CHAPTER 8

PRACTICE AND PROCEDURE FOR DISCIPLINARY, APPLICATION, AND LICENSURE, AND DISCIPLINARY MATTERS

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to:

(a) Conduct investigations, hearing and proceedings concerning:

(i) Alleged violations of the NPA or the Board Rules; or

(ii) Actions relating to an application for a license, certificate, recognition, or permit including granting or denying; or

(iii) Alleged violations of the NPA or the Board Rules.

(b) Determine and administer appropriate disciplinary action against an applicant or licensee.

(c) For purposes of this chapter, “licensee” means an APRN, RN, LPN or CNA that holds a license, certificate, recognition, or permit or prescriptive authority issued by the Board.

(d) For purposes of this chapter, “license” means a license, certificate, recognition, permit or prescriptive authority issued by the Board.

Section 2. Enforcement of Court Order for Non-Payment of Child Support. The Board shall comply with court orders issued pursuant to W.S. 20-6-112(a).

Section 3. Grounds for Discipline.

(a) Disciplinary Action. The Board may take disciplinary action against a licensee or refuse to issue or renew a license for one (1) or more of the following acts or conduct:

(i) Inability to function with reasonable skill and safety for the following reasons, including but not limited to:

(A) Physical or mental disability, including cognitive impairment or other impairment from consumption of drugs or alcohol;

(B) Lack of nursing competence;

(C) Substance abuse/dependency or clinically diagnosed substance use disorder;
(D) Client abandonment;
(E) Client abuse, including, but not limited to: physical, verbal, mental, emotional, financial or sexual abuse;
(F) Fraud or deceit, including, but not limited to: prescription fraud, falsification of a medical record, omission of required information or submission of false information written or verbal;
(G) Client neglect;
(H) Violation of client boundaries, including sexual boundaries or entering into financial transactions with clients;
(I) Performance of unsafe client care; or
(J) Violation of privacy or confidentiality in any form including: written, verbal or technological;

(ii) Misappropriation of client property or property belonging to a hospital, medical clinic or facility providing care to a client;

(iii) Criminal felony conviction;

(i) Criminal misdemeanor conviction relating to and impacting the ability to practice nursing or the CNA role;

(iv) Drug diversion for self or others;

(v) Sale, unauthorized use, illegal possession or manufacturing of controlled/illicit drugs;

(vi) Failure to comply with reasonable requests from the Board including, but not limited to, failing to:

(A) Responses to the administrative complaint;

(B) Responses to formal pleadings such as notice of hearing and/or petition and complaint;

(C) Written responses to request for explanation for failure to disclose required information; or

(C) Failure to cooperate in the investigation; or

(vii) Failure to appear at properly noticed hearings comply with a term, condition or obligation of a Board order;
Failure to conform to the standards of acceptable and prevailing APRN practice, nursing practice or the CNA role, in which case actual injury need not be established; or

Failure to appropriately supervise; or

With respect to APRNs, failure to supervise or to monitor the performance of acts by any individual working under the direction of the APRN; or.

Practicing without a valid license.

(b) Volunteer Nurse Discipline. In addition to those acts identified in subsection (a), the Board may take disciplinary action against a volunteer nurse for the following acts or conduct:

(i) Accepting remuneration for providing nursing services while holding a volunteer nursing license;

(ii) Practicing outside the premises of a nonprofit health care facility in this State;

(iii) Providing care to persons other than low income uninsured; or

(iv) Engaging in the practice outside the scope of the volunteer nurse license in the State.

Section 3. Application Review and Investigation Process.

(a) Application Review and Investigation. In application matters:

(i) Every applicant bears the burden of satisfying license requirements;

(ii) Every application for a license issued by the Board is subject to investigation to determine whether the requirements set forth in the NPA and Board Rules are satisfied; and

(iii) Every application that reveals information which merits further investigation shall be assigned to the ARC.

(b) Application Review Committee Action. Following investigation, the ARC may recommend:

(i) A license be issued, renewed, reactivated or reinstated;

(ii) A license be issued, renewed, reactivated or reinstated subject to conditions, restrictions, or other disciplinary action;

(iii) Approval of a settlement agreement, which may include the issuance, renewal, reactivation or reinstatement of a license with the imposition of a reprimand, conditions, restrictions, suspension, other discipline or a combination thereof; or

(iv) Denial of the application.
(c) **Notice of Intent to Recommend Approval Subject to Conditions, Restrictions, Other Disciplinary Action or Denial of License.**

(i) The ARC shall notify the applicant of its intent to recommend:

(A) Approval of the license subject to conditions, restrictions, or other disciplinary action; or

(B) Denial of the application.

(ii) The Notice of Intent shall contain:

(A) A brief description of the facts or conduct which warrant the issuance or denial of a license subject to conditions, restrictions, or other disciplinary action;

(B) A statement of the nature of the actions which warrant the issuance or denial of a license subject to conditions, restrictions, or other disciplinary action and a citation to the applicable statutory provisions in the NPA or the Board Rules; and

(C) Notice of the right to a hearing if a written request is received by the Board office within thirty (30) days of the date of mailing the Notice of Intent.

(d) **Applicant’s Request for Hearing.**

(i) The applicant may request a hearing if the ARC recommends:

(A) Approval of the license subject to conditions, restrictions, or other disciplinary action; or

(B) Denial of the application.

(ii) The applicant shall submit a written request for hearing to the Board office within thirty (30) days of the date of the Notice of Intent.

(e) Failure of the applicant to pursue proceedings related to the application after requesting a hearing may result in dismissal.

**Section 4. Administrative Complaint Form.**

(a) Any complaint filed against a licensee shall be made in writing and contain the signature and address of the person or persons making the complaint.

(b) To initiate the investigatory process, the complainant should provide the following:

(i) The name, address, place of employment and position of the individual alleged to have violated the NPA or the Board’s Rules;

(ii) The nature of the complaint and a description of the incidents involved, including
date(s), time(s), and location(s), and any observed behavior of the individual;

(iii) Supportive documentation of the allegations which may include, but is not limited to:

(A) Statements of witnesses, preferably signed, which may provide information regarding the alleged violations. Such statements should include names and contact information of witnesses;

(B) Medical releases, medical records, or both;

(C) Law enforcement records, including court documents;

(D) Investigatory data and reports relevant to the allegations, which were conducted or compiled by the complainant or other parties;

(E) Work schedules, employment policies and procedures, workplace assignments, staffing at the time of the alleged incident, documentation of prior employment discipline which may be helpful in substantiating the violation; and

(F) Any other data or documentation potentially relevant to the complainant’s allegation(s);

(iv) A copy of the administrative complaint, including any accompanying documentation not otherwise subject to privacy protection or other laws precluding disclosure, shall be sent to the licensee by regular mail, or by electronic mail to the e-mail address provided by and indicated to be the preferred method of communication by the licensee. The licensee may be required to provide a preliminary response to the administrative complaint to assist in investigation or provide explanation for the allegations contained in the administrative complaint.

Section 5. Disciplinary Committee and Investigations of the Administrative Complaint.

(a) Disciplinary Committee

(i) Complaints submitted to the Board office or initiated on behalf of the Board shall be investigated by the DC or the Board staff.

(ii) These Board Rules do not preclude the Board from delegating the authority to the Executive Director or other designee to engage in specified decision making and recommendations based upon investigation of disciplinary complaints by directive or policy duly adopted by the Board at a regular meeting, including utilization of a matrix process to facilitate prompt resolution of complaints (“discipline matrix process”), which is published on the Board’s website.

(iii) Initial investigations shall be performed by Board staff. The purpose of the investigation shall be to determine if there are grounds for and sufficient evidence to warrant any disciplinary action against the licensee. Board staff shall have the authority to obtain criminal background data where otherwise permitted by law, to obtain documentary information, including but not limited to law enforcement, personnel, medical or mental health records, to obtain witness
statements, to interview witnesses, to issue investigative subpoenas authorized by W.S. 33-21-122(c)(ix), and to obtain prescription profiles from the Board of Pharmacy pursuant to W.S. 35-7-1060(c)(ii) and applicable rules related to the licensee.

(iv) After initial investigation

(A) If the Executive Director determines that the licensee presents a clear and immediate danger to the public health, safety and welfare if allowed to continue to practice, then proceedings for a summary suspension shall be initiated; or

(B) The DC may propose voluntary resolution to the licensee. The DC may request the licensee to submit to an informal conference or interview to assist in investigation.

(b) Examinations

(i) In cases where the physical or mental condition or competence of a licensee is at issue, the DC may request that the licensee submit to a physical or mental examination, including but not limited to a psychological, psychiatric, substance abuse, fitness for duty, or competency evaluation, by a qualified provider selected or approved by the DC. The examination shall be provided at the sole expense of the licensee. In selecting a qualified provider, the DC shall consider the provider’s credentials.

(ii) The request for a physical or mental examination, or for competency evaluation, shall provide the following:

(A) Reasonable notice to the licensee to be examined;

(B) The time, place, manner, conditions, and scope of exam; and

(C) Identification of the person or persons who will perform the exam.

(iii) The DC, Board staff, or both shall receive the original detailed, written report of the examiner which includes the examiner’s findings, identification and results of all tests performed on the licensee. The report shall further include the examiner’s diagnoses and conclusions, which shall include a determination of competency or fitness for safe practice, together with like reports of any prior examinations of the same, similar, or other relevant condition revealed to, or known by the examiner, as part of the examiner’s intake consideration of the licensee’s medical/treatment history;

(iv) Board staff shall provide a copy of examiner’s report to the examined licensee;

(v) When submitting to an examination requested by the DC the licensee shall, prior to the exam, submit a written authorization or release to the provider waiving any patient-clinician privilege or other basis of confidentiality regarding the examination and any subsequent examinations relative to the same issue; the licensee shall further provide the Board office with a copy of the authorization or release prior to any examination. Failure to comply with a request for evaluation, failure to waive the privilege, in writing, or failure to provide the Board office with a copy of the authorization or release as required herein, shall constitute a violation of W.S. 33-21-
146(a)(xi).

(c) Disciplinary Committee Action. The DC may:

(i) Dismiss the administrative complaint;

(ii) Issue a notice of warning;

(iii) Recommend a settlement agreement which may include a voluntary surrender or a combination of suspension, the imposition of restrictions, conditions, reprimand, or other discipline;

(iv) Recommend disciplinary action against the licensee including revocation, suspension, reprimand, restrictions of or conditions to continued practice or a combination thereof, or non-renewal of the license, certificate or recognition; or

(v) Recommend summary suspension.

(d) Board Action. The Board may resolve an administrative complaint by:

(i) Approving the recommendations of the DC; or

(ii) Conducting a contested case hearing. Following the hearing and deliberation of all evidence admitted at a contested case hearing, the Board may:

(A) Dismiss the complaint due to lack of clear and convincing evidence;

(B) Issue a notice of warning; or

(C) Impose discipline by revocation, suspension, reprimand, restriction, condition, non-renewal, or a combination thereof, for violation of any provision of the NPA or the Board Rules.

(e) DC members shall not take part in the consideration or deliberation of any contested case in which they have participated in the investigation. DC and Board staff may attend and/or testify in a contested case hearing.


(a) Complaint Review and Investigation.

(i) Complaints shall be submitted to the Board upon the form provided by the Board and contain the name, address, and signature of the person making the complaint. The Board may initiate complaints.

(ii) Complaints shall be investigated by the DC or the Board staff.

(iii) DC may meet informally with the licensee.
(b) Voluntary Surrender. A licensee may petition the Board, in writing, to voluntarily surrender their license. The Board shall hold an expedited meeting at its earliest convenience to consider the petition. The Board may accept or reject the petition for voluntary surrender and may consider whether the licensee is under investigation.

(c) Disciplinary Committee Action. Following investigation, the DC may recommend:

(i) Dismissal of the complaint;

(ii) Issuance of a Notice of Warning;

(iii) Approval of a settlement agreement, which may include a reprimand, conditions, restrictions, non-renewal, suspension, voluntary surrender, other discipline or a combination thereof;

(iv) Disciplinary action which may include a reprimand, conditions, restrictions, non-renewal, suspension, revocation, other discipline or a combination thereof; or

(v) Summary suspension.

Section 5. Summary Suspension.

(a) Recommendation. If the DC recommends summary suspension, the Board shall conduct an expedited hearing to determine whether the licensee’s continued practice presents a clear and imminent danger to public health, safety or welfare.

(b) Notice of Intent to Recommend Summary Suspension.

(i) The DC shall notify the licensee of its intent to recommend summary suspension;

(ii) The Notice of Intent shall contain:

(A) Copy of the complaint;

(B) Notice that an expedited summary suspension hearing shall be set at the earliest opportunity a quorum of Board members may be assembled; and

(C) Statement that failure to answer the complaint or appear at the hearing may result in default.

(c) Notice of Expedited Hearing. Upon confirmation of the date and time of the expedited hearing, the DC shall notify the licensee of the date and time of the hearing.

(d) Default. The Board may enter an order of default in any summary suspension where the licensee or the licensee’s representative has not provided an answer to the complaint and not appeared at the expedited hearing.

Section 6. Evaluations.
(a) Evaluations. In cases where the physical or mental condition or competence of an applicant or licensee is at issue, the ARC or DC may request that the applicant or licensee submit to an evaluation. Such evaluations may include, but are not limited to: psychological, psychiatric, substance abuse, fitness for duty or competency. Such evaluations shall be conducted by a qualified provider selected or approved by the ARC or DC and at the sole expense of the applicant or licensee. In selecting a qualified provider, the ARC or DC shall consider the provider’s credentials.

(b) Request. The request for an evaluation shall provide the following:

(i) Reasonable notice to the applicant or licensee to be evaluated;

(ii) The time, place, manner, conditions, and scope of evaluation; and

(iii) Identification of the person(s) who will perform the evaluation.

(c) Report. The ARC or DC shall receive the provider’s written report which shall include:

(i) Findings, identification, and results of all tests or instruments employed;

(ii) Reports of any prior evaluations of the same, similar or other relevant condition revealed to or known by the provider, with consideration of prior medical or mental history including treatment; and

(iii) Diagnoses and conclusions, which shall include a determination of competency or fitness to practice safely.

Section 6. Service of Notice of Intent and Opportunity to Show Compliance.

(a) Summary Suspension

(i) Prior to commencing a formal proceeding, Board staff on behalf of the DC shall send a notice of intent to initiate formal action for summary suspension in a manner conforming with Section 12 of this chapter. The notice of intent shall include a brief description of the facts or conduct which warrant the intended action, and provide the licensee, an opportunity to respond. Given the urgency of complaints involving a summary suspension proceeding, the opportunity to respond shall provide for a shorter period of time not less than five (5) days from the date of the notice of intent.

(b) Other Disciplinary Action (Non-Summary Suspension)

(i) Prior to commencing a formal proceeding, Board staff on behalf of the DC shall send a notice of intent to initiate formal disciplinary action suspension in a manner conforming with Section 12 of this chapter. The notice of intent shall include a brief description of the facts or conduct which warrant the intended action, and provide the licensee an opportunity to show compliance with all lawful requirements for the retention of the license.
The opportunity to show compliance shall expire fifteen (15) days from the date of mailing the notice of intent.

A licensee may request an informal conference to provide any additional information or to resolve an administrative complaint without a hearing.


(a) Formal Proceeding

(i) Matters involving a summary suspension proceeding shall be set for hearing at the earliest opportunity a quorum of Board members may be assembled.

(ii) Formal proceedings for disciplinary action against a licensee shall be commenced by serving a notice of hearing and petition and complaint by certified or regular mail, or by electronic mail to the e-mail address provided by and indicated to be the preferred method of communication by the licensee except in matters involving a summary suspension proceeding, at least twenty (20) days prior to the date set for hearing.

(b) Notice of Hearing. The Notice of Hearing shall contain:

(i) The name and last address of the licensee;

(ii) A statement in ordinary and concise language of the matters asserted, which shall contain the nature of the complaint filed with the Board, the facts upon which the complaint is based, the specific statutory provisions and the specific Board Rules that the licensee is alleged to have violated;

(iii) The time, place and nature of the hearing;

(iv) The legal authority and jurisdiction; and

(v) A statement indicating that failure to respond to the complaint:

(A) Within ten (10) days of its receipt, or failure to participate in any hearing on a request or motion for an order for summary suspension may result in an order by default; or

(B) Within twenty (20) days of its receipt may result in a default judgment.


(a) Notice of Intent to Recommend Disciplinary Action.

(i) The DC shall notify the licensee of its intent to recommend disciplinary action;

(ii) The Notice of Intent shall:

(A) Include a brief description of the facts or conduct which warrant the intended action; and
(B) Provide the licensee an opportunity to show compliance or respond to allegations for disciplinary action within fifteen (15) days of the date of the mailing.

(b) Informal Conference. The licensee may request an informal conference with the DC to provide any additional information or to resolve an administrative complaint without a hearing.

Section 8. Petition. The DC shall initiate formal proceedings for disciplinary action by serving a Petition to the last known address of the licensee by certified mail, by regular mail, by electronic mail to the e-mail address indicated to be the preferred method of communication or by personal service at least thirty (30) days prior to the date set for hearing.


(a) Hearing. Upon receipt of a written request for hearing from an applicant or commencement of formal proceedings for disciplinary action against a licensee, the Board shall conduct a hearing. The Board shall serve a Notice of Hearing on the applicant or licensee.

(b) Notice of Hearing. The Notice of Hearing shall contain:

(i) The name and last known address of the applicant or licensee;

(ii) A brief statement of the matters asserted relating to:

(A) The recommendation to deny the application, the facts upon which the recommendation to deny is based, the statutory provisions and/or the Board Rules the applicant is alleged to have violated; or

(B) The nature of the Petition, the facts upon which the Petition is based, the statutory provisions and/or the Board Rules the licensee is alleged to have violated;

(iii) The time, place, and nature of the hearing;

(iv) The legal authority and jurisdiction; and

(v) A statement indicating:

(A) The applicant’s failure to appear at a noticed hearing or pursue proceedings may result in a dismissal; or

(B) The licensee’s failure to answer the allegations contained in the Petition within twenty (20) days of the date of mailing and failure to appear at a noticed hearing may result in a default judgment.

Section 10. Lawful Service. There shall be a presumption of lawful service of a Notice of Intent, Petition and Notice of Hearing or any other communication required by these Board Rules if sent to the last known address of the applicant or licensee by certified mail, by regular mail, by electronic mail to the e-mail address indicated to be the preferred method of communication or by
Section 8.——Default. The Board may enter an order of default judgment based on the allegations contained in the petition and complaint in any case where the licensee or the licensee’s representative has not responded nor appeared at a scheduled noticed hearing.

Section 11.——Dismissal or Default.

(a) Dismissal. The Board may enter an order of dismissal based on the allegations contained in the recommendation to deny in any case where the applicant or the applicant’s representative has not appeared at a noticed hearing or pursued proceedings.

(b) Default. The Board may enter an order of default judgment based on the allegations contained in the Petition in any case where the licensee or the licensee’s representative has not answered the allegations contained in the Petition and has not appeared at a noticed hearing.

Section 9.——Application Review and Investigation Process.

(a) If any application reveals any information which merits further investigation, the matter shall be assigned to the ARC. An applicant has the obligation to notify the Board office of any change in contact information, including but not limited to current mailing address or physical address, current home or cellular telephone number, and current e-mail address as well as preferred method of communication, in order to facilitate service or communication of any action requiring notice to an applicant or licensee under this chapter.

(b) Investigation of Application

(i) Every application for a license, certificate, recognition or permit issued by the Board is subject to investigation to determine whether the requirements set forth in the NPA and Board Rules are satisfied. Accordingly, each application is subject to an investigative process and recommendations provided in this chapter by an ARC or DC.

(ii) These Board Rules do not preclude the Board from delegating the authority to engage in specified decision-making or recommendations of application matters following investigation by directive or policy adopted by the Board at a regular meeting to the Executive Director or other designee, including a matrix process, to facilitate prompt processing of applications for licensure where any potentially negative information is not considered a significant risk to public health or safety, or otherwise a barrier to issuance of a license, certificate or recognition (“application matrix process”), which shall be published on the Board’s website.

(iii) Initial investigative activity shall be done by Board staff. The purpose of the investigation shall be to determine if the applicant has met all requirements to obtain approval for a license, certificate, or recognition or if grounds to warrant a denial of a license, certificate, or recognition or other actions permitted by this chapter exist. Staff shall have the authority to obtain criminal background data where otherwise permitted by law, to obtain documentary information, including medical or mental health records, and/or obtain witness statements, interview witnesses, issue investigative subpoenas as authorized by W.S. 33-21-122(c)(ix), obtain prescription profiles from the Board of Pharmacy pursuant to W.S. 35-7-1060(c)(ii) related to the applicant.
(c) Incomplete Application

(i) An incomplete application requires no action by the ARC or Board, until such time as the application is deemed “complete” by Board staff, on behalf of the Board, and has been reviewed for recommendations by the ARC. An application is “incomplete”, when material and requisite information has not been provided as part of the application process. Such information, may include, but is not limited to:

(A) Failure by the applicant to complete or answer any information requested on the application form;

(B) Failure by the applicant to demonstrate lawful presence in accordance with Federal Law;

(C) Failure by the applicant to respond to any ARC inquiry or to produce any documents or information requested by the ARC;

(D) Failure by the applicant to provide payment for application fees. If any payment is made by the applicant, processed, and rejected or returned to the Board, regardless of the reason, the applicant has failed to provide proper payment for application fees;

(E) Failure by the applicant to provide the Board with any document or information needed or requested by the Board to assess whether the applicant meets all requisites for licensure and poses no risk of harm to the public;

(F) Failure by the applicant to provide the Board with the preferred method of communication, in order to facilitate service or communication of any action requiring notice to an applicant or licensee under this chapter.

(ii) Any new application, which remains incomplete, one year from the date of its original receipt by the Board office, shall expire.

(d) Renewal Applications

(i) If the renewal application of a licensee reveals any information which merits further investigation, the matter shall be assigned to the DC, and the disciplinary investigative process shall apply as if a written complaint form had been filed against the licensee, subject to procedures for contested case hearing in application matters.

(ii) The licensee may continue to practice on the license subject to renewal pending investigation or further action of the Board.

(iii) Failure to timely renew, resulting in expired or lapsed license, shall constitute the unauthorized practice of nursing or nursing assistant practice in violation of the NPA and a further or independent ground for discipline of a licensee.

(e) Reinstatement or Reactivation Applications
(i) Any reinstatement or reactivation application by a licensee or an applicant who was
the subject of prior disciplinary action shall be assigned to DC and the investigative process shall
apply as if a written complaint form had been filed against the applicant or licensee. This process
also shall apply to a person whose license, certificate, or recognition was subject to restrictions or
conditions, surrendered, suspended or revoked.

(ii) To the extent possible, if the licensee or applicant was subject to prior disciplinary
action, the DC should consist of the same Board member(s) who originally participated in the
matter, or to the Executive Director in discipline matrix process matters;

(iii) The DC shall make a preliminary determination to recommend or deny
reinstatement or reactivation, which may also include recommended restrictions or conditions to
practice;

(iv) A licensee or applicant who disagrees with or disputes the recommendation by the
DC shall be entitled to a hearing as in other application matters.

(f) Examinations

(i) In cases where the physical or mental condition or competency of an applicant is at
issue, the Executive Director in application matrix process matters or the ARC, on behalf of the
Board, may request that the applicant submit to a physical or mental examination, including but
not limited to a psychological, psychiatric, substance abuse evaluation, fitness for duty, or a
competency evaluation, by a qualified provider selected by the ARC at the sole expense of the
applicant. In selecting a qualified provider, the ARC shall consider the provider’s credentials.

(ii) The request for a physical or mental examination shall provide the following:

   (A) Reasonable notice to the applicant to be examined;

   (B) The time, place, manner, conditions, and scope of exam; and

   (C) Identification of the person or persons who will perform the exam.

(iii) The ARC, Board staff, or both shall receive the original, detailed, written report of
the examiner which includes the examiner’s findings, identification and results of all tests
performed on the applicant. The report shall further include the examiner’s diagnoses and
conclusions, together with like reports of any prior examinations of the same, similar, or other
relevant condition(s) revealed to, or known by the examiner, as part of the examiner’s intake of
the applicant’s medical/treatment history;

(iv) Board staff shall provide a copy of examiner’s report to the examined applicant;

(v) Prior to the exam, the applicant shall submit a written authorization or release to
the provider waiving any patient–clinician privilege or other basis of confidentiality regarding the
requested examination and any subsequent examinations relative to the same issue; the applicant
shall further provide the Board office with a copy of the authorization or release prior to any
examination. Failure to comply with a request for evaluation, failure to waive the privilege, in
writing, or failure to provide the Board office with a copy of the authorization or release as required herein, shall constitute a violation of W.S. 33-21-146(a)(xi).

(g) Application Review Committee Action. The ARC may:

(i) Recommend a license, certificate, recognition or permit be issued;

(ii) Recommend a settlement agreement which may include the issuance of a license, certificate, or recognition with the imposition of restrictions, conditions, reprimand or a combination thereof;

(iii) Preliminarily deny the application by sending a letter of denial to the applicant; or

(iv) Table any recommendation or action on any application if the application is incomplete, or the ARC determines further information and investigation is necessary.

(h) Applicant’s Request for Hearing

(i) If the ARC denies the application with a letter of preliminary denial, the applicant may request a contested case hearing.

(ii) The applicant’s request for a hearing shall be submitted to the Board, in writing, and shall be received by the Board within thirty (30) days from the date of mailing of the letter of preliminary denial. If a written request for a contested case hearing is not received by the Board office from the applicant within the thirty (30) day period, the ARC’s preliminary denial of the application shall be final.

(iii) The ARC may request that the applicant submit to an informal conference to provide additional information that may be favorable to granting of the license or certificate, or to attempt to otherwise resolve issues that may negatively influence license or certificate approval to avoid a hearing.

(j) Preliminary Denial Letter. The preliminary denial letter shall contain:

(i) A brief description of the facts or conduct which warrant the denial of licensure or certification;

(ii) A statement, in ordinary and concise language of the nature of the actions which warrant the denial or other authorized action, the facts upon which the denial or other action is based, the specific statutory provisions or the specific Board Rules involved;

(iii) Notice of the right to a hearing if a written request is received in the Board office within thirty (30) days of the date of mailing the letter of the denial.

Section 10. Notice of Hearing.

(a) If a written request for hearing is received by the Board office from the applicant within the thirty (30) day period, the Board office, on behalf of the ARC shall serve a Notice of
Hearing by certified or regular mail, or by electronic mail to the e-mail address provided by and indicated to be the preferred method of communication by the applicant, or personal service to the applicant at least twenty (20) days prior to the date set for hearing. Such service shall be made to the last indicated address provided to the Board by the applicant.

(b) The Notice of Hearing shall contain:

(i) The name and last address of the applicant;

(ii) A statement in ordinary and concise language, of the matters asserted, which shall contain the nature of the issues relating to the denial of the application, the facts upon which the denial is based, the specific statutory provisions, and the specific Board Rules the applicant is alleged to have violated or with which the applicant has failed to comply;

(iii) The time, place, and nature of the hearing; and

(iv) The legal authority and jurisdiction.

(c) ARC members shall not take part in the consideration or deliberation of any contested case if they have participated in the investigation or denied the application. ARC members and Board staff may attend and/or testify at a contested case hearing.

(i) The Board may enter an order dismissing an applicant’s hearing in any case where the applicant or the applicant’s representative has not appeared at a scheduled noticed hearing.

Section 11.Contested Case Hearing.

(a) The hearing officer shall preside over the formal contested case hearing which shall be conducted pursuant to the WAPA and the Office of Administrative Hearings rules concerning contested case proceedings.

(b) Requests for discovery from the Board shall be made in writing and directed to the Executive Director. Requests for discovery from the ARC or DC shall be made in writing and served upon the assigned Assistant Attorney General with a copy to the Executive Director.

(c) During the formal contested case hearing, Board Members may ask questions of the witnesses and/or the parties including their attorneys.

(d) All testimony shall be recorded verbatim by a competent reporter or by electronic recording devices. If the written transcript is prepared at the request of a party, the cost of the transcript shall be paid by the party making the request, unless the Board for good cause shown waives assessment of such costs.

Section 12. Contested Case Hearing. The hearing officer shall preside over the contested case hearing which shall be conducted pursuant to the WAPA and the Office of Administrative Hearings rules concerning contested case proceedings incorporated by reference in Chapter 1.

(a) **Summary Suspension.** The DC shall bear the burden to prove by a preponderance of evidence that the licensee presents a clear and immediate danger to the public health, safety, and welfare if allowed to continue to practice.

(b) **Application/Licensure Matters.** The applicant shall bear the burden to prove by a preponderance of evidence that they meet the qualifications for licensure. The burden shall shift to the ARC or DC to prove by clear and convincing evidence that applicant should be denied a license. The burden shall shift to the applicant to persuade the Board that the ARC or DC’s grounds for denial are insufficient.

(c) **Discipline Matters.** The DC shall bear the burden to prove by clear and convincing evidence that a licensee violated the Act or the Board’s Rules.

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**Section 12. Lawful Service.**

(a) There shall be a presumption of lawful service of a Notice of Intent, Petition, Notice of Hearing, or any other communication required by these Board Rules is:

(i) Send to the last address of the licensee or applicant by certified or regular mail, or

(ii) Sent by electronic mail to the e-mail address provided and indicated to be the preferred method of communication by the licensee or applicant.

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**Section 13. Decision and Order, Record of Proceedings.**

(a) The Board shall make and enter a written decision and order containing findings of fact and conclusions of law, stated separately.

(iii) The decision and order shall be sent by certified mail to the licensee or applicant or their attorneys.

(iv) This rule does not preclude the Board from giving preliminary, non-binding notice to the parties prior to the filing of the Board’s written decision and order.

(v) Unless otherwise ordered by the Board, all decisions of the Board shall be effective at the same time of the filing of the written decision and order.

(b) Any Board order imposing discipline against a licensee:

(i) Shall be deemed a public record and be available for inspection and dissemination in accordance with all federal and state laws; and

(ii) May be published in a regular publication of the Board and the Board’s website, to provide notice of disciplinary action to the public and interested persons, in addition to complying with other federal law reporting requirements.

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**Section 14. Board Decision and Order.**

(a) Board Action. The Board may resolve an application matter, complaint or Petition
by:

(i) Approving the recommendations of the ARC or DC; or

(ii) Conducting a contested case hearing. Following the hearing and deliberation of all evidence admitted at a contested case hearing, the Board may:

(A) Issue, renew, reactivate or reinstate a license;

(B) Issue, renew, reactivate or reinstate a license with conditions, restrictions, or other disciplinary action;

(C) Deny a license, renewal, reactivation or reinstatement;

(D) Dismiss the complaint or Petition due to lack of clear and convincing evidence;

(E) Issue a Notice of Warning; or

(F) Impose a reprimand, conditions, restrictions, non-renewal, suspension, revocation, other discipline or a combination thereof.

(b) Board Order. The Board shall issue a written decision which:

(i) Shall be sent to the applicant, licensee or their representative by certified mail or regular mail;

(ii) Shall be deemed a public record and be available for inspection and dissemination in accordance with all federal and state laws; and

(iii) May be published in a regular publication of the Board and on the Board’s website.

Section 14. Appeals.

Section 15. Incorporation by Reference.

(a) For any rule or regulation incorporated by reference in these Board Rules:

(i) The Board has determined that incorporation of the full text in these Board Rules would be unduly cumbersome or expensive;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section;

(iii) The incorporated rule or regulation is maintained at 130 Hobbs, Suite B, Cheyenne, WY 82002 and is available for public inspection and copying at cost at the same location.

(b) The rule or regulation incorporated by reference in Section 11(a) of these Board Rules is Chapter 2—Contested Case Proceedings as existing on July 1, 2013 including amendments adopted by Office of Administrative Hearings as of that date.
Section 15. Judicial Review.

(a) Appeals from decisions of the Board are governed by the WAPA and Wyoming Rules of Appellate Procedure.

(b) Costs of transcripts and any reasonable costs assessed by the Board regarding the record on appeal shall be borne by the party making the appeal.