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Good Afternoon. My name is Rod Berning and I am the owner of Berning & Associates Inc. I am a proud member of The BrickKicker Home Inspection franchise. Currently, my operation is the oldest BrickKicker franchise and is typically in the top 2 or 3 top producing BrickKicker franchises nationwide. I have been in business since 1994. Our company has performed over 25,000 documented full home inspections and I estimate that we have performed close to 20,000 additional partial inspections of a home (partial inspections would be termite inspections, radon testing, mold testing, etc). I currently have 3 full time inspectors who have been with my business anywhere from 2 to 14 years. I have been a member of ASHI since 1995 and I joined Inter-Nachi in 2016. Currently all of my employees are required join both ASHI and Inter-Nachi. I also have been an instructor at Hondros College and was the lead home inspection instructor at that time and have assisted with The BrickKicker Franchise in training new operators nationwide. During this time, I have trained approximately 25 different people who eventually entered and may still be in the home inspection business. This includes two members of the current Ohio ASHI leadership, one of which is running for a director's position in national ASHI. To be as honest as I can be, if licensing does pass, I would be honored to be selected to the board overseeing the development and management of this program. I would like to believe that my experience in this industry would be of value.

Why are we here today? In my opinion, I believe that we are here because at some time an inspection was performed for a client who feels that the inspection was done wrong. That client probably then demanded accountability of the inspector. And the client probably did not receive it to their satisfaction. This client then started an action to get home inspector licensing enforced. However, I could be wrong.

When I was teaching at Hondros, I would be frequently asked what someone had to do to enter the inspection business. My answer was always similar to this:

1. You should take a qualified training class, preferably from someone in the inspection business.
2. You need to set aside an amount of money necessary to run your business. This money will allow you to buy business cards, report software, equipment, errors and omission insurance, marketing materials, and if needed licensing dues or association memberships.
3. And you should be prepared to understand that you will continue to learn on every job. I would further tell them that they will learn everything possible in the first year. In the 2nd year, they will become more comfortable in their profession. And, in the third year, they

will feel like they know everything and will almost reach a stage of arrogance. However, I will remind them that they will continue to see new things every year. One of the best comments relayed to me by one of my inspectors was “even after being in the construction trade, and doing inspections for you for 5 years, I am still learning something every day”.

Which leads us to “what is a home inspection”. In general terms, a home inspection is similar to me visiting my family doctor for my annual physical. During that process, he takes my blood pressure, checks my vitals, asks me questions about my health and daily habits, visually checks me out, and sometimes probes into places which he can easily access without needing any special tools. And, if I request it, he will authorize further testing such as EKG, stress test, blood work, etc. A home inspection is similar to us performing a physical on the home because it is a limited inspection of the visibly accessible areas of a property performed in a snap shot of time.

What does that mean? It means that we have a very limited period of time to inspect the home to try and determine everything that has happened to the home both while the current owner has lived in the home and prior to them occupying the home and we are to try and predict what will happen during the upcoming years of client ownership. We don’t dismantle items and we can’t damage items to inspect behind them. So, the problem we have is that we must make the best assessment we can of the home based on a very limited period of time and based on what is visibly accessible to us at that time. So, using the doctor analogy, how can I hold him responsible if I develop cancer 6 months after my physical?

If state licensing passes, I would fully expect that the four basic inspection rules will remain in place. I say that because I am aware of what rules exist in other state licensing programs. These 4 rules are as follows:

1. The inspection is a visual inspection of the readily accessible areas of the home at this time. If the basement is finished, we cannot properly inspect any areas above or behind the finished materials. If the home owner is a collector of items, it will be difficult or impossible to see areas behind these items because we do not the time, manpower and/or liability coverage to move their items.
2. The inspection is a non-destructive inspection. If an item cannot be easily removed and replaced, it won’t be.
3. The inspection is a non-building code inspection because it is absolutely impossible for the home inspector to know every building code of every city and municipality in the state of Ohio. In addition, building codes frequently change. As an example, I currently own a home built in 1992, a condo built in 2002 and a condo built in 2003. The electrical code for my home is different than the 2002 home and the 2002 home has a different electrical code than the 2003 home. So, all we can do is make general assumptions based on the age of the home.

4. And the inspection is based on conditions present at the time of the inspection. For example, colder weather conditions (like we have now) prevent us from verifying the operation of the air conditioner. In another 2 to 4 weeks, we likely will experience snow which will prevent us from inspecting roof and/or other exterior areas.

Do I favor licensing? Yes, but only if we do it correctly. Raise the cost of the license. Remember this hurts me also because I pay for my staff's annual dues. Make it harder for a new licensee to get his or her license. Again, this will hurt me because it will cost me more money in training. But I think it will make the "new" inspector better which in turn will help the entire industry and should save the inspector board time and money in resolving inspector complaints.

However, in my opinion, here comes the biggest issue facing the inspector board. It is the unreasonable expectations of buyers and their attorneys, along with our industry insurance recommendations, and current State of Ohio Limitation of Liability verdicts is causing most inspectors to limit their liability to the cost of the home inspection in their pre-inspection agreements.

So, this is where I am not sure if licensing is going to solve the issue which brings us here today. Let's use as an example the following:

1. Home inspection is done for the buyer. House is occupied at the time of the inspection and the buyer is present for the entire inspection. House has finished basement, no rain was falling, no sign of any visible water stains noted anywhere in the basement, and seller disclosure states no history of foundation water seepage issues.
2. Buyer moves into the home. Area receives a day with 1 to 2 inches of rain. Water enters the finished basement.
3. Buyer calls basement contractor out to home without saying anything to inspector, buyer agent, seller agent or seller. The contractor does further destructive investigation and unfortunately finds damaged foundation wall materials located behind the finished basement wall materials. The contractor then states that this is an on-going issue and should have been noted by the home inspector. The contractor then presents the buyer with a larger than desired repair estimate. At this time, the buyer feels like they have been completely taken advantage of by the inspector.
4. Buyer then calls his or her realtor who immediately refers them to the inspector.
5. The buyer calls the inspector, relays what has happened and states that they want the issue remedied.
6. The inspector reviews his or notes and relays that no issues were present at the time of the inspection. The inspector apologizes for any inconveniences the buyer is experiencing.
7. The inspector may offer a refund equal to their inspection fee which likely will offend the buyer.
8. If the buyer feels the inspector did nothing wrong, they may go away feeling angry, duped and cheated. If they feel the inspector is wrong and taking advantage of them, they will call an attorney.

9. This is where things could get interesting because our state licensing law says absolutely nothing about limits of liability. Let's remember that it is my understanding that a limit of liability ruling exists in the State of Ohio.
10. If licensing exists, the buyer is going to file a complaint with the board. The board is going to investigate and tell the buyer they inspector has done all he or she can do. This is not going to make the buyer happy. And, let's be honest, did it improve the profession? It's only going to improve the industry if we find a way to get rid of the bad inspector. So, let's say the board rules in favor of the buyer. The inspector is only going to pay back the inspection fee and the state recovery fund is going to eat the rest. If the state demands restitution from the inspector, they will go out of business.

The licensing and commerce committee needs to review the limits of liability provisions and what the ultimate liability is for the inspector. Without doing this, I don't think we will have solved the issue.

I want to thank you and the committee for listening to me today. I appreciate the hard and difficult work you face with this program. If I can help, please let me know. I will do my best to answer any questions at this time.