

Chapter 18.280 RCW

HOME INSPECTORS

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18.280.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the home inspector advisory licensing board.

(2) "Department" means the department of licensing.

(3) "Director" means the director of the department of licensing.

(4) "Entity" or "entities" means educational groups or organizations, national organizations or associations, or a national test organization.

(5) "Home inspection" means a professional examination of the current condition of a house.

(6) "Home inspector" means a person who carries out a noninvasive examination of the condition of a home, often in connection with the sale of that home, using special training and education to carry out the inspection.

(7) "Report" means a written report prepared and issued after a home inspection.

(8) "Wood destroying organism" means insects or fungi that consume, excavate, develop in, or otherwise modify the integrity of wood or wood products. "Wood destroying organism" includes but is not limited to carpenter ants, moisture ants, subterranean termites, dampwood termites, beetles in the family Anobiidae, and wood decay fungi, known as wood rot. [2008 c 119 § 1.]

18.280.020 Licensure required. (1) Beginning September 1, 2009, a person shall not engage in or conduct, or advertise or hold himself or herself out as engaging in or conducting, the business of or acting in the capacity of a home inspector within this state without first obtaining a license as provided in this chapter.

(2) Any person performing the duties of a home inspector on June 12, 2008, has until July 1, 2010, to meet the licensing requirements of this chapter. However, if a person

performing the duties of a home inspector on June 12, 2008, has proof that he or she has worked as a home inspector for at least two years and has conducted at least one hundred home inspections, he or she may apply to the board before September 1, 2009, for licensure without meeting the instruction and training requirements of this chapter.

(3) The director may begin issuing licenses under this section beginning on July 1, 2009. [2008 c 119 § 2.]

18.280.030 Duties of a licensed home inspector. A person licensed under this chapter is responsible for performing a visual and noninvasive inspection of the following readily accessible systems and components of a home and reporting on the general condition of those systems and components at the time of the inspection in his or her written report: The roof, foundation, exterior, heating system, air-conditioning system, structure, plumbing and electrical systems, and other aspects of the home as may be identified by the board. The inspection must include looking for certain fire and safety hazards as defined by the board. The standards of practice to be developed by the board will be used as the minimum standards for an inspection. The duties of the home inspector with regard to wood destroying organisms are provided in RCW 18.280.190. [2008 c 119 § 3.]

18.280.040 Home inspector advisory licensing board.

(1) The state home inspector advisory licensing board is created. The board consists of seven members appointed by the governor, who shall advise the director concerning the administration of this chapter. Of the appointments to this board, six must be actively engaged as home inspectors immediately prior to their appointment to the board, and one must be currently teaching in a home inspector education program. Insofar as possible, the composition of the appointed home inspector members of the board must be generally representative of the geographic distribution of home inspectors licensed under this chapter. No more than two board members may be members of a particular national home inspector association or organization.

(2) A home inspector must have the following qualifications to be appointed to the board:

(a) Actively engaged as a home inspector in the state of Washington for five years;

(b) Licensed as a home inspector under this chapter, except for initial appointments; and

(c) Performed a minimum of five hundred home inspections in the state of Washington.

(3) Members of the board are appointed for three-year terms. Terms must be staggered so that not more than two appointments are scheduled to be made in any calendar year. Members hold office until the expiration of the terms for which they were appointed. The governor may remove a board member for just cause. The governor may appoint a

new member to fill a vacancy on the board for the remainder of the unexpired term. All board members are limited to two consecutive terms.

(4) Each board member is entitled to compensation for each day spent conducting official business and to reimbursement for travel expenses in accordance with RCW 43.03.240, 43.03.050, and 43.03.060. [2008 c 119 § 4.]

18.280.050 Director's authority. The director has the following authority in administering this chapter:

(1) To adopt, amend, and rescind rules approved by the board as deemed necessary to carry out this chapter;

(2) To administer licensing examinations approved by the board and to adopt or recognize examinations prepared by other entities as approved by the board;

(3) To adopt standards of professional conduct, practice, and ethics as approved by the board; and

(4) To adopt fees as provided in RCW 43.24.086. [2008 c 119 § 5.]

18.280.060 Board's authority. The board has the following authority in administering this chapter:

(1) To establish rules, including board organization and assignment of terms, and meeting frequency and timing, for adoption by the director;

(2) To establish the minimum qualifications for licensing applicants as provided in this chapter;

(3) To approve the method of administration of examinations required by this chapter or by rule as established by the director;

(4) To approve the content of or recognition of examinations prepared by other entities for adoption by the director;

(5) To set the time and place of examinations with the approval of the director; and

(6) To establish and review standards of professional conduct, practice, and ethics for adoption by the director. These standards must address what constitutes certain fire and safety hazards as used in RCW 18.280.030. [2008 c 119 § 6.]

18.280.070 Qualifications for licensure. In order to become licensed as a home inspector, an applicant must submit the following to the department:

(1) An application on a form developed by the department;

(2) Proof of a minimum of one hundred twenty hours of classroom instruction approved by the board;

(3) Proof of up to forty hours of field training supervised by a licensed home inspector;

(4) Evidence of successful passage of the written exam as required in RCW 18.280.080; and

(5) The fee in the amount set by the department. [2008 c 119 § 7.]

18.280.080 Written exams. Applicants for licensure must pass an exam that is psychometrically valid, reliable, and legally defensible by the state. The exam is to be developed, maintained, and administered by the department. The board shall recommend to the director whether to use an exam that is prepared by a national entity. If an exam pre-

pared by a national entity is used, a section specific to Washington shall be developed by the director and included as part of the entire exam. [2008 c 119 § 8.]

18.280.090 License length and renewal. Licenses are issued for a term of two years and expire on the applicant's second birthday following issuance of the license. [2008 c 119 § 9.]

18.280.100 Advertising. The term "licensed home inspector" and the license number of the inspector must appear on all advertising, correspondence, and documents incidental to a home inspection. However, businesses and organizations that conduct national or interstate general marketing and advertising campaigns may omit the license number of the inspector in advertising so long as it is included on all documents incidental to a home inspection. [2008 c 119 § 10.]

18.280.110 License renewal—Continuing education requirements. (1) As a condition of renewing a license under this chapter, a licensed home inspector shall present satisfactory evidence to the board of having completed the continuing education requirements provided for in this section.

(2) Each applicant for license renewal shall complete at least twenty-four hours of instruction in courses approved by the board every two years. [2008 c 119 § 11.]

18.280.120 Written reports—Limitation on work. (1) A licensed home inspector shall provide a written report of the home inspection to each person for whom the inspector performs a home inspection within a time period set by the board in rule. The issues to be addressed in the report shall be set by the board in rule.

(2) A licensed home inspector, or other licensed home inspectors or employees who work for the same company or for any company in which the home inspector has a financial interest, shall not, from the time of the inspection until one year from the date of the report, perform any work other than home inspection-related consultation on the home upon which he or she has performed a home inspection. [2008 c 119 § 12.]

18.280.130 Suspension of license—Appeal. (1) The director shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a child support order. If the person has continued to meet all other requirements for a license under this chapter during the suspension, reissuance of the license is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the child support order. The procedure in RCW 74.20A.320 is the exclusive administrative remedy for contesting the establishment of noncompliance with a child support order, and suspension of a license under this subsection, and satisfies the requirements of RCW 34.05.422.

(2) The director, with the assistance of the board, shall establish by rule under what circumstances a home inspector license may be suspended or revoked. These circumstances shall be based upon accepted industry standards and the board's cumulative experience.

(3) Any person aggrieved by a decision of the director under this section may appeal the decision as provided in chapter 34.05 RCW. The adjudicative proceeding shall be conducted under chapter 34.05 RCW by an administrative law judge appointed pursuant to RCW 34.12.030. [2008 c 119 § 13.]

18.280.140 Civil infractions. The department has the authority to issue civil infractions under chapter 7.80 RCW in the following instances:

- (1) Conducting or offering to conduct a home inspection without being licensed in accordance with this chapter;
- (2) Presenting or attempting to use as his or her own the home inspector license of another;
- (3) Giving any false or forged evidence of any kind to the director or his or her authorized representative in obtaining a license;
- (4) Falsely impersonating any other licensee; or
- (5) Attempting to use an expired or revoked license.

All fines and penalties collected or assessed by a court because of a violation of this section must be remitted to the department to be deposited into the business and professions account created in RCW 43.24.150. [2008 c 119 § 14.]

18.280.150 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2008 c 119 § 15.]

18.280.160 Relief by injunction—Director and board immunity. The director is authorized to apply for relief by injunction without bond, to restrain a person from the commission of any act that is prohibited under RCW 18.280.140. In such a proceeding, it is not necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from continued violation. The director, individuals acting on the director's behalf, and members of the board are immune from suit in any action, civil or criminal, based on disciplinary proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter. [2008 c 119 § 16.]

18.280.170 Exemption from licensing. The following persons are exempt from the licensing requirements of this chapter when acting within the scope of their license or profession:

- (1) Engineers;
- (2) Architects;
- (3) Electricians licensed under chapter 19.28 RCW;
- (4) Plumbers licensed under chapter 18.106 RCW;
- (5) Pesticide operators licensed under chapter 17.21 RCW;

(6) Structural pest inspectors licensed under chapter 15.58 RCW; or

(7) Certified real estate appraisers licensed under chapter 18.140 RCW. [2008 c 119 § 17.]

18.280.180 Reciprocity. Persons licensed as home inspectors in other states may become licensed as home inspectors under this chapter as long as the other state has licensing requirements that meet or exceed those required under this chapter and the person seeking a license under this chapter passes the Washington portion of the exam under RCW 18.280.080. [2008 c 119 § 18.]

18.280.190 Structural pest inspector. Any person licensed under this chapter who is not also licensed as a pest inspector under chapter 15.58 RCW shall only refer in his or her report to rot or conducive conditions for wood destroying organisms and shall refer the identification of or damage by wood destroying insects to a structural pest inspector licensed under chapter 15.58 RCW. [2008 c 119 § 19.]

18.280.900 Captions not law. Captions used in this chapter are not any part of the law. [2008 c 119 § 20.]

Chapter 308-408 WAC

DEFINITIONS

WAC

308-408-010 Words and terms.

WAC 308-408-010 Words and terms. Words and terms used in these rules shall have the same meaning as each has under chapter 18.280 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(1) "Classroom" means training that takes place in a setting where individuals receiving training are assembled together and learn through lectures, study papers, class discussion, textbook study, or other means of organized formal education techniques, such as video, closed circuit, or other forms of electronic means.

(2) "Comment" means the act of stating one's observations clearly in the report.

(3) "Describe" means the act of stating one's observations clearly in the report.

(4) "Distance education" means a delivery method in which instruction takes place in other than a live classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods such as video-based instruction, computer conferencing, video conferencing, interactive audio, interactive computer software, correspondence or internet-based instruction are used.

(5) "Enter" means to physically go into an attic, crawlspace, or other area. Simply sticking one's head and shoulders into these areas is not entering.

(6) "Field training" is in addition to the one hundred twenty hours of classroom instruction and shall be done on actual inspection sites. Field training must include forty hours of instruction with a minimum of five actual complete home inspections done to the standards of practice under the supervision of an experienced inspector. The applicant will be required to complete written reports for each inspection and the supervisor will review the reports and certify that they are in full compliance with the standards of practice. The forty hours of supervised instruction will not include travel time to and from inspection, meals, and report writing time.

(7) "Interactive" means the course structure and technologies promote active student involvement with the course content, including the ability to:

- (a) Access or bypass optional content, if applicable;
- (b) Submit questions or answer test items, and receive direct feedback; and
- (c) Communicate with the instructor and/or other students on an immediate or reasonably delayed basis.

Interactive instruction specifically excludes courses that only provide passive delivery of instructional content.

(8) "Passive" means there is no required or actual interaction or feedback between the student and instructor.

(9) "Preinspection agreement" is a written contract signed by the client that outlines the standards and work to be performed by the home inspector.

(10) "Preoffer consultation" is a verbal report that is limited in scope performed by a licensed home inspector. A preinspection agreement must be signed by the client and describe the limited scope of the consultation. This preoffer consultation is conducted only prior to mutual acceptance.

(11) "Readily accessible" means available for visual inspection without requiring moving personal property, dismantling, destructive measures, or any action that likely will involve risk to persons or property.

(12) "Record" means the act of stating one's observations clearly in the report.

(13) "Report" means the act of stating one's observations clearly in the report.

(14) "Standard home inspection" is a prelisting or presale written report that contains all or most of the components listed in the standards of practice. The components must be listed in the preinspection agreement. This standard home inspection report cannot be delivered verbally and must be in writing.

(15) "Technically exhaustive" is an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations or other means.

(16) "Traverse" means the act of physically moving through a crawlspace or attic or over the surface of a roof during an inspection when it is safe to do so.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408-010, filed 6/3/09, effective 7/4/09.]

Chapter 308-408A WAC

LICENSING

WAC

308-408A-010	Application for a license—Fingerprinting.
308-408A-020	Application process to take examination.
308-408A-030	Successful applicants must apply for license.
308-408A-040	Application for home inspector examination, licensed in another jurisdiction.
308-408A-050	Substitution of clock hours.
308-408A-060	Grading of examinations.
308-408A-070	Reexamination.
308-408A-080	Examination procedures.
308-408A-090	Home inspector fees.
308-408A-100	Home inspectors renewal—Expiration.
308-408A-105	Reinstatement of a canceled license for nonpayment of renewal fee.
308-408A-110	Continuing education clock hour requirements.

WAC 308-408A-010 Application for a license—Fingerprinting. Persons who have been convicted of a crime within ten years of application may be required to submit fingerprint identification on a form provided by the department prior to issuance of a license.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-010, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-020 Application process to take examination. This section does not apply to applicants for a home inspector's license who are actively licensed in another jurisdiction or were so licensed in the preceding six months in accordance with WAC 308-408A-040.

(1) Any person desiring to take an examination for a home inspector's license, except applicants who have received clock hours in another jurisdiction that have not been approved by the department, or applicants who are requesting substitution of clock hours per WAC 308-408A-050, shall telephone the testing service up to one day prior to the desired test date to schedule and pay for an examination by cashier's check, certified check, money order, credit card, debit card, e-checks, or money voucher to the testing service. On the day of the examination, the candidate shall submit a completed examination application that has been approved by the department to the testing service. This approval is valid for six months from the date of the approval letter. If the approval expires, the candidate must apply to be reapproved. Approval is granted upon successful completion of a one hundred twenty hour course in fundamentals of home inspection and proof of forty hours of field training approved by the department. The candidate must pass a course examination approved by the director. This course and the required field training must be completed within two years prior to applying for the home inspector's license examination.

(2) The candidate will be able to schedule an examination date up to one day prior to their desired test date. Candidates requesting a morning or afternoon test session will be scheduled immediately for an examination and will be provided with a registration number confirming their reservation. On the day of the examination, the candidate shall sub-

mit the verified examination application document to the testing service approved by the department.

(3) A candidate shall be assessed the full examination fee for any examination in which the candidate fails to provide two days' notice to the testing service for changing their examination date or for failing to arrive and take a scheduled examination at the time the examination is scheduled or rescheduled.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-020, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-030 Successful applicants must apply for license. Examination results are valid for one year only. Any person who has passed the examination for home inspector licensure must become licensed within one year from the date of such examination. Failure to comply with this provision will necessitate the taking and passing of another examination.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-030, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-040 Application for home inspector examination, licensed in another jurisdiction. (1) Any person applying for a home inspector examination who has been licensed and actively practices as a home inspector for two years in the last four years in another jurisdiction that meets or exceeds the requirements under chapter 18.280 RCW and has maintained his or her license in good standing is eligible to take the Washington state portion of the examination.

(2) Any person applying to take the examination under this section shall submit an examination application approved by the department and shall submit evidence of licensure in good standing in another jurisdiction by a license verification form completed by an administrative officer of the licensure authority in such jurisdiction.

(3) After the qualifications for the examination have been verified by the department the candidate shall contact the testing service up to one day prior to the desired test date to schedule and pay for an examination. Candidates requesting a morning or afternoon test session shall be scheduled immediately for an examination and will be provided with a registration number confirming their reservation. On the day of the examination, the candidate shall submit at the test site the verified examination application.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-040, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-050 Substitution of clock hours. (1) The director may allow for substitution of the clock hour requirements in RCW 18.280.070 if the individual is otherwise and similarly qualified by reason of completion of equivalent educational coursework in any institution of higher education or degree granting institution. Proof of a

minimum of sixty hours of fundamentals of home inspection will qualify for a supplemental course to meet the one hundred twenty hour requirement.

(2) Individuals requesting approval of equivalent educational coursework shall submit a transcript of coursework completed from an institution of higher education or a degree granting institution together with an application for the license examination. The department may also require certification from an authorized representative of the institution of higher education or degree granting institution that the coursework satisfies the department's prescribed course content or curriculum and offered through classroom instruction for a given course(s).

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-050, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-060 Grading of examinations. (1) To pass the home inspector examination a minimum scaled score of seventy is required on each portion. The home inspector examination shall consist of two portions:

(a) The national portion consisting of questions that test general home inspector practices; and

(b) The state portion consisting of questions that test on Washington laws and rules for home inspector licensing.

(2) A passing score for either portion of an examination shall be valid for a period not to exceed one year from the date of testing.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-060, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-070 Reexamination. An applicant who has failed the full or any portion of the examination or failed to appear for a scheduled examination may apply for reexamination, provided the required reexamination fee is submitted. An applicant who has failed the full or any portion of the examination or failed to appear for a scheduled examination may apply for reexamination by contacting the testing service to schedule and pay for an examination by cashier's check, certified check, money order, credit card, debit card, e-checks, or money voucher to the testing service approved by the department.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-070, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-080 Examination procedures. (1) Each applicant will be required to present one piece of positive identification which bears a photograph of the applicant. Failure to produce the required identification will result in the applicant being refused admission to the examination.

(2) Applicants will be required to refrain from:

(a) Talking to other examinees during the examination unless specifically directed or permitted to do so by a test monitor;

(b) Attempting to communicate or record any information;

(c) Using unauthorized materials during any portion of the examination;

(d) Removing test materials and/or notes from the testing room; and

(e) Disruptive behavior.

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(3) Applicants who participate in any activity listed in subsection (2) of this section will be required to turn in their test materials to the test monitor and leave the examination site. Their opportunity to sit for the examination will be forfeited. Their answer sheet will be voided. A voided answer sheet will not be scored and the examination fee will not be refunded. A candidate must then reapply to take the examination.

(4) Any applicant who was removed from the testing site for any of the reasons listed in subsection (2) of this section will be required to submit a letter to the department requesting permission to retest and stating the circumstances of the event. After receipt of the applicant's letter, the department will review the proctor's report and the applicant's letter and may deny testing for up to one year.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-080, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-090 Home inspector fees. These fees are applicable to all original licenses, examination services, and fee generating services. The following fees shall be charged by professional licensing services of the department of licensing:

TITLE OF FEE	FEE
Home Inspector:	
Application/examination	\$300
Reexamination	
Full	\$300
National portion	\$250
State portion	\$125
Original license	\$680
License renewal	\$375
Late renewal with penalty	\$435
Reinstatement penalty fine	\$150
Course review	\$75

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-090, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-100 Home inspectors renewal—Expiration. The minimum requirements for a home inspector to be issued the renewal of a license are that the home inspector:

(1) Has furnished proof of successful completion of twenty-four hours in instruction in courses approved by the board.

(2) Submit a renewal fee.

(3) If the application for a renewal is not received by the director on or before the renewal date, a penalty fee as prescribed by the director by rule shall be paid.

(4) The license of any person whose license renewal fee is not received within one year from the date of expiration shall be canceled. This person may obtain a new license by satisfying the procedure and requirements as prescribed by the director by rule.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-100, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-105 Reinstatement of a canceled license for nonpayment of renewal fee. Any person desiring to be reinstated as a licensed home inspector within two years

(6/3/09)

of cancellation may have their license reinstated by satisfying either of the following options:

(1) Submission of an application to the director providing proof of the following:

(a) Successful completion of twenty-four hours of approved home inspection coursework completed within one year preceding the application for reinstatement. A minimum of three clock hours must include a course(s) in Washington home inspector laws and regulations;

(b) Payment of all back renewal fees with penalty at the current rate; and

(c) Payment of reinstatement penalty fine of one hundred fifty dollars; or

(2) Satisfy the procedures and qualifications for initial licensing, including the following:

(a) Successful completion of the home inspection licensing examination; and

(b) Successful completion of the fundamentals of home inspection course pursuant to RCW 18.280.070(2); and

(c) Proof of up to forty hours of field training supervised by a licensed home inspector as required by RCW 18.280.070(3).

(3) Former licensees canceled for nonpayment of fees for periods in excess of two years will be required to satisfy the requirements of subsection (2) of this section.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-105, filed 6/3/09, effective 7/4/09.]

WAC 308-408A-110 Continuing education clock hour requirements. A licensee shall submit to the department evidence of satisfactory completion of clock hours, pursuant to RCW 18.280.110, in the manner and on forms prescribed by the department.

(1) A licensee applying for renewal of a license shall submit evidence of completion of twenty-four hours of instruction in a course(s) approved by the board and commenced within twenty-four months of a licensee's renewal date.

(2) The twenty-four clock hours shall be satisfied by evidence of completion of approved real estate courses as defined in WAC 308-408B-040.

(3) Courses for continuing education clock hour credit shall be commenced after issuance of a first license.

(4) Approved courses may be repeated for continuing education credit in subsequent renewal periods.

(5) Clock hour credit for continuing education shall not be accepted if: The course is not approved pursuant to chapters 308-408B WAC and 18.280 RCW.

(6) Instructors shall not receive clock hour credit for teaching or course development.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408A-110, filed 6/3/09, effective 7/4/09.]

Chapter 308-408B WAC

EDUCATION

WAC

HOME INSPECTOR COURSE APPROVAL

308-408B-010	Course approval required.
308-408B-020	Course titles reserved for prescribed curriculum courses.
308-408B-030	Application process for previously approved courses.
308-408B-040	General requirements for course approval.
308-408B-050	Changes and updates in approved courses.
308-408B-060	Certificate of course completion.
308-408B-070	Courses offered in a symposium or conference format.
308-408B-080	Disciplinary action—Procedures—Investigation.
308-408B-090	Grounds for denial or withdrawal of course approval.
308-408B-100	Hearing procedure.
308-408B-110	Record retention.
308-408B-120	Distance education delivery method approval required.

HOME INSPECTOR COURSE APPROVAL

WAC 308-408B-010 Course approval required. (1)

Any education provider or course developer must submit a course to the department for approval.

(2) Course approval by the department is required prior to the date on which the course is offered for clock hour credit.

(3) Each application for approval of a course shall be submitted to the department on the appropriate application form provided by the department.

(4) The director or designee shall approve, disapprove, or conditionally approve applications based upon criteria established by the board.

(5) Upon approval, disapproval or conditional approval, the applicant will be so advised in writing by the department. Notification of disapproval shall include the reasons therefor.

(6) Approval shall expire two years after the effective date of approval.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-010, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-020 Course titles reserved for prescribed curriculum courses. Any education provider desiring to offer any prescribed curriculum courses shall utilize the most recent course curriculum prescribed by the department, and shall include in its title the phrase "fundamentals of home inspection" if submitted for approval for clock hours. No other courses shall use this phrase in their titles.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-020, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-030 Application process for previously approved courses. (1) If there are no changes for a previously approved course in the course content or in the original course approval application or WAC 308-408B-040 affecting the topic areas or criteria for approval, the course will be approved upon receipt of a course renewal application and payment of the required fee for one renewal cycle only.

(6/3/09)

(2) If there are changes in course content or in the original course approval application for a previously approved course, other than updating for changes required by WAC 308-408B-050, the application will not be processed as a renewal, and will require completion of a course approval application and payment of the required fee.

(3) If a course renewal application or a course approval application is submitted at least thirty days prior to the current course expiration date, the previous course approval shall remain in effect until action is taken by the director.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-030, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-040 General requirements for course approval. Courses shall meet one of the following requirements:

(1) Be offered by a private entity; or

(2) Be offered by a tax-supported, public technical or community college or other institution of higher learning that offers college credits; or

(3) Be offered by the Washington home inspector board; and

(4) Have a minimum of one hundred twenty hours of coursework or instruction for the student for prelicense; or

(5) Have a minimum of two hours of coursework or instruction for the student for continuing education. A clock-hour is a period of fifty minutes of actual instruction; and

(6) Provide practical information related to the practice of home inspection in any of the following home inspection topic areas:

(a) Department prescribed curricula for prelicense: Fundamentals of home inspection.

(b) Continuing education:

(i) Communications;

(ii) Structures;

(iii) Plumbing;

(iv) Electrical;

(v) Heating;

(vi) Ventilation;

(vii) Air conditioning;

(viii) Law and business administration;

(ix) Current trends and issues;

(x) Exteriors;

(xi) Interiors;

(xii) Consumer protection;

(xiii) Report writing; and

(xiv) Environmental conditions or hazardous materials.

(7) Be under the supervision of an instructor, who shall, at a minimum, be available to respond to specific questions from students;

(8) The following types of courses will not be approved for clock hours:

(a) Mechanical office and business skills, such as, keyboarding, speed-reading, memory improvement, and grammar;

(b) Standardized software programs such as word processing, e-mail, spreadsheets or data bases; an example: A course specific to the reporting system necessary to deliver a home inspection would be acceptable, but a course teaching how to use a computer would not be acceptable;

(c) Orientation courses for licensees, such as those offered by trade associations;

(d) Personal and sales motivation courses or sales meetings held in conjunction with a licensee's general business;

(e) Courses that are designed or developed to serve other professions, unless each component of the curriculum and content specifically shows how a home inspector licensee can utilize the information in the practice of home inspection;

(f) Personal finance, etiquette, or motivational type courses;

(g) Courses that are designed to promote or offer to sell specific products or services to home inspector licensees such as warranty programs, client/customer data base systems, software programs or other devices. Services or products can be offered during nonclock hour time, such as breaks or lunch time. Letterhead, logos, company names or other similar markings by itself, on course material are not considered promotional;

(h) Clock hours will not be awarded for any course time devoted to meals or transportation.

(9) Preliminary courses which are submitted for approval shall include a comprehensive examination(s) and answer key(s) of no fewer than two hundred questions, and a requirement of passing course grade of at least seventy percent; essay question examination keys shall identify the material to be tested and the points assigned for each question; an examination is not required for continuing education courses;

(10) Include textbook or instructional materials approved by the director, which shall be kept accurate and current;

(11) Not have a title which misleads the public as to the subject matter of the course;

(12) The provider's course application shall identify learning objectives and demonstrate how these are related to the practice of home inspection.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-040, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-050 Changes and updates in approved courses. Course materials shall be updated no later than thirty days after the effective date of a change in federal, state, or local statutes or rules. Course materials shall also be updated no later than thirty days after changes in procedures or other revisions to the practice of home inspection which affect the validity or accuracy of the course material or instruction.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-050, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-060 Certificate of course completion. Each education provider must issue a certificate of

course completion within thirty days to students who have satisfactorily completed the course requirements. The certificate shall include the following information:

- (1) Student's name;
- (2) School's name;
- (3) The course commencement date and completion date;
- (4) Course title;
- (5) Clock hours for the course;
- (6) School administrator's signature;
- (7) Course identification number issued by the department;
- (8) Instructor name; and
- (9) Completion of a required examination, if applicable.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-060, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-070 Courses offered in a symposium or conference format. (1) Approved schools offering courses in a symposium or conference format with two or more modules of independent instruction may issue certificates of course completion for fewer clock hours than approved by the department on their original course approval application; and

- (2) Students must complete a minimum of two clock hours of instruction to receive clock hour credit.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-070, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-080 Disciplinary action—Procedures—Investigation. (1) The department shall have the authority on its own motion or upon complaint made to it to investigate or audit any course to determine compliance with chapter 18.280 RCW and with the rules and regulations of this chapter.

(2) Complaints concerning approved courses should be made in writing to the department and contain the following information when appropriate:

- (a) The complainant's name, address, and telephone number;
- (b) School name, address, and telephone number;
- (c) Instructor(s) name;
- (d) Nature of complaint and facts detailing dates of attendance, termination date, date of occurrence, names, addresses and positions of school officials contacted, and any other pertinent information;
- (e) An explanation of what efforts if any, have been taken to resolve the problem with the school;
- (f) Copies of pertinent documents, publications, and advertisements.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-080, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-090 Grounds for denial or withdrawal of course approval. Course approval may be denied or withdrawn if the instructor or any owner, administrator or affiliated representative of a school, or a course provider or developer:

(1) Submits a false or incomplete course application or any other information required to be submitted to the department;

(2) Includes in its title the phrase "fundamentals of home inspection" if the course was not submitted for approval of clock hours pursuant to WAC 308-408B-020;

(3) If the title of the course misleads the public and/or licensees as to the subject matter of the course;

(4) If course materials are not updated within thirty days of the effective date of a change in the statute or rules;

(5) If course content or material changes are not submitted to the department for approval prior to the date of using the changed course content;

(6) Failed to meet the requirements under WAC 308-408B-040 and 308-408B-120;

(7) If a course or prescribed curriculum was approved through the mistake or inadvertence of the director.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-090, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-100 Hearing procedure. Upon notice of course denial or disapproval or withdrawal of course approval, a person is entitled to a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and the provisions of WAC 308-408B-040. To exercise the right to a hearing under this section, a person must request a hearing within twenty days after receipt of the notice of denial, disapproval or withdrawal of course approval. Any person aggrieved by a final decision of the director or authorized representative of the director is entitled to judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-100, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-110 Record retention. (1) Each school shall maintain for a minimum of five years each student's record;

(2) A "student record" shall include:

(a) The name, address, and telephone number of the school;

(b) Full name, address, and telephone number of the student;

(c) Beginning and ending dates of attendance;

(d) Clock hour courses completed and examination results. (3) Each school shall provide a copy of a student's record to the student or the department upon request.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-110, filed 6/3/09, effective 7/4/09.]

WAC 308-408B-120 Distance education delivery method approval required. Applicants are required to submit an application for each separate distance education delivery method for which they propose to offer approved courses for clock hours. When submitting a distance education delivery method application, the following minimum criteria must be provided by the applicant:

(1) Specify the course learning objectives for each learning unit and clearly demonstrate that the learning objectives cover the subject matter and how these relate to the practice

of home inspection. Objectives must be specific to ensure that all content is covered adequately to ensure mastery;

(2) Demonstrate how mastery of the material is provided by:

(a) Dividing the material into major learning units, each of which divides the material into modules of instruction;

(b) Specifying learning objectives for each learning unit or module of instruction. Learning objectives must be comprehensive enough to ensure that if all the objectives are met, the entire content of the course will be mastered;

(c) Specifying an objective, quantitative criterion for mastering, used for each learning objective and provide a structured learning method designed to enable students to attain each objective.

(3) Demonstrate that the course includes the same or reasonably similar informational content as a course that would otherwise qualify for the requisite number of clock hours of classroom-based instruction and how the provider will know that the student completed the required number of clock hours;

(4) Describe consistent and regular interactive events appropriate to the delivery method. The interactive elements must be designed to promote student involvement in the learning process, and must directly support the student's achievement of the course learning objectives. The application must identify the interactive events included in the course and specify how the interactive events contribute to achievement of the stated learning objectives;

(5) Demonstrate how the course provides a mechanism of individual remediation to correct any deficiencies identified during the instruction and assessment process;

(6) Measure, at regular intervals, the student's progress toward completion of the master requirement for each learning unit or module. In the case of computer-based instruction, the course software must include automatic shutdown after a period of inactivity;

(7) Demonstrate that instructors are available to answer questions regarding course content at reasonable times and by reasonable means, including in-person contact, individual and conference telephone calls, e-mail and fax;

(8) Demonstrate how reasonable security will be provided to ensure that the student who receives credit for the course is the student who enrolled in and completed the course. Both the approved school and the student must certify in writing that the student has completed the course, and the required number of clock hours;

(9) Provide a complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the course material and an assessment of the availability and adequacy of the equipment, software or other technologies to the achievement of the course's instructional claims;

(10) Provide an orientation session with the instructor or an affiliated representative of an approved school. Mechanisms must be clearly in place which allow students an early orientation to discuss course specifics;

(11) Demonstrate how the provider determined the number of clock hours requested in the distance education delivery method approval application; and

(12) Provide with each distance education delivery method approval application a copy of a course evaluation form. The provider must provide each student with the mandatory evaluation form and retain the completed form in the school records as required under WAC 308-408B-110.

[Statutory Authority: RCW 18.280.050 and 18.280. [18.280.060](6). 09-13-001, § 308-408B-120, filed 6/3/09, effective 7/4/09.]

Chapter 308-408C WAC

STANDARDS OF PRACTICE

WAC

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WAC 308-408C-010 Standards of practice (SOP)—Purpose and scope. Violations of the following SOP and ethics are subject to disciplinary action under RCW 18.235.130.

The purpose of a home inspection is to assess the condition of the residence at the time of the inspection using visual observations, simple tools and normal homeowner operational controls; and to report deficiencies of specific systems and components. Inspectors must perform all inspections in compliance with the SOP set forth by the Washington state department of licensing.

A home inspection is not technically exhaustive and does not identify concealed conditions or latent defects. This SOP is applicable to buildings with four or fewer dwelling units and their attached garages or carports.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-010, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-020 Ethics—Statement of purpose. In order to ensure the integrity and high standard of skill and practice in the home inspection profession, the following rules of conduct and ethics shall be binding upon the inspector.

The home inspector must:

(1) Provide home inspection services that conform to the Washington state home inspectors' SOP.

(2) Provide full written disclosure of any business or familial relationships or other conflicts of interest between themselves and any other party to the transaction. The parties may include, but are not limited to, buyers, sellers, appraisers, real estate licensees, mortgage representatives, title companies, vendors and service contractors.

(3) Act as an unbiased party and discharge his or her duties with integrity and fidelity to the client.

(4) Perform services and express opinions based on genuine conviction and only within the inspector's area of education, training, or expertise.

(3/20/09)

(5) Not conduct a home inspection or prepare a home inspection report that knowingly minimizes, compromises or attempts to balance information about defects for the purpose of garnering future referrals.

(6) Not provide services that constitute the unauthorized practice of any profession that requires a special license when the inspector does not hold that license.

(7) Not accept compensation for a home inspection from more than one party without written disclosure to the inspector's client(s).

(8) Not for one year after completion of the inspection repair, replace, or upgrade for compensation components or systems on any building inspected - this section applies to the inspector's firm and other employees or principals of that firm or affiliated firms.

(9) Not provide compensation, inducement, or reward directly or indirectly, to any person or entity other than the client, for the referral of business, inclusion on a list of recommended inspectors or preferred providers or participate in similar arrangements. The purchase and/or use of low-value advertising or marketing services or products that does not exceed ten dollars per item, is not considered inducement or reward.

(10) Not disclose information contained in the inspection report without client approval or as required by law. However, at their discretion inspectors may disclose when practical observed safety or health hazards to occupants or others that are exposed to such hazards.

(11) Not advertise previous experience in an associated trade as experience in the home inspection profession. An inspector's advertised inspection experience will reflect only the inspector's experience as a home inspector and inspectors shall not advertise, market or promote their home inspection services or qualifications in a fraudulent, false, deceptive or misleading manner.

(12) Not accept a home inspection referral or perform a home inspection when assignment of the inspection is contingent upon the inspector reporting predetermined conditions.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-020, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-030 Exclusions and limitations. Inspectors are not required to:

(1) Determine the condition of any system or component that is not readily accessible; the remaining service life of any system or component; the strength, adequacy, effectiveness or efficiency of any system or component; causes of any condition or deficiency; methods, materials, or cost of corrections; future conditions including, but not limited to, failure of systems and components.

(2) Comment on the suitability of the structure or property for any specialized use, compliance with codes, regulations, laws or ordinances.

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(3) Report the presence of potentially hazardous plants or animals including, but not limited to, wood destroying insects or diseases harmful to humans; the presence of any environmental hazards including, but not limited to mold, toxins, carcinogens, noise, and contaminants in soil, water or air; the effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances.

(4) Determine the operating costs of any systems or components.

(5) Determine the acoustical properties of any systems or components.

(6) Operate any system or component that is shut down, not connected or is otherwise inoperable.

(7) Operate any system or component that does not respond to normal user controls.

(8) Operate any circuit breakers, water, gas or oil shutoff valves.

(9) Offer or perform any act or service contrary to law.

(10) Offer or perform engineering services or work in any trade or professional service other than home inspection.

(11) Offer or provide warranties or guarantees of any kind unless clearly explained and agreed to by both parties in a preinspection agreement.

(12) Determine the existence of or inspect any underground items including, but not limited to, underground storage tanks or sprinkler systems.

(13) Inspect decorative items, or systems or components that are in areas not entered in accordance with the SOP.

(14) Inspect detached structures, common elements and areas of multiunit housing such as condominium properties or cooperative housing.

(15) Perform any procedure or operation that will, in the opinion of the inspector, likely be dangerous to the inspector or others or damage the property, its systems or components.

(16) Move suspended ceiling tiles, personal property, furniture, equipment, plants, soil, snow, ice or debris.

(17) Dismantle any system or component, except as explicitly required by the SOP.

(18) Enter flooded crawlspaces, attics that are not readily accessible, or any area that will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property, its systems or components.

(19) Inspect or comment on the condition or serviceability of elevators or related equipment.

(20) Inspect or comment on the condition or serviceability of swimming pools, hot tubs, saunas, sports courts or other similar equipment or related equipment.

Inspectors are not limited from examining other systems and components or including other inspection services. Likewise, if the inspector is qualified and willing to do so, an inspector may specify the type of repairs to be made.

An inspector may exclude those systems or components that a client specifically requests not to be included in the scope of the inspection or those areas that, in the opinion of the inspector, are inaccessible due to obstructions or conditions dangerous to the inspector. When systems or components designated for inspection under this SOP are excluded, the reason the item was excluded will be reported.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-030, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-040 Recordkeeping. The inspector is required to maintain the following records for a period of three years:

(1) Preinspection agreements signed by the client and the home inspector for all home inspections.

(2) Home inspection reports.

(3) Timesheets or similar documentation used to establish proof of field training, when supervising a home inspector applicant/candidate.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-040, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-050 Contracts. A preinspection agreement is mandatory and as a minimum must contain or state:

(1) Address of property.

(2) Home inspector compensation.

(3) General description of what the home inspector will and will not inspect. That description will include all items that the Washington state SOP requires to be inspected.

(4) A statement that the inspection does not include investigation of mold, asbestos, lead paint, water, soil, air quality or other environmental issues unless agreed to in writing in the preinspection agreement.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-050, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-060 Procedures. A home inspector must:

(1) Provide a copy of the preinspection agreement to the client prior to the inspection unless prevented by circumstances from doing so.

(2) Provide the client a copy of the home inspection report according to the terms of the preinspection agreement.

(3) Return client's money related to a home inspection report when ordered to do so by a court.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-060, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-070 Structure. An inspection of the structure will include the visible foundation; floor framing; roof framing and decking; other support and substructure/superstructure components; stairs; ventilation (when applicable); and exposed concrete slabs in garages and habitable areas.

(1) **The inspector will:**

- **Describe** the type of building materials comprising the major structural components.

- **Enter** and **traverse** attics and subfloor crawlspaces.

- **Inspect**

(a) The condition and serviceability of visible, exposed foundations and grade slabs, walls, posts, piers, beams, joists, trusses, subfloors, chimney foundations, stairs and the visible roof structure and attic components where readily and safely accessible.

(b) Subfloor crawlspaces and basements for indications of flooding and moisture penetration.

- **Probe** a representative number of structural components where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required

when probing will damage any finished surface or where no deterioration is suspected.

- **Describe** any deficiencies of these systems or components.

- **Report** all wood rot and pest-conducive conditions discovered.

- **Refer** all issues that are suspected to be insect related to a licensed structural pest inspector (SPI) or pest control operator (PCO) for follow up.

(2) **The inspector is not required to:**

- **Enter**

(a) Subfloor crawlspaces that require excavation or have an access opening less than eighteen inches by twenty-four inches or headroom less than eighteen inches beneath floor joists and twelve inches beneath girders (beams).

(b) Any areas that are not readily accessible due to obstructions, inadequate clearances or have conditions which, in the inspector's opinion, are hazardous to the health and safety of the inspector or will cause damage to components of the home.

- **Move** stored items or debris or perform excavation to gain access.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-070, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-080 Exterior. An inspection of the exterior includes the visible wall coverings, trim, protective coatings and sealants, windows and doors, attached porches, decks, steps, balconies, handrails, guardrails, carports, eaves, soffits, fascias and visible exterior portions of chimneys.

(1) **The inspector will:**

- **Describe** the exterior components visible from ground level.

- **Inspect** visible wall coverings, trim, protective coatings and sealants, windows and doors, attached porches, decks, steps, balconies, handrails, guardrails, carports, eaves, soffits, fascias and visible exterior portions of chimneys.

- **Probe** exterior components where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required when probing will damage any finished surface or where no deterioration is suspected.

- **Describe** any deficiencies of these systems or components.

(2) **The inspector is not required to:**

- **Inspect**

(a) Buildings, decks, patios, fences, retaining walls, and other structures detached from the dwelling.

(b) Safety type glass or the integrity of thermal window seals.

(c) Flues or verify the presence of flue liners beyond what can be safely and readily seen from the roof or the fire-box of a stove or fireplace.

- **Test** or **evaluate** the operation of security locks, devices or systems.

- **Enter** areas beneath decks with less than five feet of clearance from the underside of joists to grade.

- **Evaluate** the function or condition of shutters, awnings, storm doors, storm windows, screens, and similar accessories.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-080, filed 3/20/09, effective 4/20/09.]

(3/20/09)

WAC 308-408C-090 Roofs. An inspection of the roof includes the roof covering materials; gutters and downspout systems; visible flashings; roof vents; skylights, and any other roof penetrations; and the portions of the chimneys and flues visible from the exterior.

(1) **The inspector will:**

- **Traverse** the roof to inspect it.

- **Inspect** the gutters and downspout systems, visible flashings, soffits and fascias, skylights, and other roof penetrations.

- **Report** the manner in which the roof is ventilated.

- **Describe** the type and general condition of roof coverings.

- **Report** multiple layers of roofing when visible or readily apparent.

- **Describe** any deficiencies of these systems or components.

(2) **The inspector is not required to:**

- **Traverse** a roof where, in the opinion of the inspector, doing so can damage roofing materials or be unsafe. If the roof is not traversed, the method used to inspect the roof must be reported.

- **Remove** snow, ice, debris or other material that obscures the roof surface or prevents access to the roof.

- **Inspect** gutter and downspout systems concealed within the structure; related underground drainage piping; and/or antennas, lightning arresters, or similar attachments.

- **Operate** powered roof ventilators.

- **Predict** remaining life expectancy of roof coverings.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-090, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-100 Plumbing system. An inspection of the plumbing system includes visible water supply lines; visible waste/soil and vent lines; fixtures and faucets; domestic hot water system and fuel source.

(1) **The inspector will:**

(a) **Describe** the visible water supply and distribution piping materials; drain, waste and vent materials; water-heating equipment.

(b) **Report**

(i) The presence and functionality of sump pumps/waste ejector pumps when visible or confirm the float switch activates the pump when the sump is dry.

(ii) The presence and location of a main water shutoff valve and/or fuel shutoff valve(s), or report that they were not found.

(iii) The presence of the temperature and pressure relief (TPR) valve and associated piping.

(iv) Whether or not the water temperature was tested and state that the generally accepted safe water temperature is one hundred twenty degrees Fahrenheit.

(c) **Inspect** the condition of accessible and visible water supply pipes, drain/waste plumbing and the domestic hot water system when possible.

(d) **Operate** fixtures in order to observe functional flow.

(e) **Check** for functional drainage from fixtures.

(f) **Describe** any deficiencies of these systems or components in the inspection report.

(2) **The inspector is not required to:**

(a) **Operate** any valves, including faucets of freestanding or built-in appliances or fixtures, if the outlet end of the valve or faucet is connected or intended to be connected to an appliance.

(b) **Inspect**

(i) Any system that is shut down or winterized.
 (ii) Any plumbing components not readily accessible.
 (iii) Floor drains and exterior drain systems, including but not limited to, exterior stairwell drains and driveway drains.

(iv) Fire sprinkler systems.

(v) Water-conditioning equipment, including softeners and filter systems.

(vi) Private water supply systems.

(vii) Gas supply systems.

(viii) Interior components of exterior pumps or sealed sanitary waste lift systems.

(ix) Ancillary systems or components such as, but not limited to, those related to solar water heating and hot water circulation.

(c) **Test**

(i) Pressure or temperature/pressure relief valve.

(ii) Shower pans for leaks or use special equipment to test/scan shower or tub surrounds for moisture in surrounding substrate materials.

(d) **Determine**

(i) The potability of any water supply whether public or private.

(ii) The condition and operation of water wells and related pressure tanks and pumps.

(iii) The quantity of water from on-site water supplies.

(iv) The quality or the condition and operation of on-site sewage disposal systems such as waste ejector pumps, cess-pools, septic tanks, drain fields, related underground piping, conduit, cisterns, and related equipment.

(e) **Ignite** pilot lights.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-100, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-110 Electrical system. The inspection of the electrical system includes the service drop through the main panel; subpanels including feeders; branch circuits, connected devices, and lighting fixtures.

(1) **The inspector will:**

(a) **Describe** in the report the type of primary service, whether overhead or underground, voltage, amperage, over-current protection devices (fuses or breakers) and the type of branch wiring used.

(b) **Report**

(i) The existence of a connected service-grounding conductor and service-grounding electrode when same can be determined.

(ii) When no connection to a service grounding electrode can be confirmed.

(c) **Inspect** the main and branch circuit conductors for proper over-current protection and condition by visual observation after removal of the readily accessible main and sub-electric panel cover(s).

(d) **Report**, if present, solid conductor aluminum branch circuits. Include a statement in the report that solid conductor

aluminum wiring may be hazardous and a licensed electrician should inspect the system to ensure it's safe.

(e) **Verify**

(i) The operation of a representative number of accessible switches, receptacles and light fixtures.

(ii) The grounding and polarity of a representative number of receptacles; particularly in close proximity to plumbing fixtures or at the exterior.

(iii) Ground fault interrupter (GFCI) protection and arc-fault circuit interrupter (AFCI) protection where required.

(f) **Report** the location of any inoperative or missing GFCI and/or AFCI devices when they are recommended by industry standards.

(g) **Advise** clients that homes without ground fault protection should have GFCI devices installed where recommended by industry standards.

(h) **Report** on any circuit breaker panel or subpanel known within the home inspection profession to have safety concerns.

(i) **Describe** any deficiencies of these systems or components.

(2) **The inspector is not required to:**

(a) **Insert** any tool, probe or testing device into the main or subpanels.

(b) **Activate** electrical systems or branch circuits that are not energized.

(c) **Operate** circuit breakers, service disconnects or remove fuses.

(d) **Inspect** ancillary systems, including but not limited to:

(i) Timers.

(ii) Security systems.

(iii) Low voltage relays.

(iv) Smoke/heat detectors.

(v) Antennas.

(vi) Intercoms.

(vii) Electrical deicing tapes.

(viii) Lawn sprinkler wiring.

(ix) Swimming pool or spa wiring.

(x) Central vacuum systems.

(xi) Electrical equipment that's not readily accessible.

(e) **Dismantle** any electrical device or control, except for the removal of the deadfront covers from the main service panel and subpanels.

(f) **Move** any objects, furniture, or appliances to gain access to any electrical component.

(g) **Test** every switch, receptacle, and fixture.

(h) **Remove** switch and receptacle cover plates.

(i) **Verify** the continuity of connected service ground(s).

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-110, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-120 Heating system. The inspection of the heating system includes the fuel source; heating equipment; heating distribution; operating controls; flue pipes, chimneys and venting; auxiliary heating units.

(1) **The inspector will:**

(a) **Describe** the type of fuel, heating equipment, and heating distribution systems.

(b) **Operate** the system using normal readily accessible control devices.

(c) **Open** readily accessible access panels or covers provided by the manufacturer or installer, if readily detachable.

(d) **Inspect**

(i) The condition of normally operated controls and components of systems.

(ii) The condition and operation of furnaces, boilers, heat pumps, electrical central heating units and distribution systems.

(iii) Visible flue pipes and related components to ensure functional operation and proper clearance from combustibles.

(iv) Each habitable space in the home to determine whether or not there is a functioning heat source present.

(v) Spaces where fossil fuel burning heating devices are located to ensure there is air for combustion.

(vi) Electric baseboard and in-wall heaters to ensure they are functional.

(e) **Report** any evidence that indicates the possible presence of an underground storage tank.

(f) **Describe** any deficiencies of these systems or components.

(2) **The inspector is not required to:**

(a) **Ignite** pilot lights.

(b) **Operate:**

(i) Heating devices or systems that do not respond to normal controls or have been shut down.

(ii) Any heating system when circumstances are not conducive to safe operation or when doing so will damage the equipment.

(c) **Inspect or evaluate**

(i) Heat exchangers concealed inside furnaces and boilers.

(ii) Any heating equipment that is not readily accessible.

(iii) The interior of chimneys and flues.

(iv) Installed heating system accessories, such as humidifiers, air purifiers, motorized dampers, heat reclaimers; solar heating systems; or concealed distribution systems.

(d) **Remove** covers or panels that are not readily accessible or removable.

(e) **Dismantle** any equipment, controls, or gauges except readily identifiable access covers designed to be removed by users.

(f) **Evaluate** whether the type of material used to insulate pipes, ducts, jackets and boilers is a health hazard.

(g) **Determine:**

(i) The capacity, adequacy, or efficiency of a heating system.

(ii) Determine adequacy of combustion air.

(h) **Evaluate** thermostats or controls other than to confirm that they actually turn a system on or off.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-120, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-130 Air conditioning systems. The inspection of the air conditioning system includes the cooling equipment; cooling distribution equipment and the operating controls.

(1) **The inspector will:**

(a) **Describe** the central air conditioning system and energy sources.

(3/20/09)

(b) **Operate** the system using normal control devices and measure and record temperature differential.

(c) **Open** readily accessible access panels or covers provided by the manufacturer or installer.

(d) **Inspect** the condition of controls and operative components of the complete system; conditions permitting.

(e) **Describe** any deficiencies of these systems or components in the inspection report.

(2) **The inspector is not required to:**

(a) **Activate** cooling systems that have been shut down.

(b) **Inspect**

(i) Gas-fired refrigeration systems.

(ii) Evaporative coolers.

(iii) Wall or window-mounted air-conditioning units.

(iv) The system for refrigerant leaks.

(c) **Check** the coolant pressure/charge.

(d) **Determine** the efficiency, or adequacy of the system.

(e) **Operate** cooling system components if the exterior temperature is below sixty degrees Fahrenheit or when other circumstances are not conducive to safe operation or when doing so might damage the equipment.

(f) **Remove** covers or panels that are not readily accessible.

(g) **Dismantle** any equipment, controls, or gauges except readily identifiable access covers designed to be removed by users.

(h) **Determine** how much current the unit is drawing.

(i) **Evaluate** digital-type thermostats or controls.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-130, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-140 Interiors. The inspection of the interior includes the walls, ceilings, floors, windows, and doors; steps, stairways, balconies and railings.

(1) **The inspector will:**

(a) **Verify**

That steps, handrails, guardrails, stairways and landings are installed wherever necessary and **report** when they are missing or in need of repair and **report** when baluster spacing exceeds four inches.

(b) **Inspect**

(i) The overall general condition of cabinets and countertops.

(ii) Caulking and grout at kitchen and bathroom counters.

(iii) The interior walls, ceilings, and floors for indicators of concealed structural deficiencies, water infiltration or major damage.

(iv) The condition and operation of a representative number of windows and doors.

(c) **Comment** on the presence or absence of smoke detectors.

(d) **Describe** any noncosmetic deficiencies of these systems or components.

(2) **The inspector is not required to:**

(a) **Report** on cosmetic conditions related to the condition of interior components.

(b) **Verify** whether all walls, floors, ceilings, doorways, cabinets and window openings are square, straight, level or plumb.

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[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-140, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-150 Insulation and ventilation. The inspection of the insulation and ventilation includes the type and condition of the insulation and ventilation in viewable unfinished attics and subgrade areas as well as the installed mechanical ventilation systems.

(1) The inspector will:

- **Inspect** the insulation, ventilation and installed mechanical systems in viewable and accessible attics and unfinished subfloor areas.
- **Describe** the type of insulation in viewable and accessible unconditioned spaces.
- **Report** missing or inadequate vapor barriers in sub-floor crawlspaces with earth floors.
- **Report** the absence of insulation at the interface between conditioned and unconditioned spaces where visible.
- **Report** the absence of insulation on heating system ductwork and supply plumbing in unconditioned spaces.
- **Describe** any deficiencies of these systems or components.

(2) The inspector is not required to:

- **Determine** the presence, extent, and type of insulation and vapor barriers concealed in the exterior walls.
- **Determine** the thickness or R-value of insulation above the ceiling, in the walls or below the floors.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-150, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-160 Fireplaces and stoves. Includes solid fuel and gas fireplaces, stoves, dampers, fireboxes and hearths.

(1) The inspector will:

- **Describe** fireplaces and stoves.
- **Inspect** dampers, fireboxes and hearths.
- **Describe** any deficiencies of these systems or components.

(2) The inspector is not required to:

- **Inspect** flues and verify the presence of flue liners beyond what can be safely and readily seen from the roof or the firebox of a stove or fireplace.
- **Ignite** fires in a fireplace or stove.
- **Determine** the adequacy of draft.
- **Perform** a chimney smoke test.
- **Inspect** any solid fuel device being operated at the time of the inspection.
- **Evaluate** the installation or adequacy of fireplace inserts.
- **Evaluate** modifications to a fireplace, stove, or chimney.
- **Dismantle** fireplaces or stoves to inspect fireboxes or remove rain caps to inspect chimney flues.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-160, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-170 Site. The inspection of the site includes the building perimeter, land grade, and water drainage directly adjacent to the foundation; trees and vegetation that adversely affect the structure; walks, grade steps, drive-

ways, patios, and retaining walls contiguous with the structure.

(1) The inspector will:

- (a) **Describe** the material used for driveways, walkways, patios and other flatwork around the home.
- (b) **Inspect**
 - (i) For serviceability of the driveways, steps, walkways, patios, flatwork and retaining walls contiguous with the structure.
 - (ii) For proper grading and drainage slope.
 - (iii) Vegetation in close proximity to the home.
- (c) **Describe** any deficiencies of these systems or components.

(2) The inspector is not required to:

- **Inspect** fences, privacy walls or retaining walls that are not contiguous with the structure.
- **Report** the condition of soil, trees, shrubs or vegetation unless they adversely affect the structure.
- **Evaluate** hydrological or geological conditions.
- **Determine** the adequacy of bulkheads, seawalls, breakwalls, and docks.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-170, filed 3/20/09, effective 4/20/09.]

WAC 308-408C-180 Attached garages or carports.

The inspection of attached garages and carports includes their framing, siding, roof, doors, windows, and installed electrical/mechanical systems pertaining to the operation of the home.

(1) The inspector will:

- **Inspect** the condition and function of the overhead garage doors and associated hardware.
- **Test** the function of the garage door openers, their auto-reverse systems and secondary entrapment devices (photo-electric and edge sensors) when present.
- **Inspect** the condition and installation of any pedestrian doors.
- **Inspect** fire separation between the house and garage when applicable.
- **Report** as a fire hazard the presence of any ignition source (gas and electric water heaters, electrical receptacles, electronic air cleaners, motors of installed appliances, etc.) that is within eighteen inches of the garage floor.
- **Describe** any deficiencies of these systems or components.

(2) The inspector is not required to:

- **Determine** whether or not a solid core pedestrian door that is not labeled is fire rated.
- **Verify** the functionality of garage door opener remote controls.
- **Move** vehicles or personal property.
- **Operate** any equipment unless otherwise addressed in the SOP.

[Statutory Authority: RCW 18.280.050 and 18.280.060(6). 09-08-014, § 308-408C-180, filed 3/20/09, effective 4/20/09.]

Chapter 18.235 RCW

UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT

Sections

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18.235.900	Short title.
18.235.901	Effective date—2002 c 86 §§ 101-123.
18.235.902	Part headings not law—2002 c 86.
18.235.903	Severability—2002 c 86.

18.235.005 Intent. It is the intent of the legislature to consolidate disciplinary procedures for the licensed businesses and professions under the department of licensing by providing a uniform disciplinary act with standardized procedures for the regulation of businesses and professions and the enforcement of laws, the purpose of which is to assure the public of the adequacy of business and professional competence and conduct.

It is also the intent of the legislature that all businesses and professions newly credentialed by the state and regulated by the department of licensing come under this chapter. [2007 c 256 § 10; 2002 c 86 § 101.]

18.235.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means those boards specified in RCW 18.235.020(2)(b).

(2) "Department" means the department of licensing.

(3) "Director" means the director of the department or director's designee.

(4) "Disciplinary action" means sanctions identified in RCW 18.235.110.

(5) "Disciplinary authority" means the director, board, or commission having the authority to take disciplinary action

against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.235.020.

(6) "License," "licensing," and "licensure" are deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.118.020. Each of these terms, and the term "appointment" under chapter 42.44 RCW, are interchangeable under the provisions of this chapter.

(7) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a person, through offerings, advertisements, or use of a professional title or designation, that the individual or business is qualified to practice a profession or operate a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so. [2007 c 256 § 11; 2002 c 86 § 102.]

18.235.020 Application of chapter—Director's authority—Disciplinary authority. (1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Security guards under chapter 18.170 RCW;

(xvii) Sellers of travel under chapter 19.138 RCW;

(xviii) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xix) Whitewater river outfitters under chapter 79A.60 RCW; and

(xx) Home inspectors under chapter 18.280 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board of registration for architects established in chapter 18.08 RCW;

(ii) The cemetery board established in chapter 68.05 RCW;

(iii) The Washington state collection agency board established in chapter 19.16 RCW;

(iv) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(v) The state board of funeral directors and embalmers established in chapter 18.39 RCW;

(vi) The state board of registration for landscape architects established in chapter 18.96 RCW; and

(vii) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority. [2008 c 119 § 21; 2007 c 256 § 12; 2006 c 219 § 13; 2002 c 86 § 103.]

Effective date—2006 c 219: See note following RCW 46.82.285.

18.235.030 Disciplinary authority—Powers. The disciplinary authority has the power to:

(1) Adopt, amend, and rescind rules as necessary to carry out the purposes of this chapter, including, but not limited to, rules regarding standards of professional conduct and practice;

(2) Investigate complaints or reports of unprofessional conduct and hold hearings as provided in this chapter;

(3) Issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(4) Take or cause depositions to be taken and use other discovery procedures as needed in an investigation, hearing, or proceeding held under this chapter;

(5) Compel attendance of witnesses at hearings;

(6) Conduct practice reviews in the course of investigating a complaint or report of unprofessional conduct, unless the disciplinary authority is authorized to audit or inspect applicants or licensees under the chapters specified in RCW 18.235.020;

(7) Take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice or business pending proceedings by the disciplinary authority;

(8) Appoint a presiding officer or authorize the office of administrative hearings, as provided in chapter 34.12 RCW, to conduct hearings. The disciplinary authority may make the final decision regarding disposition of the license unless the disciplinary authority elects to delegate, in writing, the final decision to the presiding officer;

(9) Use individual members of the boards and commissions to direct investigations. However, the member of the board or commission may not subsequently participate in the hearing of the case;

(10) Enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(11) Grant or deny license applications, secure the return of a license obtained through the mistake or inadvertence of the department or the disciplinary authority after providing the person so licensed with an opportunity for an adjudicative proceeding, and, in the event of a finding of unprofessional conduct by an applicant or license holder, impose any sanction against a license applicant or license holder provided by this chapter;

(12) Designate individuals authorized to sign subpoenas and statements of charges;

(13) Establish panels consisting of three or more members of the board or commission to perform any duty or authority within the board's or commission's jurisdiction under this chapter; and

(14) Contract with licensees, registrants, endorsement or permit holders, or any other persons or organizations to provide services necessary for the monitoring or supervision of licensees, registrants, or endorsement or permit holders who are placed on probation, whose professional or business activities are restricted, or who are for an authorized purpose subject to monitoring by the disciplinary authority. If the subject licensee, registrant, or endorsement or permit holders may only practice or operate a business under the supervision of another licensee, registrant, or endorsement or permit holder under the terms of the law regulating that occupation or business, the supervising licensee, registrant, or endorsement or permit holder must consent to the monitoring or supervision under this subsection, unless the supervising licensee, registrant, or endorsement or permit holder is, at the time, the subject of a disciplinary order. [2002 c 86 § 104.]

18.235.040 Director's authority. The director has the following additional authority:

(1) To employ investigative, administrative, and clerical staff as necessary for the enforcement of this chapter, except as provided otherwise by statute;

(2) Upon request of a board or commission, to appoint not more than three pro tem members as provided in this subsection. Individuals appointed as pro tem members of a board or commission must meet the same minimum qualifications as regular members of the board or commission. While serving as a pro tem board or commission member, a person so appointed has all the powers, duties, and immunities, and is entitled to the entitlements, including travel

expenses in accordance with RCW 43.03.050 and 43.03.060, of a regular member of the board or commission; and

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation or adjudicative proceedings as authorized by RCW 34.05.446. [2007 c 256 § 13; 2002 c 86 § 105.]

18.235.050 Statement of charges—Hearing. (1) If the disciplinary authority determines, upon investigation, that there is reason to believe that a license holder or applicant for a license has violated RCW 18.235.130 or has not met a minimum eligibility criteria for licensure, the disciplinary authority may prepare and serve the license holder or applicant a statement of charge, charges, or intent to deny. A notice that the license holder or applicant may request a hearing to contest the charge, charges, or intent to deny must accompany the statement. The license holder or applicant must file a request for a hearing with the disciplinary authority within twenty days after being served the statement of charges or statement of intent to deny. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a decision on the facts available to it.

(2) If a license holder or applicant for a license requests a hearing, the disciplinary authority must fix the time of the hearing as soon as convenient, but not earlier than thirty days after the service of charge, charges, or intent to deny. The disciplinary authority may hold a hearing sooner than thirty days only if the disciplinary authority has issued a summary suspension or summary restriction. [2007 c 256 § 14; 2002 c 86 § 106.]

18.235.060 Procedures governing adjudicative proceedings. The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern all hearings before the disciplinary authority. The disciplinary authority has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.05 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions. [2002 c 86 § 107.]

18.235.070 Previous denial, revocation, or suspension of license. The department shall not issue a license to any person whose license has been previously denied, revoked, or suspended by the disciplinary authority for that profession or business, except in conformity with the terms and conditions of the certificate or order of denial, revocation, or suspension, or in conformity with any order of reinstatement issued by the disciplinary authority, or in accordance with the final judgment in any proceeding for review instituted under this chapter. [2002 c 86 § 108.]

18.235.080 Orders. An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.05 RCW, or an order of summary suspension entered under this chapter, takes effect immediately upon its being served. The final order, if appealed to the court, may not be stayed pending the

appeal unless the disciplinary authority or court to which the appeal is taken enters an order staying the order of the disciplinary authority, which stay shall provide for terms necessary to protect the public. [2007 c 256 § 15; 2002 c 86 § 109.]

18.235.090 Appeal. A person who has been disciplined or has been denied a license by a disciplinary authority may appeal the decision as provided in chapter 34.05 RCW. [2007 c 256 § 16; 2002 c 86 § 110.]

18.235.100 Reinstatement. A person whose license has been suspended or revoked under this chapter may petition the disciplinary authority for reinstatement after an interval of time and upon conditions determined by the disciplinary authority in the order suspending or revoking the license. The disciplinary authority shall act on the petition in accordance with the adjudicative proceedings provided under chapter 34.05 RCW and may impose such conditions as authorized by RCW 18.235.110. The disciplinary authority may require successful completion of an examination as a condition of reinstatement. [2007 c 256 § 17; 2002 c 86 § 111.]

18.235.110 Unprofessional conduct—Finding. (1) Upon finding unprofessional conduct, the disciplinary authority may issue an order providing for one or any combination of the following:

- (a) Revocation of the license for an interval of time;
- (b) Suspension of the license for a fixed or indefinite term;
- (c) Restriction or limitation of the practice;
- (d) Satisfactory completion of a specific program of remedial education or treatment;
- (e) Monitoring of the practice in a manner directed by the disciplinary authority;
- (f) Censure or reprimand;
- (g) Compliance with conditions of probation for a designated period of time;
- (h) Payment of a fine for each violation found by the disciplinary authority, not to exceed five thousand dollars per violation. The disciplinary authority must consider aggravating or mitigating circumstances in assessing any fine. Funds received must be deposited in the related program account;
- (i) Denial of an initial or renewal license application for an interval of time; or
- (j) Other corrective action.

(2) The disciplinary authority may require reimbursement to the disciplinary authority for the investigative costs incurred in investigating the matter that resulted in issuance of an order under this section, but only if any of the sanctions in subsection (1)(a) through (j) of this section is ordered.

(3) Any of the actions under this section may be totally or partly stayed by the disciplinary authority. In determining what action is appropriate, the disciplinary authority must first consider what sanctions are necessary to protect the public health, safety, or welfare. Only after these provisions have been made may the disciplinary authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All costs associated with compli-

ance with orders issued under this section are the obligation of the license holder or applicant.

(4) The licensee or applicant may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the licensee has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or a statement by the licensee acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct. The stipulations entered into under this subsection are considered formal disciplinary action for all purposes. [2007 c 256 § 18; 2002 c 86 § 112.]

18.235.120 Payment of a fine. Where payment of a fine is required as a result of a disciplinary action under RCW 18.235.060 or 18.235.150 and timely payment is not made as directed in the final order, the disciplinary authority may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement is in addition to any other rights the disciplinary authority may have as to any licensee ordered to pay a fine but may not be construed to limit a licensee's ability to seek judicial review under RCW 18.235.090. In any action for enforcement of an order of payment of a fine, the disciplinary authority's order is conclusive proof of the validity of the order of a fine and the terms of payment. [2002 c 86 § 113.]

18.235.130 Unprofessional conduct—Acts or conditions that constitute. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession or operation of the person's business, whether the act constitutes a crime or not. At the disciplinary hearing a certified copy of a final holding of any court of competent jurisdiction is conclusive evidence of the conduct of the license holder or applicant upon which a conviction or the final holding is based. Upon a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(2) Misrepresentation or concealment of a material fact in obtaining or renewing a license or in reinstatement thereof;

(3) Advertising that is false, deceptive, or misleading;

(4) Incompetence, negligence, or malpractice that results in harm or damage to another or that creates an unreasonable risk of harm or damage to another;

(5) The suspension, revocation, or restriction of a license to engage in any business or profession by competent authority in any state, federal, or foreign jurisdiction. A certified copy of the order, stipulation, or agreement is conclusive evidence of the revocation, suspension, or restriction;

(6) Failure to cooperate with the disciplinary authority in the course of an investigation, audit, or inspection authorized by law by:

(a) Not furnishing any papers or documents requested by the disciplinary authority;

(b) Not furnishing in writing an explanation covering the matter contained in a complaint when requested by the disciplinary authority;

(c) Not responding to a subpoena issued by the disciplinary authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing authorized access, during regular business hours, to representatives of the disciplinary authority conducting an investigation, inspection, or audit at facilities utilized by the license holder or applicant;

(7) Failure to comply with an order issued by the disciplinary authority;

(8) Violating any of the provisions of this chapter or the chapters specified in RCW 18.235.020(2) or any rules made by the disciplinary authority under the chapters specified in RCW 18.235.020(2);

(9) Aiding or abetting an unlicensed person to practice or operate a business or profession when a license is required;

(10) Practice or operation of a business or profession beyond the scope of practice or operation as defined by law or rule;

(11) Misrepresentation in any aspect of the conduct of the business or profession;

(12) Failure to adequately supervise or oversee auxiliary staff, whether employees or contractors, to the extent that consumers may be harmed or damaged;

(13) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession or operation of the person's business. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(14) Interference with an investigation or disciplinary action by willful misrepresentation of facts before the disciplinary authority or its authorized representatives, or by the use of threats or harassment against any consumer or witness to discourage them from providing evidence in a disciplinary action or any other legal action, or by the use of financial inducements to any consumer or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary action; and

(15) Engaging in unlicensed practice as defined in RCW 18.235.010. [2007 c 256 § 19; 2002 c 86 § 114.]

18.235.140 Final order issued under RCW 18.235.130—Failure to comply. If a person or business regulated by this chapter violates or fails to comply with a final

order issued under RCW 18.235.130, the attorney general, any prosecuting attorney, the director, the board or commission, or any other person may maintain an action in the name of the state of Washington to enjoin the person from violating the order or failing to comply with the order. The injunction does not relieve the offender from criminal prosecution, but the remedy by injunction is in addition to the liability of the offender to criminal prosecution and disciplinary action. [2002 c 86 § 115.]

18.235.150 Investigation of complaint—Cease and desist order/notice of intent to issue—Final determination—Fine—Temporary cease and desist order—Action/who may maintain—Remedies not limited. (1)

The disciplinary authority may investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.235.020. In the investigation of the complaints, the director has the same authority as provided the disciplinary authority under RCW 18.235.030.

(2) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in the unlicensed practice of a profession or operation of a business for which a license is required by the chapters specified in RCW 18.235.020.

(3) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in an act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters.

(4) The person to whom such a notice is issued may request an adjudicative proceeding to contest the allegations. The notice shall include a brief, plain statement of the alleged unlicensed activities, act, or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters. The request for hearing must be filed within twenty days after service of the notice of intent to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(5) If the disciplinary authority makes a final determination that a person has engaged or is engaging in unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters, the disciplinary authority may issue a permanent cease and desist order. In addition, the disciplinary authority may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in the unlicensed practice of a profession or operation of a business for which a license is required by one or more of the chapters specified in RCW 18.235.020. The proceeds of such a fine shall be deposited in the related program account.

(6) The disciplinary authority may issue a temporary cease and desist order if a person is engaged or is about to

engage in unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters if the disciplinary authority makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. A temporary cease and desist order shall remain in effect until further order of the disciplinary authority. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine.

(7) The cease and desist order is conclusive proof of unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(8) The attorney general, a county prosecuting attorney, the director, a board or commission, or any person may, in accordance with the laws of this state governing injunctions, maintain an action in the name of the state of Washington to enjoin any person practicing a profession or business without a license for which a license is required by the chapters specified in RCW 18.235.020. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be deposited in the related program account.

(9) The civil remedies in this section do not limit the ability to pursue criminal prosecution as authorized in any of the acts specified in RCW 18.235.020 nor do the civil remedies limit any criminal sanctions. [2007 c 256 § 20; 2002 c 86 § 116.]

18.235.160 Violation of injunction—Contempt of court—Civil penalty. A person or business that violates an injunction issued under this chapter may be found in contempt of court under RCW 7.21.010. Upon a finding by a court of competent jurisdiction that the person or business is in contempt, the court may order any remedial sanction as authorized by RCW 7.21.030. Further, the court may, in addition to the remedial sanctions available under RCW 7.21.030,

order the person or business to pay a civil penalty to the state in an amount not to exceed twenty-five thousand dollars, which shall be deposited in the related program account. For the purposes of this section, the superior court issuing any injunction retains jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties. [2002 c 86 § 117.]

18.235.170 Misrepresentation—Gross misdemeanor.

A person who attempts to obtain, obtains, or attempts to maintain a license by willful misrepresentation or fraudulent representation is guilty of a gross misdemeanor. [2002 c 86 § 118.]

18.235.180 Crime or violation by license holder—Disciplinary authority may give notification. If the disciplinary authority has reason to believe that a license holder has committed a crime, or violated the laws of another regulatory body, the disciplinary authority may notify the attorney general or the county prosecuting attorney in the county in which the act took place, or other responsible official of the facts known to the disciplinary authority. [2002 c 86 § 119.]

18.235.190 Immunity from suit. The director, members of the boards or commissions, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary actions or other official acts performed in the course of their duties. [2002 c 86 § 120.]

18.235.200 Use of records—Exchange of information—Chapter does not affect or limit. This chapter does not affect the use of records, obtained from the director or the disciplinary authorities, in any existing investigation or action by any public agency. Nor does this chapter limit any existing exchange of information between the director or the disciplinary authorities and other public agencies. [2002 c 86 § 121.]

18.235.210 Application of chapter—January 1, 2003.

(1) This chapter applies to any conduct, acts, or conditions occurring on or after January 1, 2003.

(2) This chapter does not apply to or govern the construction of and disciplinary action for any conduct, acts, or conditions occurring prior to January 1, 2003. The conduct, acts, or conditions must be construed and disciplinary action taken according to the provisions of law existing at the time of the occurrence in the same manner as if this chapter had not been enacted.

(3) Notwithstanding subsection (2) of this section, this chapter applies to applications for licensure made on or after January 1, 2003. [2007 c 256 § 21; 2002 c 86 § 122.]

18.235.900 Short title. This chapter may be known and cited as the uniform regulation of business and professions act. [2002 c 86 § 123.]

18.235.901 Effective date—2002 c 86 §§ 101-123.

Sections 101 through 123 of this act take effect January 1, 2003. [2002 c 86 § 124.]

18.235.902 Part headings not law—2002 c 86. Part headings used in this act are not any part of the law. [2002 c 86 § 402.]

18.235.903 Severability—2002 c 86. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2002 c 86 § 404.]