



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised May 2018

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison		f. Agency Liaison Telephone Number
g. Agency Liaison Email Address		
h. Date of Public Notice		i. Comment Period End Date
j. Public Comment URL or Email Address:		
k. Program		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

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 Chapter Numbers and Years Enacted
(eg: 2015 Session Laws Chapter 154):

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 type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/revoked to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
--

Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):

The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

Not Applicable.

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	



MMA.WYO.GOV

Wyoming Combat Sports Commission

STATEMENT OF REASONS
Mixed Martial Arts Board
Regular Rules Promulgation
December 4, 2018

Overview

Statutory authority regulating mixed martial arts is established in Wyoming Statutes § 33-48-101 *et seq.* The Mixed Martial Arts Board seeks to overhaul their practice and procedure before the board in order to bring their process in line with the standard process employed by most other Wyoming boards and commissions. The Board believes that this established process is more efficient and provides the maximum due process for all participants. The Board also believes these revisions more clearly delineate the process and rights involved.

Chapter 12
**Practice and Procedure Before the Board Procedures for Application, Licensure, and
Disciplinary Matters**

Section 1. Statement of Purpose. This chapter is 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 Act, Board rules, or both.
- (b) Determine and administer appropriate disciplinary action against an applicant or licensee.
- (c) Review bout results.

Section 2. Definitions.

- (a) "Act" means Mixed Martial Arts Regulation Act, W.S. 33-48-101 through -117.
- (b) "ARC" means Application Review Committee.
- (c) "DC" means Disciplinary Committee.
- (d) "License" means license or permit.
- (e) "WAPA" means Wyoming Administrative Procedure Act, W.S. 33-48-101 through -115.

Section 13. Modification of Bout Result.

- (a) The Board may conduct a hearing on a result modification matter after the Board, in its sole discretion, determines that one or more of the following incidents occurred:
 - (i) There were indications of collusion affecting the result of the bout;
 - (ii) The compilation of the scorecards of the judges disclosed an error which showed that the decision was given to the wrong contestant; or

(iii) As the result of interpreting the rules in error, the referee rendered an incorrect decision.

Section 24. Application Review 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.

(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 Act, 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) If the applicant fails to timely request a hearing of the ARC's recommendation, the application shall be dismissed.

~~(a) Upon receipt of a complete application for a license or certificate required by these rules, Board staff shall forward the application to an assigned Board member who shall constitute the Application Review Committee ("ARC").~~

~~(b) The ARC may:~~

~~(i) Preliminarily approve (with final approval by the Board) the application if the applicant meets all requirements, or~~

~~(ii) Forward the application to the assigned attorney from the Attorney General's Office ("assigned AAG") for review if the application raises questions as to the applicant's qualifications.~~

~~(c) If, after review, the ARC and the assigned AAG recommend preliminary denial of an application:~~

~~(i) A preliminary denial letter shall be sent to the applicant via certified and first class mail. The letter shall:~~

~~(A) State the basis for the preliminary denial including relevant statutes and rules; and~~

~~(B) Advise the applicant of the right to request reconsideration.~~

~~(ii) If the applicant fails to request reconsideration in writing within twenty (20) days of receipt of the preliminary denial letter, the preliminary denial may become final upon Board approval. The request must be received by the Board office within twenty (20) days.~~

~~(iii) If the applicant requests reconsideration within twenty (20) days, a reconsideration conference shall be held with the ARC, the assigned AAG, and the applicant.~~

~~(iv) Following a reconsideration conference, the ARC shall either preliminarily approve or preliminarily deny the application. This letter shall be served upon the applicant via certified and first class mail.~~

~~(v) If preliminarily denied after the reconsideration conference, the applicant may request a hearing before the Board by submitting a written request to the Board within twenty (20) days after receipt of the denial letter. If the applicant fails to request a hearing within twenty (20) days of receipt of the denial letter, the preliminary denial may become final upon Board approval. The request must be received by the Board office within twenty (20) days.~~

~~(d) Application denial hearings:~~

~~(i) An application denial hearing is a formal contested case hearing conducted pursuant to applicable provisions of the Wyoming Administrative Procedure Act.~~

~~(ii) The hearing is to be conducted in the presence of a quorum of the Board, the presiding hearing officer, or both.~~

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. 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) 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 public health, safety, or welfare imperatively requires emergency action.

(b) Notice of Intent to Recommend Summary Suspension. The DC shall notify the licensee of its intent to recommend summary suspension.

(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.

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

Section 8. 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;

(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; and

(C) Opportunity to show compliance with all lawful requirements for retention of the license within twenty (20) days of receipt of the notice.

(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 9 Petition. The DC shall initiate formal proceedings for disciplinary action by servicing a Petition to the last known address of the licensee by regular mail at least thirty (30) days prior to the date set for hearing.

Section 10. 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 11. 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 regular mail.

Section 12. 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 13. 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.

Section 14. 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 15. 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 regular mail; and

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

Section 16. 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.

~~Section 3. Information and Complaints.~~

~~(a) Information. If a Board member or Board staff receives or obtains information concerning a possible violation of the Act or these rules by a Licensee, the Board member or staff may initiate a complaint against the Licensee, who shall be notified.~~

~~(b) Complaint. Persons or entities other than the Board may initiate a disciplinary action against a Licensee by submitting a written complaint to the Board. Nothing in the section shall be construed to prohibit a Board member or the Board's staff from filing a written complaint. The written complaint should provide as much of the following information as may be applicable:~~

- ~~(i) The name, address, and other contact information for the complainant;~~
- ~~(ii) The name, address, place of employment, and telephone number of the Licensee against whom the charges are made;~~
- ~~(iii) The specific conduct or activity alleged to constitute a violation of the Act or these rules;~~
- ~~(iv) The name and address of any other witnesses; and~~
- ~~(v) The signature of the complainant.~~

~~Section 4. Review and Investigation of Complaint.~~

~~(a) Complaints shall be referred to the assigned Investigative Board Member ("IBM") or other Board designee to investigate the allegations. An independent investigator may be hired to conduct the investigation. The purpose of the investigation shall be to determine if there is a violation of the Act or these rules and sufficient evidence to warrant any disciplinary action against the Licensee.~~

~~(i) The IBM, if he performs the investigation, shall not take part in the consideration of that matter.~~

~~(ii) The IBM shall not be barred from attending the disciplinary hearing.~~

~~(b) Upon completion of the investigation, the IBM or Board designee may:~~

~~(i) Send notice to the licensee required by Section 5, below;~~

~~(ii) Following the proper notice in Section 5, below, prepare and file a formal petition and notice of hearing with the Board, setting the matter for a contested case hearing;~~

~~(iii) Recommend an offer of conditional terms for settlement to the Board; or~~

~~(iv) Recommend the Board dismiss the complaint.~~

~~(c) Upon notification of the initial findings of an investigation, a licensee may be asked to attend or may request an informal compliance conference with the IBM or Board designee, which may also be attended by the assigned AAG. The licensee may appear either with or without counsel. The purpose of the compliance conference will be to discuss formal or informal settlement of the investigative matter.~~

~~(d) The Board may resolve a complaint at any time by:~~

~~(i) Accepting a voluntary surrender of a license or certificate;~~

~~(ii) Accepting conditional terms for settlement; or~~

~~(iii) Dismissal.~~

Section 5. Service of Notice and Opportunity to Show Compliance.

~~Prior to commencement of a formal contested case hearing, the IBM or Board designee shall give notice to the licensee of the facts or conduct which warrant its intended action. The notice shall give the licensee an opportunity to show compliance with all lawful requirements for retention of the license or certificate within twenty (20) days of receipt of the notice. Such notice shall be sent to the licensee's last known address by certified and first class mail.~~

Section 176. Formal Hearing Procedures. Reference by Incorporation.

~~(a) When required, Formal Contested Case Hearings shall be held in accordance with rules administered by the Office of Administrative Hearings.~~

~~(a) Any code, standard, rule or regulation incorporated by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (c) of this section.~~

~~(b) Each rule incorporated by reference is further identified as follows:~~

~~(i) 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://rules.wyo.gov>.~~

(A) The Board has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length and nature of the rules;

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

(C) The incorporated rules are maintained at the Board's office and are available for public inspection and copying at that same location.

~~**Section 7. Appeals.** A petition for judicial review of a final Board decision may be filed in the district court in accordance with the Wyoming Rules of Appellate Procedure and the Wyoming Administrative Procedure Act, Wyoming Statute § 16-3-114.~~

~~**Section 8. Transcripts.** If a petition for judicial review is filed in the district court, the petitioner shall arrange the preparation and pay for the transcript of the testimony, or reimburse the Board for the cost of the transcript if previously prepared at Board expense.~~

Chapter 12
Procedures for Application, Licensure, and Disciplinary Matters

Section 1. Statement of Purpose. This chapter is 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 Act, Board rules, or both.
- (b) Determine and administer appropriate disciplinary action against an applicant or licensee.
- (c) Review bout results.

Section 2. Definitions.

- (a) "Act" means Mixed Martial Arts Regulation Act, W.S. 33-48-101 through -117.
- (b) "ARC" means Application Review Committee.
- (c) "DC" means Disciplinary Committee.
- (d) "License" means license or permit.
- (e) "WAPA" means Wyoming Administrative Procedure Act, W.S. 33-48-101 through -115.

Section 3. Modification of Bout Result.

- (a) The Board may conduct a hearing on a result modification matter after the Board, in its sole discretion, determines that one or more of the following incidents occurred:
 - (i) There were indications of collusion affecting the result of the bout;
 - (ii) The compilation of the scorecards of the judges disclosed an error which showed that the decision was given to the wrong contestant; or
 - (iii) As the result of interpreting the rules in error, the referee rendered an incorrect decision.

Section 4. Application Review 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.

- (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 Act, 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) If the applicant fails to timely request a hearing of the ARC's recommendation, the application shall be dismissed.

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. 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) 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 public health, safety, or welfare imperatively requires emergency action.

(b) Notice of Intent to Recommend Summary Suspension. The DC shall notify the licensee of its intent to recommend summary suspension.

(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.

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

Section 8. 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;

(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; and

(C) Opportunity to show compliance with all lawful requirements for retention of the license within twenty (20) days of receipt of the notice.

(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 9 Petition. The DC shall initiate formal proceedings for disciplinary action by serving a Petition to the last known address of the licensee by regular mail at least thirty (30) days prior to the date set for hearing.

Section 10. 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 11. 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 regular mail.

Section 12. 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 13. 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.

Section 14. 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 15. 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 regular mail; and
 - (ii) Shall be deemed a public record and be available for inspection and dissemination in accordance with all federal and state laws.

Section 16. 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.

Section 17. Reference by Incorporation.

- (a) Any code, standard, rule or regulation incorporated by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (c) of this section.
- (b) Each rule incorporated by reference is further identified as follows:

(i) 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://rules.wyo.gov>.

(A) The Board has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length and nature of the rules;

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

(C) The incorporated rules are maintained at the Board’s office and are available for public inspection and copying at that same location.