Most regulatory license disciplinary proceedings, such as those by the Wyoming State Board of Nursing (“Board”), generally are recognized as public safety measures rather than punishment, and thus serve remedial, rather than punitive purposes. In other words the overall objective in any form of license disciplinary sanction is not to punish misconduct but rather to protect the public. In general, the Board may “refuse to issue or renew, or may suspend or revoke the license, certificate or temporary permit of any person, or to otherwise discipline a licensee or certificate holder for a violation of the Nurse Practice Act (NPA).” See, Wyo. Stat. § 33-21-146.

The Disciplinary Committee (“DC”), which is made up of (1) the Executive Director delegated to review certain types of cases or (2) one or more Board members assigned to investigate complaints, may make recommendations to resolve a complaint if violations are found. Such recommendations include: (1) written notice of warning; or (2) reprimand, imposition of restrictions, conditions, suspension, non-renewal or a combination thereof; or (3) voluntary surrender or revocation. Formal disciplinary actions include reprimand, conditions, non-renewal, suspension, voluntary surrender or revocation of licensure or certificate. These formal disciplinary actions are required by federal law to be reported to National Practitioner Data Bank (NPDB). A revocation or voluntary surrender also may result in further action by the Office of Inspector General (OIG).

A brief summary follows of the different types of disciplinary sanctions that can be recommended by the DC for approval by the Board either by settlement agreement or following a hearing. These orders are also posted on the Board’s website. To see the orders issued by the Board for discipline in other cases, go to https://nursing-online.state.wy.us/Default.aspx?page=37.

**Summary Suspension**

A summary suspension is a temporary order that prevents a nurse or nursing assistant from practicing pending further order of the Board, and usually lasts while additional investigation takes place and a further recommendation can be made. Wyo. Stat. § 16-3-113(c) of the Wyoming Administrative Procedure Act provides for summary suspension proceedings as follows:

No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. * * * These proceedings shall be promptly instituted and determined. (Emphasis added.)

This statute allows the Board to take “emergency action” if the public health, safety or welfare requires it. In addition to the summary suspension provision of the Wyoming Administrative Procedure Act, under Wyo. Stat. § 33-21-147, the NPA specifically authorizes summary suspension and provides that the Board “may summarily suspend a license and institute proceedings concomitantly if the board finds that the licensee presents a clear and immediate danger to the public health, safety and welfare if allowed to continue to practice.” (Emphasis added.) The Board’s Rules at Chapter 8, Section 5(c)(v) [Disciplinary Committee and Investigations of the Administrative Complaint] also provide that this process is commenced by the Disciplinary Committee recommending summary suspension.
Wyo. Stat. § 33-21-146(a) of the NPA sets forth various grounds for disciplining licensees or certificate holders, which may also form the basis of a summary suspension order. However, the more notable grounds would include those in which a nurse or nursing assistant is (1) unfit or incompetent to practice nursing by reason of criminal acts or professional negligence, personal habits or other causes such as “physical or mental disability, use of drugs, narcotics, chemicals or any other mind-altering material,” and (2) suspected to have engaged unauthorized use of a proscribed controlled substance. The majority of summary suspension orders issued by the Board have been related to complaints of impairment by drugs or alcohol while practicing and/or drug diversion. In addition, repetitive and egregious unsafe nurse practice or sexual or financial exploitation of patients or clients – particularly the vulnerable individuals, including the elderly and minors – can result in a summary suspension order. A summary suspension also is a formal disciplinary action that is required by federal law to be reported to NPDB.

**Revocation/Suspension**
Revocation is the permanent removal of a license or permanent disqualification to practice as a nurse or nursing assistant. Suspension is the temporary removal of a license or temporary disqualification for a designated period to practice or engage in practice, which may include certain conditions. In other words, a suspension differs from revocation in that the former is not permanent. A voluntary surrender is the voluntary relinquishment of a license or certificate by the holder, and accepted by the Board. A suspension, revocation or voluntary surrender are considered formal disciplinary actions that are required by federal law to be reported to NPDB. A suspension, revocation or voluntary surrender also may result in further action by the OIG.

**Restricted or Conditional Licenses**
The NPA permits the Board to impose restrictions or conditions on licensees or certificate holders if they are permitted to continue to practice. The Board may impose a conditional license pursuant to Wyo. Stat. § 33-21-149, which states: “As a result of disciplinary action, the board may in addition to other powers and duties, issue, renew or reinstate licenses subject to reasonable conditions which the board may impose.” There are a variety of forms that a restricted, conditional license can take, which will depend on the nature of the violations and the objective of permitting continued practice to either remediate or cause the licensee or certificate holder to practice within certain limitations. For example, if a nurse or nursing assistant has a diagnosed substance abuse disorder, in which professional monitoring, restrictions regarding controlled substances and a worksite monitor is recommended in addition to appropriate treatment and aftercare, a conditional license requires the participation in and compliance with those recommendations for a stated period of time. A restricted or conditional license is considered formal disciplinary actions that are required by federal law to be reported to NPDB.

**Reprimands**
A reprimand is generally considered the least severe form of formal discipline. It is a written statement, letter or order indicating that the licensee’s actions or conduct violated professional standards articulated by statute and/or rule. There is no cessation of practice, although it may not be unusual for the licensee or certificate holder may be required to undertake certain training as a form of remediation. A reprimand is formal disciplinary action that is required by federal law to be reported to NPDB.

**Notice of Warning**
Under Wyo. Stat. § 33-21-122(e) the Board may “act upon violations of the provisions of the act whenever, in the board’s opinion, the public interest will be served adequately by a suitable written notice of warning to affected parties.” This is a letter that goes in the licensee’s or certificate holder’s permanent file. A notice of warning is considered informal discipline and is not required to be reported to NPDB.