENTAL RESPONSIBILITY ACT: The authority of the board to issue a notice of contemplated action against any licensee or applicant for licensure whose name appears on the certified list issued by the New Mexico department of human services, as provided in NMSA 1978, 40-5A-1, et seq, as deficient in child support payments, and to refer cases in which notices of contemplated action have been issued for administrative prosecution, is delegated to the administrator of the board. This section shall not be construed to deprive the board of its authority and power to issue a notice of contemplated action for any apparent violation of the Parental Responsibility Act, and to refer any such case for administrative prosecution.
[16.66.8.14 NMAC – N, 1/15/2021]

HISTORY OF 16.66.8 NMAC