



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules *(After completing all of Sections 1 through 3, proceed to Section 5 below)*

Regular Rules

1. General Information

a. Agency/Board Name Nursing, Board of		
b. Agency/Board Address 130 Hobbs Ave., Suite B	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Cynthia LaBonde		f. Agency Liaison Telephone Number 307-777-8504
g. Agency Liaison Email Address cynthia.labonde@wyo.gov		h. Adoption Date October 9, 2018
i. Program General		

2. Legislative Enactment For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. **Yes.** Please provide the Enrolled Act Numbers and Years Enacted:

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.

(Please use the Additional Rule Information form for more than 10 chapters and attach it to this certification)

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
1	General Provisions	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
8	Procedure for Application, Licensure and Disciplinary Matters	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **August 10, 2018**

- approved as to form by the Registrar of Rules; and
- provided to the Legislative Service Office and Attorney General:

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

c. If applicable, describe the **emergency** which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

5. Final Filing of Rules


a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature: **October 11, 2018**

b. Date on which final rules were approved as to form by the Secretary of State and sent to the Legislative Service Office: **October 11, 2018**

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	Cynthia LaBonde
Signatory Title	Executive Director, Wyoming State Board of Nursing
Date of Signature	September 28, 2018

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	



Matthew H Mead
Governor

Wyoming

STATE BOARD OF NURSING

Cynthia LaBonde MN, RN
Executive Director

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Statement of Principal Reasons

Chapter 1 – General Provisions, and Chapter 8 – Procedure for Application, Licensure and Disciplinary Matters

The Wyoming State Board of Nursing is proposing to amend Chapter 1 - General Provisions and Chapter 8 – Procedure for Application, Licensure and Disciplinary Matters.

Chapter 1 is being revised to adopt the most recent version of the Office of Administrative Hearings rules governing contested cases. Chapter 8 is being revised to clarify language, align with Secretary of State rules format, and reorder and add additional “Grounds for Discipline or Denial of License” to include the language “sexual misconduct” per HEA0050(2018). Other revisions to Chapter 8 include adding a new section to identify the process for licensees to request a modification of conditions imposed on their license and updating Summary Suspension language.

Additional information can be found in the Crosswalk for Chapter 8.

We are requesting the revisions to Chapters 1 & 8 be approved.

Respectfully submitted,

Cynthia LaBonde MN, RN
Executive Director, WSBN

Crosswalk for Chapter 8: Procedure for Application, Licensure, and Disciplinary Matters

- Section 3: Items reordered in Current Rules to align with Proposed Rules.

Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments	
BOX 1				
1.1	<p>Section 1. <u>Statement of Purpose.</u> These Board Rules are adopted to implement the Board’s authority to:</p> <p>(a) Conduct investigations, hearings, and, proceedings concerning:</p>	<p>Section 1. <u>Statement of Purpose.</u> These Board Rules are adopted to implement the Board’s authority to:</p> <p>(a) Conduct investigations, hearing and proceedings concerning:</p>	Removed underline for SOS format.	
1.2	<p>(i) Actions relating to an application for initial licensure, renewal, relicensure, or reinstatement of a license;</p>	<p>(i) Actions relating to an application for a license including granting or denying; or</p>	Expanded methods of licensure.	
1.3	<p>(ii) Petitions for modification of conditions or restrictions imposed upon a license; or</p>		Added process for license modifications.	
1.4	<p>(iii) Alleged violations of the NPA, Board Rules, or both.</p>	<p>(ii) Alleged violations of the NPA or the Board Rules.</p>	Clarified existing language.	
1.5	<p>(b) Determine and administer appropriate disciplinary action against an applicant or licensee.</p>	<p>(b) Determine and administer appropriate disciplinary action against an applicant or licensee.</p>	No change.	
BOX 2				
2.1	<p>Section 2. <u>Definitions</u></p> <p>(a) “Abandon” means to terminate a client relationship, with or without the client’s knowledge, without making arrangements for appropriate continuation of care.</p>	<p>Section 2. <u>Definitions.</u></p> <p>(a) “Abandonment” means the termination of a client relationship, with or without the client’s knowledge, without making arrangements for appropriate continuation of care.</p>	Removed underline for SOS format and clarified existing language by changing tense.	

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
2.2	(b) "Abuse" means any behavior designed to control or subjugate another human being through the use of fear, humiliation, or assault, either verbal or physical.	(b) " Abuse " means any behavior that is designed to control and subjugate another human being through the use of fear, humiliation, or assault, either verbal or physical.	Clarified existing language.	
2.3	(c) "ARC" means Application Review Committee. The Application Review Committee may be comprised of: (i) At least one (1) Board member; or (ii) Executive Director in application review matrix process matters.	(c) " ARC " means Application Review Committee. The Application Review Committee may be comprised of: (i) At least one (1) Board member; or (ii) Executive Director in application matrix process matters.	Clarified type of matrix.	
2.4	(d) "Application Review Matrix" means guidelines that delegate limited authority to Board staff to recommend issuance of a license, issuance of a license with a notice of warning, or forward an application matter to an ARC for additional review and recommendation.	(d) " Application Review Matrix " means guidelines which provide delegated Board staff authority to recommend issuance of a license or certificate with a notice of warning, or forward to an Application Review Committee for additional review.	Clarified existing language.	
2.5	(e) "Complainant" means the person(s), organization, or agency who files a complaint.	(e) " Complainant " means the person(s), organization or agency who initiates a complaint.	Clarified existing language.	
2.6	(f) "DC" means Disciplinary Committee. The Disciplinary Committee may be comprised of: (i) At least one (1) Board member; or (ii) Executive Director in discipline matrix process matters.	(f) " DC " means Disciplinary Committee. The Disciplinary Committee may be comprised of: (i) At least one (1) Board member; or (ii) Executive Director in discipline matrix process matters.	Clarified type of matrix.	

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
2.7	(g) “Discipline Decision Matrix” means guidelines that delegate limited authority to Board staff to pursue summary suspension, recommend dismissal of a complaint, recommend issuance of a notice of warning, or forward a licensure or disciplinary matter to a DC for additional review and recommendation.	(g) “ Discipline Decision Matrix ” means guidelines which provide delegated Board staff authority to pursue summary suspension, or recommend dismissal of a complaint, issuance of a notice of warning or letter of reprimand to a licensee based upon certain criteria.	Clarified existing language.	
2.8	(h) “License” means a license, certificate, recognition, permit, or prescriptive authority issued by the Board or a privilege to practice from a multistate license issued by another compact state.	(h) “ License ” means a license, certificate, recognition, permit or prescriptive authority issued by the Board.	Expanded the term to cover “privilege to practice” for a multistate license.	
2.9	(j) “Licensee” means an APRN, RN, LPN or CNA who holds a valid license, certificate, recognition, permit, or prescriptive authority issued by the Board or a privilege to practice from a multistate license issued by another compact state.	(j) “ Licensee ” means an APRN, RN, LPN or CNA that holds a license, certificate, recognition, permit or prescriptive authority issued by the Board.	Expanded the term to cover “privilege to practice” for a multistate license.	
2.10	(k) “Misappropriation of client property” means negligently or deliberately taking, misusing, exploiting, using, or selling money or property belonging to another, without consent, whether temporarily or permanently.	(k) “ Misappropriation of client property ” means negligently or deliberately taking, misusing, exploiting, using or selling money or property belonging to another, whether temporarily or permanently, and without regard to consent.	Clarified existing language.	
2.11	(l) “Neglect” means the failure to provide necessary goods, services, care, or attention and may include:	(l) “ Neglect ” means the failure to provide necessary goods, services, care, or attention and may include:	No change.	
2.12	(i) Insufficient observation;	(i) Insufficient observation; the failure to provide adequate assessment and intervention directly or indirectly through inadequate supervision;	Separated items to improve clarity.	

Proposed Chapter 8 Rules		Current Chapter 8 Rules	Rationale for Change	Comments
2.13	(ii) Failure to provide adequate assessment and intervention directly or indirectly through inadequate supervision;			
2.14	(iii) Failure to intervene when a client condition warrants intervention;	(ii) Failure to intervene when a client condition warrants intervention;	No change.	
2.15	(iv) Inappropriate delegation or assignment of care to an unqualified care giver; or	(iii) Inappropriate delegation or assignment of care to an unqualified care giver; and	Changed “and” to “or” to clarify existing language.	
2.16	(v) Accepting assignments beyond level of competency or scope of practice.	(iv) Accepting assignments beyond level of competency or scope of practice.	No change.	
BOX 3				
3.1	<p>Section 3. <u>Grounds for Discipline or Denial of License.</u></p> <p>(a) Disciplinary Action. The Board may take disciplinary action or refuse to issue, renew, relicense, or reinstate a license for one (1) or more of the following acts or conduct, upon proof the licensee or applicant:</p>	<p>Section 3. <u>Grounds for Discipline.</u></p> <p>(a) <u>Disciplinary Action.</u> The Board may take disciplinary or refuse to issue or renew a license for one (1) or more of the following acts or conduct:</p>	Removed underline for SOS format, added to title as grounds apply to both discipline and application matters, and added additional license methods for clarification.	
3.2	<p>(i) Was impaired with the intent of practicing nursing or nurse assisting due to:</p> <p>disability;</p> <p>(A) Physical or mental</p> <p>competence;</p> <p>(B) Lack of nursing</p>	<p>(i) Inability to function with reasonable skill and safety for the following reasons, including but not limited to:</p> <p>disability;</p> <p>(A) Physical or mental</p> <p>competence;</p> <p>(B) Lack of nursing</p>	<p>Changed to past tense to reflect action that has already occurred.</p> <p>Separated “substance abuse” and “dependency” to enhance clarity.</p>	

Proposed Chapter 8 Rules		Current Chapter 8 Rules	Rationale for Change	Comments
	(C) Substance abuse; or (D) Substance dependency.	(C) substance abuse/dependency;		
3.3	(ii) Was under the influence of alcohol, drugs, substances, or chemicals with the intent of practicing nursing or nurse assisting;		Added language to enhance clarity.	
3.4	(iii) Has abused a client or member of a vulnerable population, including, but not limited to: physical, verbal, mental, emotional, financial, or sexual abuse;	(E) Client abuse, including, but not limited to: physical, verbal, mental, emotional, financial or sexual abuse;	Changed to past tense to reflect action that has already occurred and added “member of a vulnerable population” to address issues which may be related to the practice of nursing	
3.5	(iv) Has engaged in sexual misconduct as defined in Wyoming Statute 33-1-118(b)(ii);		Added language to reflect adoption of HB 0157.	
3.6		(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;	Removed as covered in statute 33-21-146 (a) (iii).	
3.7	(v) Has neglected a client or member of a vulnerable population;	(G) Client neglect;	Changed to past tense to reflect action that has already occurred and added “member of a vulnerable population” to address issues which may be related to the practice of nursing	

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
3.8	(vi) Has abandoned a client;	(D) Client abandonment	Revised language to reflect past tense or action that has already occurred.	
3.9	(vii) Has distributed, sold, or used without authorization, illegally possessed, or manufactured controlled or illicit drugs; (viii) Has diverted drugs or medications for self or others;	(vi) Distribution, sale, unauthorized use, illegal possession or manufacturing of controlled/illicit drugs; (v) Drug diversion for self or others;	Revised language to reflect past tense or action that has already occurred.	
3.10	(ix) Has interfered with a client's plan of care; (x) Has performed unsafe client care;	(I) Performance of unsafe client care; or	Added language for clarity and revised language to reflect past tense or action that has already occurred.	
3.11	(xi) Has violated client boundaries including, but not limited to: sexual boundaries or entering into financial transactions with clients;	(H) Violation of client boundaries, including sexual boundaries or entering into financial transactions with clients;	Revised language to reflect past tense or action that has previously occurred.	
3.12	(xii) Has misappropriated client property; (xiii) Has misappropriated property belonging to a hospital, medical clinic, or facility providing care to a client;	(i) Misappropriation of client property or property belonging to a hospital, medical clinic or facility providing care to a client;	Separated items to emphasize distinction between client and employer property and revised language to reflect past tense or action that has previously occurred.	

Proposed Chapter 8 Rules		Current Chapter 8 Rules	Rationale for Change	Comments
3.13	(xiv) Has violated the privacy or confidentiality of a client in any form including, but not limited to: written, verbal, or technological;	(J) Violation of privacy or confidentiality in any form including: written, verbal or technological;	Revised language to reflect past tense or action that has previously occurred.	
3.14		(iii) Criminal felony conviction;	Removed as provision located in statute 33-21-146(a) (ii).	
3.15	(xv) Has failed to appropriately supervise;	(ix) Failure to appropriately supervise;	Revised language to reflect past tense or action that has previously occurred.	
3.16		(iv) Criminal misdemeanor conviction relating to and impacting the ability to practice nursing or the CNA role;	Removed as provision located in statute 33-21-146(a) (ii).	
3.17	(xvi) Has improperly delegated a nursing task;		Added language to emphasize importance of proper delegation.	
3.18		(viii) 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;	Removed as provision located in statute 33-21-146 (a) (iv) (B).	
3.19	(xvii) With respect to APRNs, has failed to supervise or monitor the performance of acts by an individual working under the direction of the APRN; or	(ix) 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	Revised language to reflect past tense or action that has already occurred.	
3.20	(xviii) Has aided another licensee in practicing beyond the scope of the nurse's license or experience.		Added language to discourage practice beyond scope.	

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
3.22		<p>(vii) Failure to comply with reasonable requests from the Board including, but not limited to, failing to:</p> <p>(A) Answer the administrative complaint;</p> <p>(B) Respond to request for explanation for failure to disclose required information; or</p> <p>(C) Cooperate in the investigation;</p> <p>(D) Failure to comply with a term, condition or obligation of a Board order;</p>	Removed as does not appear to be valid grounds for discipline and located in statute 33-21-146(a) (xii).	
3.23		(viii) Practicing without a valid license.	Removed as provision located in statute 33-21-146(a) (vii).	
3.24	(b) Volunteer Nurse Discipline. In addition to those acts identified in subsection (a), the Board may take disciplinary action against a volunteer nurse, upon proof the volunteer nurse:	(b) <u>Volunteer Nurse Discipline</u> . 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:	Changed tense to clarify the act has previously occurred .	
3.25	(i) Has accepted monetary compensation for providing nursing services while holding a volunteer nurse license;	(i) Accepting remuneration for providing nursing services while holding a volunteer nurse license;	Changed “remuneration” to “monetary compensation” to provide clarity.	
3.26	(ii) Has practiced outside the premises of a nonprofit health care facility in the State;	(ii) Practicing outside the premises of a nonprofit health care facility in the State;		
3.27	(iii) Has provided care to persons	(iii) Providing care to persons other		

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
	other than low income uninsured; or	than low income uninsured; or		
3.28	(iv) Has engaged in practice outside the scope of the volunteer nurse license in the State.	(iv) Engaging in practice outside the scope of the volunteer nurse license in the State.		
BOX 4				
4.1	Section 4. Application Review and Investigation Process. (a) Application Review and Investigation. In application matters:	Section 4. <u>Application Review and Investigation Process.</u> (a) <u>Application Review and Investigation.</u> In application matters:	Removed underline for SOS format.	
4.2	(i) Every applicant bears the burden of satisfying licensure requirements; and	(i) Every applicant bears the burden of satisfying license requirements;	Added “and “because list now has only two items.	
4.3	(ii) After an applicant has demonstrated he or she meets the requirements for licensure, the burden shifts to the ARC to prove there are justifiable grounds for denying the license or certificate.	(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	Clarified the application review process.	
4.4		(iii) Every application that reveals information which merits further investigation shall be assigned to the ARC.	Removed as this process unnecessary in rule.	
4.5	(b) Application Review Committee Action. The ARC may recommend:	(b) <u>Application Review Committee Action.</u> Following investigation, the ARC may recommend:	Removed underline otherwise no change.	
4.6	(i) A license be issued, renewed, reactivated, relicensed, or reinstated;	(i) A license be issued, renewed, reactivated or reinstated;	Expanded licensure methods.	
4.7	(ii) A license be issued, renewed, reactivated, relicensed, or reinstated subject to	(ii) A license be issued, renewed, reactivated or reinstated subject to conditions, restrictions, or		

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
	conditions, restrictions, or other disciplinary action;	other disciplinary action;		
4.8	(iii) Approval of a settlement agreement, which may include the issuance, renewal, reactivation, relicensure, or reinstatement of a license with the imposition of a reprimand, conditions, restrictions, suspension, other discipline or a combination thereof; or	(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		
4.9	(iv) Denial of the application.	(iv) Denial of the application.	No change.	
4.10	(c) Notice of Intent to Recommend Approval Subject to Conditions, Restrictions, Other Disciplinary Action or Denial of License.	(c) <u>Notice of Intent to Recommend Approval Subject to Conditions, Restrictions, Other Disciplinary Action or Denial of License.</u>	Removed underline for SOS format.	
4.11	(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.	(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.	No change.	
4.12	(ii) The Notice of Intent shall contain:	(ii) The Notice of Intent shall contain:	No change.	
4.13	(A) A brief description of the facts or conduct that warrant denial or issuance of a license subject to conditions, restrictions, or other	(A) A brief description of the facts or conduct which warrant the issuance or denial of a license subject to conditions, restrictions, or other	Grammatical correction.	

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
	disciplinary action;	disciplinary action;		
4.14	(B) A statement of the nature of the actions that warrant denial or issuance of a license subject to conditions, restrictions, or other disciplinary action and a citation to the applicable statutory provisions in the NPA, Board Rules, or both; and	(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	Grammatical correction.	
4.15	(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.	(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.	No change.	
4.16	(d) Applicant's Request for Hearing.	(d) <u>Applicant's Request for Hearing.</u>	Removed underline for SOS format.	
4.17	(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.	(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.	No change.	
4.18	(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.	(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.	No change	
4.19	(e) Applicant's Failure to Request a Hearing. If the applicant fails to timely request a hearing of the ARC's recommendation, the Board	(iii) Failure of the applicant to pursue proceedings related to the application after requesting a hearing may result in dismissal.	Clarified existing language.	

Proposed Chapter 8 Rules		Current Chapter 8 Rules	Rationale for Change	Comments
	shall set a hearing.			
4.20	(f) An applicant shall not be permitted to withdraw an application in lieu of discipline.		Added language to prevent applicant from avoiding discipline by withdrawing his/her application.	
BOX 5				
5.1	Section 5. Petition for Modification of Conditions.		Added new section to add process for modification of conditions or restriction.	
5.2	<p>(a) Petition for Modification of Conditions or Restrictions.</p> <p>(i) A licensee may petition the Board for modification of the conditions or restrictions imposed upon their license.</p> <p>(ii) A licensee shall submit a petition for modification to the Board office in writing, which shall include documentation demonstrating compliance with the Board order, the modification is consistent with their treatment plan, and the modification is sufficient to ensure the public is adequately protected.</p> <p>(iii) A petition for modification shall be reviewed by the DC.</p>			
5.3	<p>(b) Disciplinary Committee Action</p> <p>(i) If the DC agrees with the requested modification, the parties may file a stipulated motion with the Board.</p> <p>(ii) If the DC does not agree with the requested modification, the DC shall notify the</p>			

Proposed Chapter 8 Rules		Current Chapter 8 Rules	Rationale for Change	Comments
	licensee of its intent to recommend denial of the petition.			
5.4	<p>(c) Board Consideration.</p> <p>(i) The Board shall consider the petition at its earliest convenience. The Board may accept or reject the petition for modification and shall consider the petition and the DC's recommendation or stipulated motion.</p>			
BOX 6				
6.1	<p>Section 6. Complaint Review and Investigation Process.</p> <p>(a) Complaint Review and Investigation.</p>	<p>Section 5. <u>Complaint Review and Investigation Process</u></p> <p>(a) <u>Complaint Review and Investigation.</u></p>	Removed underline for SOS format and renumbered section due to addition of a new section 5.	
6.2	(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. Board staff may initiate complaints.	(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.	No change.	
6.3	(ii) Complaints shall be investigated by Board staff on behalf of the DC.	(ii) Complaints shall be investigated by the DC or the Board staff.	Clarified language.	
6.4	(iii) DC may meet informally with the licensee.	(iii) DC may meet informally with the licensee.	No change.	

Proposed Chapter 8 Rules		Current Chapter 8 Rules	Rationale for Change	Comments
6.5	(b) Voluntary Surrender. A licensee may petition the Board, in writing, to voluntarily surrender their license. The Board shall consider the petition at its earliest convenience. The Board may accept or reject the petition for voluntary surrender and may consider whether the licensee is under investigation.	(b) <u>Voluntary Surrender</u> . 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.	Removed underline and clarified existing language.	
6.6	(c) Disciplinary Committee Action. The DC may recommend:	(c) <u>Disciplinary Committee Action</u> . Following investigation, the DC may recommend:	Removed underline for SOS formatting rule and clarified the existing process.	
6.7	(i) Dismissal of the complaint;	(i) Dismissal of the complaint;	No change.	
6.8	(ii) Issuance of a notice of warning;	(ii) Issuance of a Notice of Warning;	Removed capitalization.	
6.9	(iii) Approval of a settlement agreement, which may include a reprimand, conditions, restrictions, suspension, voluntary surrender, other discipline, or a combination thereof;	(iii) Approval of a settlement agreement, which may include a reprimand, conditions, restrictions, non-renewal, suspension, voluntary surrender, other discipline or a combination thereof;	Removed “non-renewal” as no longer a current process.	
6.10	(iv) Disciplinary action, which may include a reprimand, conditions, restrictions, suspension, revocation, other discipline, or a combination thereof; or	(iv) Disciplinary action which may include a reprimand, conditions, restrictions, non-renewal, suspension, revocation, other discipline or a combination thereof; or		
6.11	(i) Summary suspension.	(v) Summary suspension.	No Change	
BOX 7				
7.1	Section 7. Summary Suspension. (a) Recommendation. If the DC	Section 6. <u>Summary Suspension</u> (a) <u>Recommendation</u> . If the DC	Removed underline for SOS format, renumbered section due	

Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
recommends summary suspension, the Board shall conduct an expedited proceeding to determine whether the licensee's continued practice presents a clear and imminent danger to public health, safety or welfare.	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.	to addition of a new section 5 and clarified existing language.	
7.2 (b) Notice of Intent to Recommend Summary Suspension.	(b) <u>Notice of Intent to Recommend Summary Suspension.</u>	Removed underline for SOS format.	
7.3 (i) The DC shall notify the licensee of its intent to recommend summary suspension;	(i) The DC shall notify the licensee of its intent to recommend summary suspension;	No change	
7.4 (ii) The Notice of Intent shall contain:	(ii) The Notice of Intent shall contain:		
7.5 (A) Copy of the complaint;	(A) Copy of the complaint;		
7.6 (B) Notice that an expedited summary suspension proceeding shall be set at the earliest opportunity a quorum of Board members may be assembled; and	(B) Notice that an expedited summary suspension hearing shall be set at the earliest opportunity a quorum of Board members may be assembled; and	Clarified existing language.	
7.7 (C) Statement that failure to answer the complaint or appear at the proceeding may result in default.	(C) Statement that failure to answer the complaint or appear at the hearing may result in default.	Changed language for clarification.	
7.8 (c) Notice of Expedited Proceeding. Upon confirmation of the date and time of the expedited proceeding, Board staff shall notify the licensee in writing of the date and time of the proceeding.	(c) <u>Notice of Expedited Hearing.</u> 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.	Removed underline and clarified existing language.	
7.9 (d) Scope of Expedited Proceeding. (i) Summary Suspension proceedings shall not be governed by Section 26 Office of Administrative Hearings rules concerning contested case proceedings incorporated by reference in Chapter		Added subsection to explain the process for an expedited proceeding.	

Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
<p>1.</p> <p>(ii) The expedited proceeding shall be limited to a presentation of the evidence the DC believes warrants summary suspension.</p> <p>(iii) The Board shall order summary suspension if it concludes probable cause exists that the licensee’s continued practice presents a clear and imminent danger to public health, safety or welfare. The Board shall incorporate a finding to that effect in an order granting summary suspension.</p>			
<p>7.10</p>	<p>(d) <u>Default.</u> 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.</p>	<p>Removed section as no longer applicable.</p>	
BOX 8			
<p>8.1</p> <p>Section 8. Evaluations.</p> <p>(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 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.</p>	<p>Section 7. <u>Evaluations</u></p> <p>(a) <u>Evaluations.</u> 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.</p>	<p>Removed underline for SOS format and renumbered section due to addition of new section 5.</p>	

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
8.2	<p>(b) Request. The request for an evaluation shall provide the following:</p> <p>(i) Reasonable notice to the applicant or licensee to be evaluated;</p> <p>(ii) The time, place, manner, conditions, and scope of evaluation; and</p> <p>(iii) Identification of the person(s) who will perform the evaluation.</p>	<p>(b) <u>Request</u>. The request for an evaluation shall provide the following:</p> <p>(i) Reasonable notice to the applicant or licensee to be evaluated;</p> <p>(ii) The time, place, manner, conditions, and scope of evaluation; and</p> <p>(iii) Identification of the person(s) who will perform the evaluation.</p>	<p>Removed underline for SOS format and renumbered section due to addition of new section 5.</p>	
8.3	<p>(c) Report. The ARC or DC shall receive the provider's written report, which shall include:</p> <p>(i) Findings, identification, and results of all tests or instruments employed;</p> <p>(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</p> <p>(iii) Diagnoses and conclusions, which shall include a determination of competency or fitness to practice safely.</p>	<p>(c) <u>Report</u>. The ARC or DC shall receive the provider's written report which shall include:</p> <p>(iii) Findings, identification, and results of all tests or instruments employed;</p> <p>(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</p> <p>(iii) Diagnoses and conclusions, which shall include a determination of competency or fitness to practice safely.</p>		
BOX 9				
9.1	<p>Section 9. Formal Proceedings for Disciplinary Action</p> <p>(a) Notice of Intent to Recommend Disciplinary Action.</p>	<p>Section 8. <u>Formal Proceedings for Disciplinary Action</u></p> <p>(a) <u>Notice of Intent to Recommend Disciplinary Action.</u></p>	<p>Removed underline for SOS format and renumbered section with addition of new section 5.</p>	

Proposed Chapter 8 Rules		Current Chapter 8 Rules	Rationale for Change	Comments
9.2	(i) The DC shall notify the licensee of its intent to recommend disciplinary action.	(i) The DC shall notify the licensee of its intent to recommend disciplinary action;	No change	
9.3	(ii) The Notice of Intent shall: (A) Include a brief description of the facts or conduct that 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.	(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.	No change	
9.4	(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.	(b) <u>Informal Conference</u> . The licensee may request an informal conference with the DC to provide any additional information or to resolve an administrative complaint without a hearing.	Removed underline for SOS format.	
BOX 10				
10.1	Section 10. 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.	Section 9. <u>Petition</u>. 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.	Removed underline for SOS format and renumbered section as added a new section 5.	
BOX 11				
11.1	Section 11. Notice of 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	Section 10. <u>Notice of Hearing</u> (a) <u>Hearing</u> . Upon receipt of a written request for hearing from an applicant or commencement of formal proceedings for disciplinary action against a	Removed underline for SOS format and renumbered section as added a new section 5.	

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
	hearing. The Board shall serve a Notice of Hearing on the applicant or licensee.	licensee, the Board shall conduct a hearing. The Board shall serve a Notice of Hearing on the applicant or licensee.		
11.2	(b) Notice of Hearing. The Notice of Hearing shall contain:	(b) <u>Notice of Hearing</u> . The Notice of Hearing shall contain:	Removed underline for SOS format.	
11.3	(i) The name and last known address of the applicant or licensee;	(i) The name and last known address of the applicant or licensee;	No change.	
11.4	(ii) A brief statement of the matters asserted: (A) In application matters, the recommendation to deny the application, the facts upon which the recommendation to deny is based, and the statutory provisions or Board Rules the applicant is alleged to have violated; or (B) In discipline matters, the nature of the Petition, the facts upon which the Petition is based, and the statutory provisions or Board Rules the licensee is alleged to have violated;	(ii) A brief statement of the matters asserted: (A) In application matters, 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) In discipline matters, 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;	Clarified existing language.	
11.5	(iii) The time, place, and nature of the hearing;	(iii) The time, place, and nature of the hearing;	No change.	
11.6	(iv) The legal authority and jurisdiction; and	(iv) The legal authority and jurisdiction; and		
11.7	(v) A statement indicating: (A) The applicant's failure to appear at a noticed hearing or pursue proceedings	(v) A statement indicating: (A) The applicant's failure to appear at a noticed hearing or pursue proceedings may result in		

	Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments
	<p>may result in a dismissal; or</p> <p>(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.</p>	<p>a dismissal; or</p> <p>(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.</p>		
BOX 12				
12.1	<p>Section 12. 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 personal service.</p>	<p>Section 11. <u>Lawful Service</u></p> <p>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 personal service.</p>	<p>Removed underline for SOS format and renumbered section as added new section 5.</p>	
BOX 13				
13.1	<p>Section 13. Dismissal or Default</p> <p>(a) Dismissal. The Board may dismiss an application where the applicant or the applicant’s representative has not appeared at a noticed hearing or pursued proceedings.</p>	<p>Section 12. <u>Dismissal or Default</u></p> <p>(a) <u>Dismissal.</u> 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.</p>	<p>Removed underline for SOS format, renumbered section as added new section 5, and clarified existing language.</p>	
13.2	<p>(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.</p>	<p>(b) <u>Default.</u> 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.</p>	<p>Removed underline for SOS format.</p>	

Proposed Chapter 8 Rules	Current Chapter 8 Rules	Rationale for Change	Comments	
BOX 14				
14.1	<p>Section 14. 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.</p>	<p>Section 13. <u>Contested Case Hearing.</u> 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.</p>	<p>Removed underline for SOS format and renumbered section as added new section 5.</p>	
BOX 15				
15.1	<p>Section 15. Burden and Standard of Proof</p> <p>(a) Application Matters. The applicant shall bear the burden to prove, by a preponderance of evidence, they meet the qualifications for licensure. The burden shall shift to the ARC, to prove by clear and convincing evidence, applicant should be denied a license. The burden shall shift to the applicant to persuade the Board the ARC's grounds for denial are insufficient.</p>	<p>Section 14. <u>Burden and Standard of Proof</u></p> <p>(a) <u>Application/Licensure Matters.</u> 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.</p>	<p>Removed underline for SOS format, renumbered section and clarified existing language.</p>	
15.2	<p>(b) Petition for Modification Matters. The licensee shall bear the burden to prove by a preponderance of evidence that the petition for modification of conditions should be granted.</p>		<p>Added subsection to establish process.</p>	
15.3	<p>(c) Discipline Matters. The DC shall bear the burden to prove by clear and convincing evidence a licensee violated the Act, Board Rules, or both.</p>	<p>(c) <u>Discipline Matters.</u> The DC shall bear the burden to prove by clear and convincing evidence that a licensee violated the Act or the Board Rules.</p>	<p>Removed underline for SOS format and clarified existing language.</p>	
BOX 16				

Proposed Chapter 8 Rules		Current Chapter 8 Rules	Rationale for Change	Comments
16.1	Section 16. Board Decision and Order (a) Board Action. The Board may resolve an application matter, administrative complaint, or Petition by:	Section 15. <u>Board Decision and Order</u> (b) <u>Board Action</u> . The Board may resolve an application matter, complaint or Petition by:	Removed underline for SOS format and renumbered.	
16.2	(i) Approving the recommendations of the ARC or DC; or	(i) Approving the recommendations of the ARC or DC; or	No change.	
16.3	(ii) Conducting a contested case hearing. Following the hearing and deliberation of all evidence admitted at a contested case hearing, the Board may:	(ii) Conducting a contested case hearing. Following the hearing and deliberation of all evidence admitted at a contested case hearing, the Board may:	No change.	
16.4	(A) Issue, renew, reactivate, relicense, or reinstate a license;	(A) Issue, renew, reactivate or reinstate a license;	Expanded licensure methods.	
16.5	(B) Issue, renew, reactivate, relicense, or reinstate a license with conditions, restrictions, or other disciplinary action;	(B) Issue, renew, reactivate or reinstate a license with conditions, restrictions, or other disciplinary action;		
16.6	(C) Deny a license, renewal, reactivation, relicensure, or reinstatement;	(C) Deny a license, renewal, reactivation or reinstatement;		
16.7	(D) Approve or deny a petition;		Added language to clarify possible Board action.	
16.8	(E) Dismiss the complaint or Petition due to lack of clear and convincing evidence;	(D) Dismiss the complaint or Petition due to lack of clear and convincing evidence;	No change.	

Proposed Chapter 8 Rules		Current Chapter 8 Rules	Rationale for Change	Comments
16.9	(F) Issue a notice of warning; or	(E) Issue a Notice of Warning; or		
16.10	(G) Impose a reprimand, conditions, restrictions, suspension, revocation, other discipline, or a combination thereof.	(F) Impose a reprimand, conditions, restrictions, non-renewal, suspension, revocation, other discipline or a combination thereof.	Removed “non-renewal” as no longer a viable process.	
16.11	(b) Board Order. The Board shall issue a written decision, which:	(b) <u>Board Order</u> . The Board shall issue a written decision which:	Removed underline for SOS format.	
16.12	(i) Shall be sent to the applicant, licensee, or their representative by certified mail or regular mail;	(i) Shall be sent to the applicant, licensee or their representative by certified mail or regular mail;	No change.	
16.13	(ii) Shall be deemed a public record and be available for inspection and dissemination in accordance with all federal and state laws.	(ii) Shall be deemed a public record and be available for inspection and dissemination in accordance with all federal and state laws; and	No change.	
16.14		(iii) May be published in a regular publication of the Board and on the Board’s website.	Removed as unnecessary in rule.	
BOX 17				
17.1	Section 17. Judicial Review (a) Appeals from decisions of the Board are governed by the WAPA and Wyoming Rules of Appellate Procedure.	Section 16. <u>Judicial Review</u> (a) Appeals from decisions of the Board are governed by the WAPA and Wyoming Rules of Appellate Procedure.	Removed underline for SOS format and renumbered section as added new section 5.	
17.2	(b) Costs of transcripts and any reasonable cost assessed by the Board regarding the record on appeal shall be borne by the party making the appeal.	(b) Costs of transcripts and any reasonable cost assessed by the Board regarding the record on appeal shall be borne by the party making the appeal.	No change.	



Matthew H. Mead
Governor

Wyoming

STATE BOARD OF NURSING

Cynthia LaBonde, MN RN
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Summary of Comments and Agency Responses for Chapter 1: General Provisions and Chapter 8: Procedure for Application, Licensure and Disciplinary Matters

- Licensing base notified by:
 - Notice of Intent published in Casper Star Tribune August 10, 2018.
 - Documentation posted on WSBN website August 10, 2018.
 - Notice of Intent emailed to interested parties ie Board of Medicine, Board of Pharmacy, Wyoming Medical Society.

- Public comment period open from August 10, 2018 to September 28, 2018:
 - NO nurses responded from a licensing base of approximately 18,000.
 - NO other persons responded.

CHAPTER 1

GENERAL PROVISIONS

Section 1. Authority. The Board is authorized under the NPA and the WAPA to promulgate rules and regulations related to the licensure and discipline of nurses and nursing assistants and regulation of the practice of nursing in Wyoming.

Section 2. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to establish administrative procedures.

Section 3. Severability. If any provision of these Board Rules or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

Section 4. Board Office. The Board Office shall be located at 130 Hobbs Avenue, Suite B, Cheyenne, WY 82002.

Section 5. Board Meetings. The Board shall set its regular meetings by resolution.

Section 6. Incorporation by Reference.

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

(i) The Board has determined incorporation of the full text in these Board Rules would be unduly cumbersome or inefficient given the length or nature of the rules;

(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 the Board Office and is available for public inspection and copying at cost at the same location.

(b) The rule or regulation incorporated by reference is Chapter 2 – Uniform Rules for Contested Case Practice and Procedure, adopted by the Office of Administrative Hearings and effective on July 20, 2017, found at <http://soswy.state.wy.us/Rules/RULES/9644.pdf>.

Section 7. Terms Defined by Statute and Herein. Terms defined in the NPA shall have the same meaning when used in these Board Rules unless the context or subject matter clearly requires a different interpretation.

Section 8. Definitions.

(a) “Accountability” means being responsible and answerable for actions or inactions of self and others in the context of delegation.

(b) “Applicant” means any person applying for any type of license, certificate, or

permit issued by the Board.

(c) “Application” means applying for licensure, certification, or permit by one of the following methods:

(i) Licensure or Certification by Examination means meeting competency by successfully passing a Board-approved examination.

(ii) Licensure or Certification by Endorsement means meeting competency by licensed or certified practice in another jurisdiction.

(iii) Renewal means meeting competency during the renewal period.

(iv) Relicensure or Recertification means meeting competency after failing to renew.

(v) Reactivation means meeting competency after inactive status.

(vi) Reinstatement means meeting competency after being revoked, surrendered, suspended or conditioned.

(vii) Temporary Permit means non-renewable, and may be revoked by the Board at any time.

(viii) Volunteer License means restricted ability to practice nursing pursuant to Wyoming Statute 33-21-157.

(d) “Assignment” means the performance of designated nursing activities or tasks by an APRN, RN, LPN or CNA that are consistent with the scope of practice of the APRN, RN, LPN or the role of the CNA; the distribution of work that each staff member is to accomplish on a given shift or work period.

(e) “Biennial” means every two (2) years.

(f) “Board Rules” means the administrative rules and regulations promulgated by the Wyoming State Board of Nursing.

(g) “Boundaries” mean the conscious limits of the professional relationship that allow for safe therapeutic connection between the professional and the client. Boundaries protect the space between the professional’s powers and the client’s vulnerability. Establishing boundaries provides a means for a professional’s control of this power differential and allows for a safe connection based on the client’s need. The professional is responsible for delineating and maintaining the boundaries.

(h) “Client” means a recipient of care that can be an individual, family, group, or community.

(j) “CNA” means Certified Nursing Assistant.

- (k) “CNA II” means Level II - Certified Nursing Assistant.
- (l) “Direction” means:
- (i) Monitor and guide the practice of another through written or verbal communication;
 - (ii) The intermittent observation, guidance and evaluation of the nursing practice of another by a licensed physician, APRN, dentist or RN who may only occasionally be physically present; or
 - (iii) Joint development of a plan of care in advance by those individuals involved which will be implemented without the physical presence of a licensed physician, APRN, dentist, or RN, but shall be available for consultation. The evaluation of the patient care situation and the caregiver’s educational preparation and demonstrated proficiency shall determine the degree of direction needed.
- (m) “Faculty” means RNs who:
- (i) Meet the criteria of the established standards for nursing education programs; and
 - (ii) Have been employed by the parent institution for the purpose of administration, teaching, evaluation, guidance and research in nursing.
- (n) “Jurisdiction” means the extent or range over which authority is exercised.
- (o) “Lapsed” means a license or certificate which is no longer valid due to failure to renew and results in the termination of the privilege to practice nursing.
- (p) “MAC” means Medication Assistant Certified.
- (q) “NCLEX” means National Council Licensure Examination.
- (r) “NPA” means the Nurse Practice Act, W.S. 33-21-119 *et seq.*
- (s) “Prescriptive authority” means the authority granted by the Board to the APRN to select, prescribe, administer, dispense, or provide prescriptive and non-prescriptive medications including, but not limited to, vaccines, immunizing agents and devices.
- (t) “Site visit” means a planned visit by representatives of the Board to the parent institution of a nursing education program for the purpose of program evaluation. When a site visit is deemed necessary by the Board in conjunction with a self-study, the purpose of the site visit will be to verify, clarify, and amplify information contained in the self-study evaluation.
- (u) “Standard” means an authoritative statement by which the Board can determine the quality of education and training or practice of APRN, RN, LPN and CNA.
- (v) “Supervision” means the immediate physical availability of a licensed physician,

APRN, dentist or RN for the purpose of providing assistance, coordination and evaluation of the practice of another.

(w) “WAPA” means the Wyoming Administrative Procedure Act, W.S. 16-3-101 *et seq.*

Section 9. Public Record Access.

(a) A member of the public may:

(i) Verify licensure or certification status and final disciplinary action on the Board’s website;

(ii) Request an electronic or hard copy of the public record which may require a fee. Such fee shall include cost of administrative time and copy production; and

(iii) Make an appointment to review the public record between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding state holidays, at the Board Office.

(A) Public record review shall take place in the presence of a member of the Board staff; and

(B) Original documents must remain with the Board but may be copied at the Board Office and may require a fee. Such fee shall include cost of administrative time and copy production.

Section 10. Licensure Verification. A licensee or certificate holder may request verification of their Wyoming license or certificate by submitting a form and payment of the fee to the Board.

Section 11. Change of Name, Address or Telephone Number. Each applicant, licensee, and certificate holder shall notify the Board in writing of any change to their legal name, home address, business address, e-mail address, or telephone number with thirty (30) days of the change.

CHAPTER 8

PROCEDURE FOR APPLICATION, LICENSURE, AND DISCIPLINARY MATTERS

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

- (a) Conduct investigations, hearings, and proceedings concerning:
 - (i) Actions relating to an application for initial licensure, renewal, relicensure, or reinstatement of a license;
 - (ii) Petitions for modification of conditions or restrictions imposed upon a license; or
 - (iii) Alleged violations of the NPA, Board Rules, or both.
- (b) Determine and administer appropriate disciplinary action against an applicant or licensee.

Section 2. Definitions.

- (a) "Abandon" means to terminate a client relationship, with or without the client's knowledge, without making arrangements for appropriate continuation of care.
- (b) "Abuse" means any behavior designed to control or subjugate another human being through the use of fear, humiliation, or assault, either verbal or physical.
- (c) "ARC" means Application Review Committee. The Application Review Committee may be comprised of:
 - (i) At least one (1) Board member; or
 - (ii) Executive Director in application review matrix process matters.
- (d) "Application Review Matrix" means guidelines that delegate limited authority to Board staff to recommend issuance of a license, issuance of a license with a notice of warning, or forward an application matter to an ARC for additional review and recommendation.
- (e) "Complainant" means the person(s), organization, or agency who files a complaint.
- (f) "DC" means Disciplinary Committee. The Disciplinary Committee may be comprised of:
 - (i) At least one (1) Board member; or
 - (ii) Executive Director in discipline matrix process matters.
- (g) "Discipline Decision Matrix" means guidelines that delegate limited authority to

Board staff to pursue summary suspension, recommend dismissal of a complaint, recommend issuance of a notice of warning, or forward a licensure or disciplinary matter to a DC for additional review and recommendation.

(h) “License” means a license, certificate, recognition, permit, or prescriptive authority issued by the Board or a privilege to practice from a multistate license issued by another compact state.

(j) “Licensee” means an APRN, RN, LPN, or CNA who holds a valid license, certificate, recognition, permit, or prescriptive authority issued by the Board or a privilege to practice from a multistate license issued by another compact state.

(k) “Misappropriation of client property” means negligently or deliberately taking, misusing, exploiting, using, or selling money or property belonging to another, without consent, whether temporarily or permanently.

(l) “Neglect” means the failure to provide necessary goods, services, care, or attention and may include:

- (i) Insufficient observation;
- (ii) Failure to provide adequate assessment and intervention directly or indirectly through inadequate supervision;
- (iii) Failure to intervene when a client condition warrants intervention;
- (iv) Inappropriate delegation or assignment of care to an unqualified care giver; or
- (v) Accepting assignments beyond level of competency or scope of practice.

Section 3. Grounds for Discipline or Denial of License.

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

- (i) Was impaired with the intent of practicing nursing or nurse assisting due to:
 - (A) Physical or mental disability;
 - (B) Lack of nursing competence;
 - (C) Substance abuse; or
 - (D) Substance dependency.
- (ii) Was under the influence of alcohol, drugs, substances, or chemicals with

the intent of practicing nursing or nurse assisting;

(iii) Has abused a client or member of a vulnerable population, including, but not limited to: physical, verbal, mental, emotional, financial, or sexual abuse;

(iv) Has engaged in sexual misconduct as defined in Wyoming Statute 33-1-118(b)(ii);

(v) Has neglected a client or member of a vulnerable population;

(vi) Has abandoned a client;

(vii) Has distributed, sold, or used without authorization, illegally possessed, or manufactured controlled or illicit drugs;

(viii) Has diverted drugs or medications for self or others;

(ix) Has interfered with a client's plan of care;

(x) Has performed unsafe client care;

(xi) Has violated client boundaries including, but not limited to: sexual boundaries or entering into financial transactions with clients;

(xii) Has misappropriated client property;

(xiii) Has misappropriated property belonging to a hospital, medical clinic, or facility providing care to a client;

(xiv) Has violated the privacy or confidentiality of a client in any form including, but not limited to: written, verbal, or technological;

(xv) Has failed to appropriately supervise;

(xvi) Has improperly delegated a nursing task;

(xvii) With respect to APRNs, has failed to supervise or monitor the performance of acts by an individual working under the direction of the APRN; or

(xviii) Has aided another licensee in practicing beyond the scope of the nurse's license or experience.

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

(i) Has accepted monetary compensation for providing nursing services while holding a volunteer nurse license;

(ii) Has practiced outside the premises of a nonprofit health care facility in the

State;

- (iii) Has provided care to persons other than low income uninsured; or
- (iv) Has engaged in practice outside the scope of the volunteer nurse license in the State.

Section 4. Application Review and Investigation Process.

- (a) Application Review and Investigation. In application matters:
 - (i) Every applicant bears the burden of satisfying licensure requirements; and
 - (ii) After an applicant has demonstrated that he or she meets the requirements for licensure, the burden shifts to the ARC to prove there are justifiable grounds for denying the license or certificate.
- (b) Application Review Committee Action. The ARC may recommend:
 - (i) A license be issued, renewed, reactivated, relicensed, or reinstated;
 - (ii) A license be issued, renewed, reactivated, relicensed, or reinstated subject to conditions, restrictions, or other disciplinary action;
 - (iii) Approval of a settlement agreement, which may include the issuance, renewal, reactivation, relicensure, 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 that warrant denial or issuance of a license subject to conditions, restrictions, or other disciplinary action;
 - (B) A statement of the nature of the actions that warrant denial or issuance of a license subject to conditions, restrictions, or other disciplinary action and a citation to the applicable statutory provisions in the NPA, Board Rules, or both; 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) Applicant's Failure to Request a Hearing. If the applicant fails to timely request a hearing of the ARC's recommendation, the Board shall set a hearing.

(f) An applicant shall not be permitted to withdraw an application in lieu of discipline.

Section 5. Petition for Modification of Conditions or Restrictions.

(a) Petition for Modification of Conditions or Restrictions.

(i) A licensee may petition the Board for modification of the conditions or restrictions imposed upon their license.

(ii) A licensee shall submit a petition for modification to the Board office in writing, which shall include documentation demonstrating compliance with the Board order, the modification is consistent with their treatment plan, and the modification is sufficient to ensure the public is adequately protected.

(iii) A petition for modification shall be reviewed by the DC.

(b) Disciplinary Committee Action

(i) If the DC agrees with the requested modification, the parties may file a stipulated motion with the Board.

(ii) If the DC does not agree with the requested modification, the DC shall notify the licensee of its intent to recommend denial of the petition.

(c) Board Consideration.

(i) The Board shall consider the petition at its earliest convenience. The Board may accept or reject the petition for modification and shall consider the petition and the DC's recommendation or stipulated motion.

Section 6. Complaint Review and Investigation Process.

(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. Board staff may initiate complaints.

(ii) Complaints shall be investigated by Board staff on behalf of the DC.

(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 consider the petition at its earliest convenience. The Board may accept or reject the petition for voluntary surrender and may consider whether the licensee is under investigation.

(c) Disciplinary Committee Action. 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, suspension, voluntary surrender, other discipline, or a combination thereof;

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

(v) Summary suspension.

Section 7. Summary Suspension.

(a) Recommendation. If the DC recommends summary suspension, the Board shall conduct an expedited proceeding 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 proceeding 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 proceeding may result in default.

(c) Notice of Expedited Proceeding. Upon confirmation of the date and time of the expedited proceeding, Board staff shall notify the licensee in writing of the date and time of the proceeding.

(d) Scope of Expedited Proceeding.

(i) Summary Suspension proceedings shall not be governed by Section 26 Office of Administrative Hearings rules concerning contested case proceedings incorporated by reference in Chapter 1.

(ii) The expedited proceeding shall be limited to a presentation of the evidence the DC believes warrants summary suspension.

(iii) The Board shall order summary suspension if it concludes probable cause exists that the licensee's continued practice presents a clear and imminent danger to public health, safety or welfare. The Board shall incorporate a finding to that effect in an order granting summary suspension.

Section 8. 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 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 9. Formal Proceedings for Disciplinary Action.

(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 that 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 10. 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.

Section 11. Notice of 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:

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

(B) In discipline matters, the nature of the Petition, the facts upon which the Petition is based, and the statutory provisions or 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 12. 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 personal service.

Section 13. Dismissal or Default.

(a) Dismissal. The Board may dismiss an application 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 14. 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.

Section 15. Burden and Standard of Proof.

(a) Application Matters. The applicant shall bear the burden, to prove by a preponderance of evidence, they meet the qualifications for licensure. The burden shall shift to the ARC, to prove by clear and convincing evidence, applicant should be denied a license. The burden shall shift to the applicant to persuade the Board the ARC's grounds for denial are insufficient.

(b) Petition for Modification Matters. The licensee shall bear the burden to prove by a preponderance of evidence that the petition for modification of conditions should be granted.

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

Section 16. Board Decision and Order.

(a) Board Action. The Board may resolve an application matter, administrative 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, relicense, or reinstate a license;
 - (B) Issue, renew, reactivate, relicense, or reinstate a license with conditions, restrictions, or other disciplinary action;
 - (C) Deny a license, renewal, reactivation, relicensure, or reinstatement;
 - (D) Approve or deny a petition;
 - (E) Dismiss the complaint or Petition due to lack of clear and convincing evidence;
 - (F) Issue a notice of warning; or
 - (G) Impose a reprimand, conditions, restrictions, 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.

Section 17. 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 cost assessed by the Board regarding the record on appeal shall be borne by the party making the appeal.

CHAPTER 1

GENERAL PROVISIONS

Section 1. Authority. The Board is authorized under the NPA and the WAPA to promulgate rules and regulations related to the licensure and discipline of nurses and nursing assistants and regulation of the practice of nursing in Wyoming.

Section 2. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to establish administrative procedures.

Section 3. Severability. If any provision of these Board Rules or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

Section 4. Board Office. The Board Office shall be located at 130 Hobbs Avenue, Suite B, Cheyenne, WY 82002.

Section 5. Board Meetings. The Board shall set its regular meetings by resolution.

Section 6. Incorporation by Reference.

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

(i) The Board has determined incorporation of the full text in these Board Rules would be unduly cumbersome or inefficient given the length or nature of the rules;

(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 the Board Office and is available for public inspection and copying at cost at the same location.

(b) The rule or regulation incorporated by reference is Chapter 2 – Uniform Rules for Contested Case Practice and Procedure, adopted by the Office of Administrative Hearings and effective on July 20, 2017~~October 17, 2014~~, found at <http://soswy.state.wy.us/Rules/RULES/9644.pdf>.

Section 7. Terms Defined by Statute and Herein. Terms defined in the NPA shall have the same meaning when used in these Board Rules unless the context or subject matter clearly requires a different interpretation.

Section 8. Definitions.

(a) “Accountability” means being responsible and answerable for actions or inactions of self and others in the context of delegation.

(b) “Applicant” means any person applying for any type of license, certificate, or permit issued by the Board.

(c) “Application” means applying for licensure, certification, or permit by one of the following methods:

(i) Licensure/or Certification by Examination means meeting competency by successfully passing a Board-approved examination.

(ii) Licensure/or Certification by Endorsement means meeting competency by licensed or certified practice in another jurisdiction.

(iii) Renewal means meeting competency during the renewal period.

(iv) Relicensure/or Recertification means meeting competency after failing to renew.

(v) Reactivation means meeting competency after inactive status.

(vi) Reinstatement means meeting competency after being revoked, surrendered, suspended or conditioned.

(vii) Temporary Permit means non-renewable, and may be revoked by the Board at any time.

(viii) Volunteer License means restricted ability to practice nursing pursuant to Wyoming -Statute- 33-21-157.

(d) “Assignment” means the performance of designated nursing activities/or tasks by an APRN, RN, LPN or CNA that are consistent with the scope of practice of the APRN, RN, LPN or the role of the CNA; the distribution of work that each staff member is to accomplish on a given shift or work period.

(e) “Biennial” means every two (2) years.

(f) “Board Rules” means the administrative rules and regulations promulgated by the Wyoming State Board of Nursing.

(g) “Boundaries” mean the conscious limits of the professional relationship that allow for safe therapeutic connection between the professional and the client. Boundaries protect the space between the professional’s powers and the client’s vulnerability. Establishing boundaries provides a means for a professional’s control of this power differential and allows for a safe connection based on the client’s need. The professional is responsible for delineating and maintaining the boundaries.

(h) “Client” means a recipient of care that can be an individual, family, group, or community.

- (j) “CNA” means Certified Nursing Assistant.
- (k) “CNA II” means Level II - Certified Nursing Assistant.
- (l) “Direction” means:
 - (i) Monitor and guide the practice of another through written or verbal communication;
 - (ii) The intermittent observation, guidance and evaluation of the nursing practice of another by a licensed physician, APRN, dentist or RN who may only occasionally be physically present; or
 - (iii) Joint development of a plan of care in advance by those individuals involved which will be implemented without the physical presence of a licensed physician, APRN, dentist, or RN, but shall be available for consultation. The evaluation of the patient care situation and the caregiver’s educational preparation and demonstrated proficiency shall determine the degree of direction needed.
- (m) “Faculty” means RNs who:
 - (i) Meet the criteria of the established standards for nursing education programs; and
 - (ii) Have been employed by the parent institution for the purpose of administration, teaching, evaluation, guidance and research in nursing.
- (n) “Jurisdiction” means the extent or range over which authority is exercised.
- (o) “Lapsed” means a license or certificate which is no longer valid due to failure to renew and results in the termination of the privilege to practice nursing.
- (p) “MAC” means Medication Assistant Certified.
- (q) “NCLEX” means National Council Licensure Examination.
- (r) “NPA” means the Nurse Practice Act, W.S. 33-21-119 *et seq.*
- (s) “Prescriptive authority” means the authority granted by the Board to the APRN to select, prescribe, administer, dispense, or provide prescriptive and non-prescriptive medications including, but not limited to, vaccines, immunizing agents and devices.
- (t) “Site visit” means a planned visit by representatives of the Board to the parent institution of a nursing education program for the purpose of program evaluation. When a site visit is deemed necessary by the Board in conjunction with a self-study, the purpose of the site visit will be to verify, clarify, and amplify information contained in the self-study evaluation.
- (u) “Standard” means an authoritative statement by which the Board can determine the quality of education and training or practice of APRN, RN, LPN and CNA.

(v) “Supervision” means the immediate physical availability of a licensed physician, APRN, dentist or RN for the purpose of providing assistance, coordination and evaluation of the practice of another.

(w) “WAPA” means the Wyoming Administrative Procedure Act, W.S. 16-3-101 *et seq.*

Section 9. Public Record Access.

(a) A member of the public may:

(i) Verify licensure~~/or~~ certification status and final disciplinary action on the Board’s website;

(ii) Request an electronic or hard copy of the public record which may require a fee. Such fee shall include cost of administrative time and copy production; and

(iii) Make an appointment to review the public record between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding state holidays, at the Board Office.

(A) Public record review shall take place in the presence of a member of the Board staff; and

(B) Original documents must remain with the Board but may be copied at the Board Office and may require a fee. Such fee shall include cost of administrative time and copy production.

Section 10. Licensure Verification. A licensee or certificate holder may request verification of their Wyoming license or certificate by submitting a form and payment of the fee to the Board.

Section 11. Change of Name, Address and/or Telephone Number. Each applicant, licensee, and certificate holder shall notify the Board in writing of any change to their legal name, home address, business address, e-mail address, or telephone number with thirty (30) days of the change.

CHAPTER 8

PROCEDURE FOR APPLICATION, LICENSURE, AND DISCIPLINARY MATTERS

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

- (a) Conduct investigations, hearings, and proceedings concerning:
 - (i) Actions relating to an application for initial licensure, renewal, relicensure, or reinstatement of a license including granting or denying; or
 - (ii) Petitions for modification of conditions or restrictions imposed upon a license; or
 - ~~(ii)~~(iii) Alleged violations of the NPA, or the Board Rules or both.
- (b) Determine and administer appropriate disciplinary action against an applicant or licensee.

Section 2. Definitions.

(a) "Abandonment" means ~~the to termination of~~ a client relationship, with or without the client's knowledge, without making arrangements for appropriate continuation of care.

(b) "Abuse" means any behavior ~~that is~~ designed to control ~~and~~ or subjugate another human being through the use of fear, humiliation, or assault, either verbal or physical.

(c) "ARC" means Application Review Committee. The Application Review Committee may be comprised of:

- (i) At least one (1) Board member; or
- (ii) Executive Director in application review matrix process matters.

(d) "Application Review Matrix" means ~~guidelines which that provide~~ delegated ~~Board staff limited~~ authority to Board staff to recommend issuance of a license, issuance of a license or certificate with a notice of warning, or forward an application matter to an ~~Application Review Committee~~ ARC for additional review and recommendation.

(e) "Complainant" means the person(s), organization, or agency who ~~initiates~~ files a complaint.

(f) "DC" means Disciplinary Committee. The Disciplinary Committee may be comprised of:

- (i) At least one (1) Board member; or
- (ii) Executive Director in discipline matrix process matters.

(g) "Discipline Decision Matrix" means ~~guidelines which that provide~~ delegated limited authority ~~to Board staff~~ authority to pursue summary suspension, ~~or~~ recommend dismissal of a complaint, recommend issuance of a notice of warning, or forward a licensure or

disciplinary matter to a DC for additional review and recommendation letter of reprimand to a licensee based upon certain criteria.

(h) “License” means a license, certificate, recognition, permit, or prescriptive authority issued by the Board or a privilege to practice from a multistate license issued by another compact state.

(j) “Licensee” means an APRN, RN, LPN, or CNA ~~that who~~ holds a valid license, certificate, recognition, permit, or prescriptive authority issued by the Board or a privilege to practice from a multistate license issued by another compact state.

(k) “Misappropriation of client property” means negligently or deliberately taking, misusing, exploiting, using, or selling money or property belonging to another, without consent, whether temporarily or permanently, ~~and without consent.~~

(l) “Neglect” means the failure to provide necessary goods, services, care, or attention and may include:

(i) Insufficient observation;

~~(ii) the f~~ Failure to provide adequate assessment and intervention directly or indirectly through inadequate supervision;

~~(ii)(iii)~~ Failure to intervene when a client condition warrants intervention;

~~(iii)(iv)~~ Inappropriate delegation or assignment of care to an unqualified care giver; ~~and or~~

~~(iv)(v)~~ Accepting assignments beyond level of competency or scope of practice.

Section 3. Grounds for Discipline or Denial of License.

(a) Disciplinary Action. The Board may take disciplinary action or refuse to issue, ~~or~~ renew, relicense, or reinstate a license for one (1) or more of the following acts or conduct, upon proof the licensee or applicant:

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

~~(A) Physical or mental disability;~~

~~(B) Lack of nursing competence;~~

~~(C) Substance abuse/dependency;~~

~~(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;~~

~~(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;~~

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

~~(v) — Drug diversion for self or others;~~

~~(vi) — Distribution, sale, unauthorized use, illegal possession or manufacturing of controlled/illicit drugs;~~

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

~~(A) — Answer the administrative complaint;~~

~~(B) — Respond to request for explanation for failure to disclose required information; or~~

~~(C) — Cooperate in the investigation;~~

~~(D) — Failure to comply with a term, condition or obligation of a Board order;~~

~~(viii) — 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;~~

~~(ix) — Failure to appropriately supervise;~~

~~(x) — 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~~

~~(xi) — Practicing without a valid license.~~

(i) Was impaired with the intent of practicing nursing or nurse assisting due to:

(A) Physical or mental disability;

(B) Lack of nursing competence;

(C) Substance abuse; or

(D) Substance dependency.

(ii) Was under the influence of alcohol, drugs, substances, or chemicals with the intent of practicing nursing or nurse assisting;

(iii) Has abused a client or member of a vulnerable population, including, but not limited to: physical, verbal, mental, emotional, financial, or sexual abuse;

(iv) Has engaged in sexual misconduct as defined in Wyoming Statute 33-1-118(b)(ii);

(v) Has neglected a client or member of a vulnerable population;

(vi) Has abandoned a client;

(vii) Has distributed, sold, or used without authorization, illegally possessed, or manufactured controlled or illicit drugs;

(viii) Has diverted drugs or medications for self or others;

(ix) Has interfered with a client's plan of care;

(x) Has performed unsafe client care;

(xi) Has violated client boundaries including, but not limited to: sexual boundaries or entering into financial transactions with clients;

(xii) Has misappropriated client property;

(xiii) Has misappropriated property belonging to a hospital, medical clinic, or facility providing care to a client;

(xiv) Has violated the privacy or confidentiality of a client in any form including, but not limited to: written, verbal, or technological;

(xv) Has failed to appropriately supervise;

(xvi) Has improperly delegated a nursing task;

(xvii) With respect to APRNs, has failed to supervise or monitor the performance of acts by an individual working under the direction of the APRN; or

(xviii) Has aided another licensee in practicing beyond the scope of the nurse's license or experience.

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

(i) Has accepted monetary compensation ~~Accepting remuneration~~ for providing nursing services while holding a volunteer nurse license;

- (ii) ~~Has practiced~~Practicing outside the premises of a nonprofit health care facility in the State;
 - (iii) ~~Has provided~~Providing care to persons other than low income uninsured;
- or
- (iv) ~~Has engaged~~Engaging in practice outside the scope of the volunteer nurse license in the State.

Section 4. Application Review and Investigation Process.

- (a) Application Review and Investigation. In application matters:
 - (i) Every applicant bears the burden of satisfying licensure requirements; and
 - (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~~ After an applicant has demonstrated he or she meets the requirements for licensure, the burden shifts to the ARC to prove there are justifiable grounds for denying the license or certificate.
 - (iii) ~~Every application that reveals information which that merits further investigation shall be assigned to the ARC.~~
- (b) Application Review Committee Action. ~~Following investigation, t~~The ARC may recommend:
 - (i) A license be issued, renewed, reactivated, relicensed, or reinstated;
 - (ii) A license be issued, renewed, reactivated, relicensed, or reinstated subject to conditions, restrictions, or other disciplinary action;
 - (iii) Approval of a settlement agreement, which may include the issuance, renewal, reactivation, relicensure, 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~~ that warrant denial or the issuance ~~or denial of~~ of a license subject to conditions, restrictions, or other disciplinary action;

(B) A statement of the nature of the actions ~~which~~ that warrant ~~denial~~theor 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,~~ or both; 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.

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

(e) Applicant's Failure to Request a Hearing. If the applicant fails to timely request a hearing of the ARC's recommendation, the applicant's application shall be dismissed the Board shall set a hearing.

(f) An applicant shall not be permitted to withdraw an application in lieu of discipline.

Section 5. Petition for Modification of Conditions or Restrictions.

(a) Petition for Modification of Conditions or Restrictions.

(i) A licensee may petition the Board for modification of the conditions or restrictions imposed upon their license.

(ii) A licensee shall submit a petition for modification to the Board office in writing, which shall include documentation demonstrating compliance with the Board order, the modification is consistent with their treatment plan, and the modification is sufficient to ensure the public is adequately protected.

(iii) A petition for modification shall be reviewed by the DC.

(b) Disciplinary Committee Action

(i) If the DC agrees with the requested modification, the parties may file a stipulated motion with the Board.

(ii) If the DC does not agree with the requested modification, the DC shall notify the licensee of its intent to recommend denial of the petition.

(c) Board Consideration.

(i) The Board shall consider the petition at its earliest convenience. The Board may accept or reject the petition for modification and shall consider the petition and the DC's recommendation or stipulated motion.

Section 56. Complaint Review and Investigation Process.

(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 staff~~ may initiate complaints.

(ii) Complaints shall be investigated by ~~the DC or the~~ Board staff on behalf of the DC.

(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~~ shall consider the petition 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 ~~n~~Notice of ~~w~~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 67. Summary Suspension.

(a) Recommendation. If the DC recommends summary suspension, the Board shall conduct an expedited ~~hearing~~ proceeding 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 proceeding~~ 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 proceeding~~ may result in default.

(c) Notice of Expedited ~~Hearing Proceeding~~. Upon confirmation of the date and time of the expedited ~~hearing proceeding~~, ~~the DC Board staff~~ shall notify the licensee in writing of the date and time of the proceeding.

~~(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.~~

(d) Scope of Expedited Proceeding.

(i) Summary Suspension proceedings shall not be governed by Section 26 Office of Administrative Hearings rules concerning contested case proceedings incorporated by reference in Chapter 1.

(ii) The expedited proceeding shall be limited to a presentation of the evidence the DC believes warrants summary suspension.

(iii) The Board shall order summary suspension if it concludes probable cause exists that the licensee’s continued practice presents a clear and imminent danger to public health, safety or welfare. The Board shall incorporate a finding to that effect in an order granting summary suspension.

Section 78. 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 89. Formal Proceedings for Disciplinary Action.

(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~~ that 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 910. 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.

Section 1011. Notice of 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:

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

(B) In discipline matters, the nature of the Petition, the facts upon which the Petition is based, and 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 1412. 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 personal service.

Section 1413. 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)(a)~~ 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 1414. 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.

Section 1415. Burden and Standard of Proof.

(a) 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.

(b) Petition for Modification Matters. The licensee shall bear the burden to prove by a preponderance of evidence that the petition for modification of conditions should be granted.

~~(b)(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~~ Rules, or both.

Section 1516. Board Decision and Order.

(a) Board Action. The Board may resolve an application matter, administrative 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, relicense, or reinstate a license;

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

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

(D) Approve or deny a petition;

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

~~(E)~~(F) Issue a ~~n~~Notice of w~~W~~arning; or

~~(F)~~(G) 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 ~~16~~17. 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 cost assessed by the Board regarding the record on appeal shall be borne by the party making the appeal.