

Effective: August 11, 2021

COMPETENCY & CONDUCT OF A LICENSEE'S EMPLOYEES AND CONTRACTORS

This document sets out the HCRA's expectations of licensees regarding the conduct and competency of their employees and contractors. Under Section 55 of the New Home Construction Licensing Act, 2017 (NHCLA) licensees are responsible for the quality of work and conduct of their employees and contractors:

Every licensee shall take all reasonable precautions to ensure that the licensee and the licensee's employees and agents comply with this Act, the regulations and orders made by the Director or the [Licence Appeal] Tribunal under this Act or by the discipline committee or appeals committee under section 57.

Sections 2 and 6 of the Code of Ethics are also relevant to the competency and conduct of licensees and their employees, contractors, and agents:

2. A licensee shall ensure that its employees, directors, officers, principals, agents and independent contractors carry out their duties in compliance with the [NHCLA] and the regulations.

6. In carrying on business, a licensee shall provide conscientious, courteous and responsive service and demonstrate reasonable knowledge, skill, judgment and competence.

Based on the facts of a given set of circumstances (such as those surrounding a complaint), the HCRA will make a determination as to whether a licensee has implemented all reasonable measures to ensure their employees and contractors are in compliance with all the requirements.

The HCRA will consider the role of the site supervisor in complaints received about licensees. Supervision of the construction of a new home is directly linked to the quality of construction. Any individual(s) responsible for the day-to-day supervision of the construction of a new home are often known as the "site supervisor," or other titles such as construction manager or project manager.



ADVISORY

If the Registrar has reason to believe that an employee, contractor, or agent of a licensee has not or is not meeting required competencies or conduct expected in the NHCLA, the Code of Ethics, or other relevant obligations related to the building and/or selling of a new home being built or sold by the licensee, the Registrar may take regulatory actions, such as a notice of proposal to apply a condition of licence requiring the licensee to pay for the employee or contractor to take training or instruction in a subject appropriate in the circumstances. Alternatively, the Registrar may propose a condition of licence that the licensee may only contract with an individual who has previously received similar training or instruction.

If the evidence supports a potential breach of the Code of Ethics, the Registrar may also refer to the Discipline Committee a complaint arising out of the competency or conduct of an employee or contractor.

Nothing in the foregoing Advisory limits or restricts the authority of the Registrar under the NHCLA.