



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 Repealed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 Repealed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 Repealed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 Repealed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 Repealed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 Repealed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:
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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>	

STATEMENT OF PRINCIPAL REASONS
FOR FORMAL ADOPTION OF REGULAR RULES

In 2018, the Dietetics Licensing Board held several meetings to review and revise their Rules. The proposed changes include topics Board members and staff believed needed to be addressed. This included clarifying application methods, adding temporary licensure per statutory authority, clarifying continuing education requirements, adopting A&I's Uniform Rules for Public Records, and some clean up to formatting, typing errors, and grammar concerns. Specifically, the Board adopted the following proposed amendments through the regular rulemaking process:

Chapter 1: General Provisions

- Changes were made to correct grammatical errors and to better clarify existing language.
- Clarified authority and cited specific statutory authority.
- Updated definitions to reflect change in national dietetic accrediting body from CADE to ACEND.
- Changed Disciplinary Committee to Investigative Committee, as not all investigations result in discipline. This was requested by another Board's licensee.
- Renumbered under Section 3 as required by the Rules on Rules from the Secretary of State's office.
- Updated reference by incorporation to include current national Code of Ethics for Dietetics.
- Adopted A&I's Uniform Procedures, Fees, Costs, and Charges for Inspection by incorporation to clarify procedure for public records requests.
- Removed prior public records language to refer to the newly adopted A&I Rules instead.
- Changed "person" to "licensee" for consistent language throughout Rules.

Chapter 3: Application and Licensure Procedures

- Changes were made to correct grammatical errors and to better clarify existing language.
- Revised Chapter title to better reflect order of Chapter.
- Added Authority section and cited specific statutory authority.
- Added Application Review Committee section to clarify how applications are reviewed and why the Committee may request additional materials to help facilitate licensure.
- Clarified eligibility for those applying for initial licensure.
- Removed license verification requirement for initial licensure as it no longer applies with eligibility better explained.
- Added Licensure by Reciprocity section to clarify why requirements to apply may change based on criteria documented in another jurisdiction.
- Added Temporary Permit section as authorized by statute to help facilitate licensure for those that do not require full licensure as they may be in the state to teach or present briefly or are students starting the application process.

Chapter 5: Fees

- Added Authority section and cited specific statutory authority.
- Removed acceptable methods of payment as the Board Office is working to implement an online system that will accept credit cards.
- Added Temporary Application Fees to support new requirements in Chapter 3.
- Reissuance Fee changed from \$400 to \$500 and Return to Practice Fee is being eliminated.
- Deleted Return to Practice Fee as that method is no longer in Chapter 6.

- Deleted Roster Fee as the Board intends to provide rosters of licensee names free of charge.
- Deleted copy fee as the Board will now charge potential copies in accordance with A&I's Rules on Public Records.

Chapter 6: Renewal, Reinstatement, Reissuance, and Relicensure Following Discipline

- Added Authority section and cited specific statutory authority.
- Revised Chapter title to better reflect order of Chapter.
- Changes were made to correct grammatical errors and to better clarify existing language.
- Clarified conflicting language that continuing education must be related to scope and CDR approved Previously the Board accepted CDR approved programs that were not related to the scope of practice. The Board will now require that both.
- Clarified inactive license instead of lapsed to better reflect statutory wording.
- Removed Return to Practice Section and instead encompassed all inactive licenses in reissuance section.

Chapter 7: Professional Responsibility

- Added Authority section and cited specific statutory authority.
- Changes were made to correct grammatical errors and to better clarify existing language.
- Clarified ordering patient diets to better reflect statutory requirement.

Chapter 9: Process and Procedure for Application, Licensure, and Discipline

- Added Authority section and cited specific statutory authority.
- Clarified Grounds for Discipline section to be more consistent with practice issues.
- Clarified burden of evidence for application reviews.
- Added other possible options to how the Board may resolve application review concerns.
- Clarified applicant's ability to request a board hearing.
- Clarified how complaints should be filed.
- Added other possible options to how the Board may resolve a complaint.
- Added summary suspension section to clarify this procedure.
- Added formal proceedings for disciplinary action to better explain process.
- Revised Notice of Hearing section to better reflect process and to be consistent with other licensing boards' requirements.
- Clarified lawful service section.
- Clarified dismissal or default to better reflect recommendations received.
- Reorganized contested case hearing section and included language consistent with other licensing boards' requirements.
- Clarified Board Decision and Order section to clarify board action can include dismissal and advisory letters.

CHAPTER 1
GENERAL PROVISIONS

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi) and the WAPA to promulgate rules and regulations related to the licensure and discipline of dietitians and the practice of dietetics in Wyoming.

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

Section 3. Definitions.

- (a) "Act" means the Dietetics Licensure Act, W.S. § 33-47-101 through -110.
- (b) "AND" means the Academy of Nutrition and Dietetics, which was formerly known as the American Dietetic Association.
- (c) "ARC" means Application Review Committee.
- (d) "ACEND" means Accreditation Council for Education in Nutrition and Dietetics.
- (e) "Board rules" means the administrative rules and regulations promulgated by the Board.
- (f) "CDR" means the Commission on Dietetic Registration.
- (g) "CPE" means continuing professional education.
- (h) "IC" means Investigative Committee, which may be comprised of at least one (1) Board member or the Executive Director.
- (i) "RD" or "RDN" means a Registered Dietitian or Registered Dietitian Nutritionist credentialed by the CDR.
- (j) "WAPA" means the Wyoming Administrative Procedure Act, W.S. § 16-3-101 through -115.
- (k) "Weight control services" consist of providing general non-medical nutrition instruction and guidance.

Section 4. Board Office. The Board office shall be located at 2001 Capitol Avenue, Cheyenne, Wyoming.

Section 5. Board Meetings. The Board shall meet in accordance with a resolution passed by the Board.

Section 6. Reference by Incorporation.

(a) For any rule incorporated by reference in these Board rules:

(i) The Board has determined that incorporation of the full text in these rules would be 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; and

(iii) The incorporated rule is maintained at Board office and is available for public inspection and copying at cost at the same location.

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

(i) Reference in Chapter 9, Section 10 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://dietetics.wyo.gov/rules-and-regulations>.

(ii) Reference in Chapter 7, Section 3(a) is Code of Ethics for the Nutrition and Dietetics Profession, adopted by AND/CDR and effective on June 1, 2018, found at: <http://dietetics.wyo.gov/rules-and-regulations>.

(iii) Reference in Chapter 1 is Chapter 2 - Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records, adopted by the Department of Administration and Information and effective on September 6, 2016, found at <http://dietetics.wyo.gov/rules-and-regulations>.

Section 7. Public Records Inspection. Public records inspections shall be conducted pursuant to the Department of Administration and Information's rules concerning public records.

Section 8. Change of Name, Address, or Telephone Number. Each applicant and licensee shall notify the Board in writing of any change to their legal name, home address, business address, e-mail address, or telephone number within thirty (30) days of the change.

Section 9. Requests for Rosters. Any person requesting a roster of licensees shall submit a completed request form.

Section 10. Duplicate Pocket Card and Wall Certificate. Any licensee requesting a duplicate pocket card and wall certificate shall submit a completed request form and payment of a fee.

Section 11. License Verification. Any person requesting verification of a license shall submit a completed request form and payment of a fee.

CHAPTER 3

APPLICATION AND LICENSURE PROCEDURES

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi) and the WAPA to promulgate rules and regulations related to the application and licensure procedures to practice dietetics in Wyoming.

Section 2. Statement of Purpose. These Board rules are adopted to implement the Board's authority to establish the requirements and procedures for licensure.

Section 3. Application Status.

(a) The applicant shall meet all requirements during the timeframe identified immediately prior to submitting a completed application.

(b) Applications shall be deemed complete when all necessary documentation has been received by the Board office.

(c) Applications shall expire one (1) year after submission. If an application expires, the applicant shall submit a new application, including payment of fee.

Section 4. Application Review Committee.

(a) Every application shall be reviewed by the ARC.

(b) An applicant for licensure shall have committed no acts that are grounds for disciplinary action, or if an act was committed, the ARC has found after investigation that sufficient restitution has been made and the applicant no longer presents a threat to the public safety.

(c) If the ARC is unable to ascertain from documents submitted by the applicant that the applicant is eligible for licensure, the ARC may require the applicant to provide additional documentation, information, or meet informally with the ARC.

Section 5. Initial Licensure. An applicant for licensure shall submit:

(a) Eligibility. An applicant may seek initial licensure if the applicant is not licensed to practice in another jurisdiction or if that jurisdiction's licensure requirements are not as stringent as Wyoming.

(b) An applicant for initial licensure shall submit:

(i) A completed application and payment of fees;

(ii) Evidence of clinical competency by:

(A) Verifying current registration with CDR; or

(B) Completing the requirements outlined in W.S. § 33-47-106(a).

Applicants who have obtained a degree outside of the United States and its territories shall request that the ACEND evaluate that degree program to determine its equivalency as defined W.S. § 33-47-106(a)(i).

Section 6. Licensure by Reciprocity.

(a) Eligibility. An applicant may seek licensure by reciprocity if the applicant is actively licensed to practice in another jurisdiction with licensure requirements as stringent as Wyoming or if that jurisdiction does not require licensure.

(b) An applicant for reciprocal licensure shall submit:

(i) A completed application and payment of fees;

(ii) Evidence of clinical competency by:

(A) Verifying current registration with CDR; or

(B) Completing the requirements outlined in W. S. § 33-47-106(a).

Applicants who have obtained a degree outside of the United States and its territories shall request that the ACEND evaluate that degree program to determine its equivalency as defined W.S. § 33-47-106(a)(i); and

(iii) A license verification directly from their current jurisdiction, if applicable.

Section 7. Temporary Permits.

(a) Eligibility. An applicant may seek temporary permit if the applicant:

(i) Is currently practicing or has practiced as a dietitian in another jurisdiction within the last twelve (12) months. The applicant shall:

(A) Submit a completed application and payment of fees;

(B) Provide evidence of competency by:

(I) Verifying current registration with CDR; or

(II) Providing verification of license or registration from their jurisdiction, if applicable.

(ii) Is a student in an ACEND accredited dietetics education program, also considered a dietetic intern, who expects to graduate within thirty (30) calendar days of the application filing date. The applicant shall:

(A) Submit a completed application and payment of fees;

(B) Provide evidence from their program director of enrollment in an accredited dietetics program that confirms their date of graduation.

(b) Temporary permits shall expire six (6) months from the date of issuance or when a full license is issued, whichever occurs first.

(c) An applicant may seek a non-renewable temporary permit one (1) time.

(d) If the student fails to successfully complete the ACEND accredited dietetics education program, the temporary permit shall immediately expire.

CHAPTER 5

FEES

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi) and the WAPA to establish fees related to the licensure of dietitians.

Section 2. Statement of Purpose. These Board rules are adopted to implement the Board's authority to establish and collect reasonable fees.

Section 3. General Information.

(a) Fees shall be payable in the exact amount and shall be paid in advance of the services rendered.

(b) All fees collected by the Board are non-refundable.

(c) Fees related to public records requests shall be assessed pursuant to the Department of Administration and Information's rules concerning public records.

Section 3. Fees. Services for which the Board charges a fee shall include, but is not limited to, the following fee schedule:

(a)	Initial and Reciprocal Application Fee	\$200.00
(b)	Temporary Application Fee for Existing Practitioner	\$75.00
(c)	Temporary Application Fee for Student	\$25.00
(d)	Renewal Application Fee	\$200.00
(e)	Late Renewal Application Fee (June 15 to June 30)	\$225.00
(f)	Reinstatement Fee (July 1 to September 30)	\$300.00
(g)	Reissuance Fee	\$500.00
(h)	Relicensure Following Discipline Fee	\$500.00
(i)	Non-sufficient Funds Fee	\$30.00
(j)	Replacement Wall Certificate	\$10.00
(k)	Replacement Pocket ID Cards	\$10.00

(1) License Verification Fee

\$15.00

CHAPTER 6

RENEWAL, REINSTATEMENT, REISSUANCE, AND RELICENSURE FOLLOWING DISCIPLINE

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi) and the WAPA to promulgate rules and regulations related to the continuing licensure of dietitians.

Section 2. Statement of Purpose. These Board rules are adopted to implement the Board's authority to establish the requirements and procedures for license renewal.

Section 3. License Renewal.

(a) License Expiration.

(i) Licenses issued in an even numbered year shall expire on June 30 of the next even numbered year. Thereafter, the renewal period shall be two (2) years.

(ii) Licenses issued in an odd numbered year shall expire on June 30 of the next odd numbered year. Thereafter, the renewal period shall be two (2) years.

(iii) Licensees who fail to timely renew shall forfeit the right to practice.

(iv) Failure to receive a notice for renewal from the Board does not excuse a licensee from the requirement for renewal under the Act and these Board rules.

(b) Renewal Procedure. Between April 1 and June 15 of the year the license expires, a licensee seeking renewal shall submit:

(i) A completed renewal application and payment of fees;

(ii) Verification of current registration with CDR; and

(iii) Evidence of completion of thirty (30) hours of CPE that complies with

Section 4.

(c) Late Renewal Procedure. Between June 16 and June 30 of the year the license expires, a licensee seeking late renewal shall submit:

(i) A completed late renewal application and payment of late renewal fees;

(ii) Verification of current registration with CDR; and

(iii) Evidence of completion of thirty (30) hours of CPE that complies with Section 4.

Section 4. Continuing Education Requirements.

(a) Renewal Period. CPE shall be obtained July 1 through June 15 of the renewal period.

(b) Calculation of CPE. CPE shall be calculated as follows:

(i) One (1) semester credit equals fifteen (15) CPE;

(ii) One (1) quarter credit equals ten (10) CPE; and

(iii) One (1) continuing education hour equals one (1) CPE.

(c) Content. CPE shall be related to the scope of practice defined in the Act.

(i) The Board shall accept CDR approved activities if related to the scope of practice defined in the Act, which includes application of principles derived from the sciences of food, nutrition, management, communication, and biological, physiological, behavioral, and social sciences to achieve and maintain optimal human health. Additionally, dietetics includes the nutrition care process, medical nutrition therapy, and ethics. Other activities may be submitted to the Board for review.

(ii) Licensees shall provide proof of attendance that contains the activity title, dates, CPE, sponsor, presenter, qualifications of the presenter, the name of the licensee, and shall be signed by the sponsor or the presenter.

(d) Waiver. The Board may grant a waiver for CPE requirements to licensees who have petitioned and demonstrated just cause based on extenuating circumstances.

Section 5. Reinstatement.

(a) Eligibility. An applicant may seek reinstatement if that license has expired within ninety (90) days.

(b) Reinstatement Application Requirements. The applicant shall submit:

(i) A completed reinstatement application and payment of reinstatement fee;

(ii) Verification of current registration with CDR; and

(iii) Evidence of completion of thirty (30) hours of CPE that complies with Section 4.

(c) Inactive License. A license not reinstated within the ninety (90) days after expiration shall become inactive. If a licensee allows their license to become inactive, the inactive licensee shall not practice until they have been granted reissuance by the Board.

Section 6. Reissuance.

- (a) Eligibility. An applicant may seek reissuance if their license is inactive.
- (b) Reissuance Application Requirements. The applicant shall submit:
 - (i) A completed reissuance application and payment of reissuance fees;
 - (ii) Verification of current registration with CDR; and
 - (iii) Evidence of completion of thirty (30) hours of CPE earned in the preceding two (2) years that complies with Section 4.

Section 7. Relicensure Following Discipline.

- (a) Eligibility. An applicant may seek relicensure of their license that has been revoked, surrendered, suspended, conditioned, or restricted.
- (b) Relicensure Application Requirements. The applicant shall submit:
 - (i) A completed relicensure application and payment of fee;
 - (ii) Verification of current registration with CDR;
 - (iii) Evidence of complying with the requirements of a previous Board order;
 - (iv) Evidence of applicant's ability to safely and competently practice; and
 - (v) Evidence demonstrating just cause for relicensure.

CHAPTER 7

PROFESSIONAL RESPONSIBILITY

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi) and the WAPA to promulgate rules and regulations related to the standards of the practice of dietetics.

Section 2. Statement of Purpose. These Board rules are adopted to implement the Board's authority to regulate the practice of dietetics.

Section 3. Scope of Practice.

(a) The practice of dietetics shall occur where the patient is located or receives services.

(b) Licensees may order patient diets or lab tests as initiated by, or in consultation with, a physician licensed in this state or a licensed individual authorized to prescribe medical care.

Section 4. Ethical Standards. The protection of the public health, safety and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of licensees.

(a) Licensees shall comply with the "Code of Ethics for the Nutrition and Dietetics Profession" incorporated by reference in Chapter 1.

(b) Licensees shall:

(i) Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;

(ii) Report to the Board known or suspected violations of the laws and regulations governing the practice of dietetics;

(iii) Use only those educational credentials in association with their license or permit that have been earned at an educational institution accredited by one of the regional or national institutional accrediting bodies recognized by the Council for Higher Education Accreditation (CHEA) and that are directly related to their license or permit;

(iv) Use only indicators of current dietetic-related specialty credentials/board certifications that are approved by CDR;

(v) Provide clients with accurate and complete information regarding the extent and nature of services available to them;

(vi) Respect the privacy of clients and hold in confidence all information obtained in the course of professional service;

(vii) Maintain accurate documentation of all professional services rendered to a client in confidential files for each client and ensure that client records are kept in a secure, safe, retrievable, and legible condition in accordance with Health Insurance Portability and Accountability Act and Centers for Medicare & Medicaid Services regulations;

(viii) Ensure that advertisements to the public are neither fraudulent nor misleading. Advertisements shall also include the use of the title “licensed dietitian” or the initials “LD” or a statement such as “licensed by the Wyoming Dietetics Licensing Board”; and

(ix) Not permit or facilitate unlicensed practice or any activity that is a violation of the Act or these Board rules.

CHAPTER 9

PROCESS AND PROCEDURE FOR APPLICATION, LICENSURE, AND DISCIPLINE MATTERS

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi), 107(f), and the WAPA to promulgate rules and regulations related to the discipline of dietitians in Wyoming.

Section 2. 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 a licensure; or
 - (ii) Alleged violations of the Act or the Board rules.
- (b) Determine and administer appropriate disciplinary action against licensee.

Section 3. Grounds for Discipline.

(a) The Board may take disciplinary action, refuse to issue or renew a license, or issue a license subject to conditions or restrictions for one (1) or more of the following acts or conduct:

- (b) Unprofessional conduct, including:
 - (i) Violation of any provision of the:
 - (A) Act;
 - (B) Board rules; or
 - (C) Code of Ethics as referenced in Chapter 1;
 - (ii) Practicing below the applicable standard of care;
 - (iii) Practicing outside the areas of professional competence;
 - (iv) Incompetence, negligence, or malpractice;
 - (v) Mental incompetency;

- (vi) Addiction or use of alcohol, drugs or controlled substances to a degree that renders the licensee unsafe or unfit to practice;
- (vii) Sexual exploitation of a client, defined as:
 - (A) Offering professional services for some form of sexual gratification; or
 - (B) Sexual assault or contact with a client;
- (viii) Client abandonment;
- (ix) Conviction of a felony related to the practice of dietetics;
- (x) Conviction of a misdemeanor related to the practice of dietetics;
- (xi) Suspension, revocation, denial, or other disciplinary action imposed upon a licensee in another jurisdiction;
- (xii) Soliciting clients by any form of false or misleading communication;
- (xiii) Knowingly submitting false information to the Board;
- (xiv) Representation of oneself as legally authorized to engage in the practice of dietetics without a license issued by this Board; or
- (xv) Renting or lending a license to any person.

Section 4. Application Review and Investigation Process.

- (a) Application Review and Investigation. In application matters:
 - (i) The applicant bears the burden of satisfying license requirements; and
 - (ii) Each application for licensure shall be subject to investigation to determine whether the requirements set forth in the Act and Board rules are satisfied.
- (b) ARC Action. The ARC may recommend:
 - (i) A license be issued, renewed, reinstated, reissued, relicensed;
 - (ii) A license be issued, renewed, reinstated, reissued, or relicensed subject to conditions, restrictions, or other disciplinary action;

(iii) Approval of a settlement agreement which may include the issuance, renewal, reinstatement, reissuance, relicensure of a license subject to conditions, restrictions, reprimand, other disciplinary action, or a combination thereof;

(iv) Denial of licensure.

(c) Notice of Intent. The ARC shall notify the applicant of its intent to recommend issuance of the license subject to conditions, restrictions, or other disciplinary action or denial of the license. Such notification shall contain:

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

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

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

(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.

Section 5. Complaint Review and Disciplinary Investigation Process.

(a) Complaint Review. Every complaint submitted to the Board or initiated on behalf of the Board shall be investigated by an IC. 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.

(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.

- (c) IC Action. The IC may recommend:
 - (i) Dismissal of a complaint;
 - (ii) Issuance of an advisory letter;
 - (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 6. Summary Suspension.

- (a) Recommendation. If the IC 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 IC shall notify the licensee of its intent to recommend summary suspension.
 - (ii) The notice of intent shall contain:
 - (A) Copy of the complaint; and
 - (B) Notice that an expedited proceeding shall be set at the earliest opportunity a quorum of Board members may be assembled.
- (c) Notice of Expedited Proceeding. Upon confirmation of the date and time of the expedited proceeding, the IC shall notify the licensee of the date and time of the proceeding.
- (d) Scope of Expedited Proceeding. The scope of the expedited summary suspension proceeding shall be limited to a presentation of the evidence the investigating party believes warrants summary suspension. The Board shall order summary suspension if it concludes probable cause exists that the charges if proven, would imperatively require emergency action to protect the public health, safety, or welfare. The Board shall incorporate a finding to that effect in its order granting summary suspension.

Section 7. Formal Proceedings for Disciplinary Action.

- (a) Notice of intent to recommend disciplinary action.
 - (i) The IC 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 to provide any additional information or to resolve an administrative complaint without a hearing.

Section 8. Petition. The IC 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. 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 relating to:
 - (A) The recommendation to deny licensure, issue a license subject to conditions, restrictions, or other disciplinary action, the facts upon which the recommendation is based, and the statutory provisions or the Board Rules the applicant is alleged to have violated; or
 - (B) The nature of the Petition, the facts upon which the Petition is based, the statutory provisions 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 the hearing or pursue proceedings may result in a dismissal; or

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

Section 10. Lawful Service. There shall be a presumption of lawful service of a notice of intent, petition, and notice of hearing or any other communication required by these Board Rules if sent to the last known address of the applicant or licensee by certified mail, by regular mail, by electronic mail to the e-mail address indicated to be the preferred method of communication, or by personal service.

Section 11. Dismissal or Default.

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

(b) Default. The Board may enter an order of default judgment based on the allegations contained in a 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 12. Contested Case Hearing. The hearing officer shall preside over the contested case hearing, which shall be conducted pursuant to the WAPA and the Office of Administrative Hearings rules concerning contested case proceedings incorporated by reference in Chapter 1.

Section 13. Burden and Standard of Proof.

(a) Application/Licensure Matters. The applicant shall bear the burden to prove by a preponderance of evidence that he or she meets the qualifications for licensure. The burden shall shift to the ARC or IC to prove by clear and convincing evidence that applicant should be denied licensure or issued a license subject to conditions, restrictions, or other disciplinary action. The burden shall shift to the applicant to persuade the Board that the ARC or IC's grounds for denial or issuance subject to conditions, restrictions, or other disciplinary action are insufficient.

(b) Discipline Matters. The IC shall bear the burden to prove by clear and convincing evidence that a licensee violated the Act or the Board's Rules.

Section 14. Board Decision and Order.

- (a) Board Action. The Board may resolve a complaint or application by:
 - (i) Approving the recommendations of the IC or ARC; or
 - (ii) Dismissing a complaint;
 - (iii) Issuing an advisory letter; or
 - (iv) 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, reinstate, reissue, or relicense a license;
 - (B) Issue, renew, reinstate, reissue, or relicense a license subject to conditions, restrictions, or other disciplinary action;
 - (C) Deny a license, renewal, reinstatement, reissuance, or relicensure;
 - (D) Dismiss the complaint or petition;
 - (E) Issue an advisory letter; or
 - (F) Impose a reprimand, conditions, restrictions, suspension, revocation, other discipline, or a combination thereof.
- (b) Board Order. The Board shall make and enter a written decision and order. The decision and order shall be sent to the applicant, licensee, or their representative.

Section 15. Judicial Review.

- (a) Appeals from decisions of the Board are governed by the WAPA and the Wyoming Rules of Appellate Procedure.
- (b) Costs of transcripts and any reasonable costs assessed by the Board regarding the record on appeal shall be borne by the party making the appeal.

CHAPTER 1
GENERAL PROVISIONS

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi)~~the Act~~ and the WAPA to promulgate rules and regulations related to the licensure and discipline of dietitians and ~~regulation of the practice of dietetics~~ in Wyoming.

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

Section 3. Definitions.

- (a) "Act" means the Dietetics Licensure Act, W.S. § 33-47-101 through -110.
- (b) "AND" means the Academy of Nutrition and Dietetics, which was formerly known as the American Dietetic Association.
- (c) "ARC" means Application Review Committee.
- ~~(d) "ACEND" means Accreditation Council for Education in Nutrition and Dietetics.~~
- ~~(e)(d)~~ "Board Rules" means the administrative rules and regulations promulgated by the Board.
- ~~(e) "CADE" means the Commission on Accreditation for Dietetics Education.~~
- (f) "CDR" means the Commission on Dietetic Registration.
- (g) "CPE" means continuing professional education.
- (h) "~~IDC~~" means Investigative Disciplinary Committee, which may be comprised of at least one (1) Board member or the Executive Director.
- ~~(i)(j)~~ "RD" or "RDN" means a Registered Dietitian or Registered Dietitian Nutritionist credentialed by the CDR.
- ~~(j)(k)~~ "WAPA" means the Wyoming Administrative Procedure Act, W.S. § 16-3-101 through -115.
- ~~(k)(l)~~ "Weight control services" consist of providing general non-medical nutrition instruction and guidance.

Section 4. Board Office. The Board Office shall be located at 2001 Capitol Avenue, Cheyenne, Wyoming.

Section 5. Board Meetings. The Board shall meet in accordance with a resolution passed by the Board.

Section 6. Reference by Incorporation.

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

(i) The Board has determined that incorporation of the full text in these rules would be 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; and

(iii) The incorporated rule is maintained at Board Office and is available for public inspection and copying at cost at the same location.

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

(i) Reference in Chapter 9, Section 10 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://sos.wy.state.wy.us/Rules/RULES/9644.pdf>~~ <http://dietetics.wyo.gov/rules-and-regulations>.

(ii) Reference in Chapter 7, Section 3(a) is Code of Ethics for the Nutrition and Dietetics Profession of Dietetics, adopted by AND/CDR and effective on ~~June 2, 2009~~ June 1, 2018, found at:
~~<http://www.eatrightpro.org/~media/eatrightpro%20files/career/code%20of%20ethics/coe.ashx>~~ <http://dietetics.wyo.gov/rules-and-regulations>.

(iii) Reference in Chapter 1 is Chapter 2 - Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records, adopted by the Department of Administration and Information and effective on September 6, 2016, found at <http://dietetics.wyo.gov/rules-and-regulations>.

Section 7. Public Records Inspection. Public records inspections shall be conducted pursuant to the Department of Administration and Information's rules concerning public records.

~~(a) If a member of public requests an electronic or hard copy of public records, then that individual shall pay a fee. Such fee shall include cost of administrative time and producing a copy of the public record.~~

~~_____ (b) _____ Public records inspection shall take place under the following conditions:~~

~~_____ (i) _____ An appointment shall be made to review the records between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding state holidays, at the Board Office,~~

~~_____ (ii) _____ Records inspection shall take place in the presence of Board staff, and~~

~~_____ (iii) _____ A member of the public may request copies upon payment of a fee.~~

Section 8. Change of Name, Address, or Telephone Number. Each applicant and licensee shall notify the Board in writing of any change to their legal name, home address, business address, e-mail address, or telephone number within thirty (30) days of the change.

Section 9. Requests for Rosters. Any person requesting a roster of licensees shall submit a completed request form ~~and payment of a fee.~~

Section 10. Duplicate Pocket Card and Wall Certificate. Any licensee~~person~~ requesting a duplicate pocket card and wall certificate shall submit a completed request form and payment of a fee.

Section 11. License Verification. Any person requesting verification of at~~their~~ license shall submit a completed request form and payment of a fee.

CHAPTER 3

LICENSURE AND APPLICATION AND LICENSURE PROCEDURES

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi) and the WAPA to promulgate rules and regulations related to the application and licensure procedures to practice dietetics in Wyoming.

Section 12. Statement of Purpose. These Board ~~r~~Rules are adopted to implement the Board's authority to establish the requirements and procedures for licensure.

Section 23. Application Status.

(a) The applicant shall meet all requirements during the timeframe identified immediately prior to submitting a completed application.

(b) Applications shall be deemed "complete" when all necessary documentation has been received by the Board office.

(c) Applications shall expire one (1) year after submission. If an application expires, ~~an~~the applicant shall submit a new application, including payment of fee.

Section 4. Application Review Committee.

(a) Every application shall be reviewed by the ARC.

(b) An applicant for licensure shall have committed no acts that are grounds for disciplinary action, or if an act was committed, the ARC has found after investigation that sufficient restitution has been made and the applicant no longer presents a threat to the public safety.

(c) If the ARC is unable to ascertain from documents submitted by the applicant that the applicant is eligible for licensure, the ARC may require the applicant to provide additional documentation, information, or meet informally with the ARC.

Section 53. Initial Licensure. An applicant for licensure shall submit:

(a) Eligibility. An applicant may seek initial licensure if the applicant is not licensed to practice in another jurisdiction or if that jurisdiction's licensure requirements are not as stringent as Wyoming.

(b) An applicant for initial licensure shall submit:

(a) —(i) A completed application and payment of fees;

~~(b) — (ii) Evidence of clinical competency by:~~

~~(i) — (A) Verifying current registration with CDR; or~~

~~(ii) — (B) Completing the requirements outlined in W.S. § 33-47-106(a).~~

~~Applicants who have obtained a degree outside of the United States and its territories shall request that the ACENDCADE evaluate that degree program to determine its equivalency as defined W.S. § 33-47-106-(a)(i); and.~~

~~— (c) — A license verification directly from every jurisdiction, if applicable.~~

Section 6. Licensure by Reciprocity.

(a) Eligibility. An applicant may seek licensure by reciprocity if the applicant is actively licensed to practice in another jurisdiction with licensure requirements as stringent as Wyoming or if that jurisdiction does not require licensure.

(b) An applicant for reciprocal licensure shall submit:

(i) A completed application and payment of fees;

(ii) Evidence of clinical competency by:

(A) Verifying current registration with CDR; or

(B) Completing the requirements outlined in W. S. § 33-47-106(a).

Applicants who have obtained a degree outside of the United States and its territories shall request that the ACEND evaluate that degree program to determine its equivalency as defined W.S. § 33-47-106(a)(i); and

(iii) A license verification directly from their current jurisdiction, if applicable.

Section 7. Temporary Permits.

(a) Eligibility. An applicant may seek temporary permit if the applicant:

(i) Is currently practicing or has practiced as a dietitian in another jurisdiction within the last twelve (12) months. The applicant shall:

(A) Submit a completed application and payment of fees;

(B) Provide evidence of competency by:

(I) Verifying current registration with CDR; or

(II) Providing verification of license or registration from their jurisdiction, if applicable.

(ii) Is a student in an ACEND accredited dietetics education program, also considered a dietetic intern, who expects to graduate within thirty (30) calendar days of the application filing date. The applicant shall:

(A) Submit a completed application and payment of fees;

(B) Provide evidence from their program director of enrollment in an accredited dietetics program that confirms their date of graduation.

(b) Temporary permits shall expire six (6) months from the date of issuance or when a full license is issued, whichever occurs first.

(c) An applicant may seek a non-renewable temporary permit one (1) time.

(d) If the student fails to successfully complete the ACEND accredited dietetics education program, the temporary permit shall immediately expire.

CHAPTER 5

FEES

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi) and the WAPA to establish fees related to the licensure of dietitians.

Section 12. Statement of Purpose. These Board ~~r~~Rules are adopted to implement the Board's authority to establish~~determine~~ and collect reasonable fees.

Section 23. General Information.

(a) Fees shall be payable in the exact amount and shall be paid in advance of the services rendered~~by money order, cashier's check, or certified check. Application and renewal fees may be paid by personal check.~~

(b) All fees collected by the Board are non-refundable.

(c) Fees related to public records requests shall be assessed pursuant to the Department of Administration and Information's rules concerning public records.

Section 3. Fees. Services for which the Board charges a fee shall include, but is not limited to, the following fee schedule:

(a) <u>Initial and Reciprocal</u> Application Fee	\$200.00
(b) Temporary Application Fee for Existing Practitioner	\$75.00
(c) Temporary Application Fee for Student	\$25.00
(d)(b) Renewal Application Fee	\$200.00
(e)(e) Late Renewal Application Fee (June 15 to June 30)	\$225.00
(f)(d) Reinstatement Fee (July 1 to September 30)	\$300.00
(g)(e) Reissuance Fee (lapsed license less than 5 years)	\$400.00 <u>\$500.00</u>
(f) Return to Practice Fee (lapsed license more than 5 years)	\$400.00
(h)(g) Relicensure Following Discipline Fee	\$500.00
(i)(h) Non-sufficient Funds Fee	\$30.00

(j)	Roster Fee	\$50.00
(j)(k)	Replacement Wall Certificate	\$10.00
(k)(4)	Replacement Pocket ID Cards	\$10.00
(l)(m)	License Verification Fee	\$15.00
(n)	Copy Fee	\$.25 per page

CHAPTER 6

RENEWAL, REINSTATEMENT, REISSUANCE, AND RELICENSURE FOLLOWING DISCIPLINE

Section 1. **Authority.** The Board is authorized under Wyoming Statute 33-47-105(a)(vi) and the WAPA to promulgate rules and regulations related to the continuing licensure of dietitians.

Section 12. **Statement of Purpose.** These Board rules are adopted to implement the Board's authority to establish the requirements and procedures for license renewal.

Section 23. **License Renewal.**

(a) License Expiration.

(i) Licenses issued in an even numbered year shall expire on June 30 of the next even numbered year. -Thereafter, the renewal period shall be two (2) years.

(ii) Licenses issued in an odd numbered year shall expire on June 30 of the next odd numbered year. -Thereafter, the renewal period shall be two (2) years.

(iii) Licensees ~~who~~ fail to timely renew shall forfeit the right to practice.

(iv) Failure to receive a notice for renewal from the Board does not excuse a licensee from the requirement for renewal under the Act and these Board rules.

(b) Renewal Procedure. Between April 1 and June 15 of the year the license expires, a licensee seeking renewal shall submit:

(i) A completed renewal application and payment of fees;

(ii) Verification of current registration with CDR; and

(iii) Evidence of completion of thirty (30) hours of CPE that complies with Section ~~43~~.

(c) Late Renewal Procedure. Between June 16 and June 30 of the year the license expires, a licensee seeking late renewal shall submit:

(i) A completed late renewal application and payment of late renewal fees;

(ii) Verification of current registration with CDR; and

(iii) Evidence of completion of thirty (30) hours of CPE that complies with Section ~~43~~.

Section ~~34~~. Continuing Education Requirements.

(a) Renewal Period. CPE shall be obtained July 1 through June 15 of the renewal period.

(b) Calculation of CPE. CPE shall be calculated as follows:

(i) One (1) semester credit equals fifteen (15) CPE;

(ii) One (1) quarter credit equals ten (10) CPE; and

(iii) One (1) continuing education hour equals one (1) CPE.

(c) Content. CPE shall be ~~directly~~-related to the scope of practice defined in the Act.

(i) The Board shall accept CDR approved activities if related to the scope of practice defined in the Act, which includes application of principles derived from the sciences of food, nutrition, management, communication, and biological, physiological, behavioral, and social sciences to achieve and maintain optimal human health. Additionally, dietetics includes the nutrition care process, medical nutrition therapy, and ethics. Other activities may be submitted to the Board for review.

(ii) Licensees shall provide proof of attendance that contains the activity title, dates, CPE, sponsor, presenter, qualifications of the presenter, the name of the licensee, and shall be signed by the sponsor or the presenter.

(d) Waiver. The Board may grant a waiver for ~~CPE continuing education~~ requirements to licensees who have petitioned and demonstrated just cause based on extenuating circumstances.

Section ~~45~~. Reinstatement.

(a) Eligibility. An applicant may seek reinstatement if that license has expired within ninety (90) days.

(b) Reinstatement Application Requirements. The applicant shall submit:

(i) A completed reinstatement application and payment of reinstatement fee;

(ii) Verification of current registration with CDR; and

(iii) Evidence of completion of thirty (30) hours of CPE that complies with

Section ~~43~~.

(c) ~~Inactive Lapsed License.~~ A license not reinstated within the ninety (90) days after expiration shall ~~become inactive~~ lapse. If ~~an licensee applicant~~ allows their license to ~~become inactive~~ lapse, the ~~inactive licensee applicant~~ shall not practice until they have been granted apply for reissuance by the Board.

Section 56. Reissuance.

(a) Eligibility. An applicant may seek reissuance if their license ~~is has been inactive~~ lapsed less than five (5) years.

(b) Reissuance Application Requirements. The applicant shall submit:

(i) A completed reissuance application and payment of reissuance fees;

(ii) Verification of current registration with CDR; and

(iii) Evidence of completion of thirty (30) hours of CPE earned in the preceding two (2) years that complies with Section 4. ~~Evidence of completion of fifteen (15) hours of CPE that complies with Section 3 for each year renewal license has expired.~~

~~Section 6. Return to Practice.~~

~~(a) Eligibility. An applicant may seek to return to practice if their license has been lapsed more than five (5) years.~~

~~(b) Return to Practice Application Requirements. The applicant shall submit:~~

~~(i) A completed return to practice application and payment of fees;~~

~~(ii) Evidence of completion of CDR's Registration Examination passed within twelve (12) months; and~~

~~(iii) Verification of current registration with CDR.~~

Section 7. Relicensure Following Discipline.

(a) Eligibility. An applicant may seek relicensure of their license that has been revoked, surrendered, suspended, conditioned, or restricted.

(b) Relicensure Application Requirements. The applicant shall submit:

(i) A completed relicensure application and payment of fee;

(ii) Verification of current registration with CDR;

- (iii) Evidence of complying with the requirements of a previous Board order;
- (iv) Evidence of applicant's ability to safely and competently practice; and
- (v) Evidence demonstrating just cause for relicensure.

CHAPTER 7

PROFESSIONAL RESPONSIBILITY

Section 1. Authority. The Board is authorized under Wyoming Statute 33-47-105(a)(vi) and the WAPA to promulgate rules and regulations related to the standards of the practice of dietetics.

Section 12. Statement of Purpose. These Board ~~r~~Rules are adopted to implement the Board's authority to regulate the practice of dietetics.

Section 23. Scope of Practice.

(a) The practice of dietetics shall occur where the patient is located or receives services.

(b) Licensees may order patient diets or lab tests as initiated by, or in consultation with, a physician licensed in this state or a licensed individual authorized to prescribe medical care.

~~—(c)— Licensees may order lab tests to check and track nutrition status and monitor effectiveness of dietary plans and orders.~~

Section 34. Ethical Standards. The protection of the public health, safety and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of licensees.

(a) Licensees shall comply with the~~The Board adopts the~~ “Code of Ethics for the Nutrition and Dietetics Profession of Dietetics” ~~of the AND/CDR~~ incorporated by reference in Chapter 1.

(b) Licensees shall:

(i) Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;

(ii) Report to the Board known or suspected violations of the laws and regulations governing the practice of dietetics~~licensed or permitted professionals~~;

(iii) Use only those educational credentials in association with their ~~license~~ or permit ~~and practice as a professional~~ that have been earned at an educational institution accredited by one of the regional or national institutional accrediting bodies recognized by the Council for Higher Education Accreditation (CHEA); and that are directly related to their license or permit;

(iv) Use only indicators of current dietetic-related specialty credentials/board certifications ~~which~~that are approved by CDR;

(v) Provide clients with accurate and complete information regarding the extent and nature of services available to them;

(vi) Respect the privacy of clients and hold in confidence all information obtained in the course of professional service;

(vii) Maintain accurate documentation of all professional services rendered to a client in confidential files for each client and ensure that client records are kept in a secure, safe, retrievable, and legible condition in accordance with Health Insurance Portability and Accountability Act and Centers for Medicare & Medicaid Services regulations;

(viii) Ensure that advertisements~~When advertising their services to the public, ensure that such advertising is~~ are neither fraudulent nor misleading. Advertisements shall also include~~and includes~~ the use of the title “licensed dietitian” or the initials “LD” or a statement such as “licensed by the Wyoming Dietetics Licensing Board”; and

~~_____ (ix) Respond to all requests for information and all other correspondence from the Board; and~~

~~(ix)(*)~~ Not permit or facilitate unlicensed practice or any activity ~~that~~which is a violation of the Act or these Board rules.

CHAPTER 9

PROCESS PRACTICE AND PROCEDURES FOR APPLICATION, LICENSURE, AND DISCIPLINE ~~DISCIPLINARY, APPLICATION AND LICENSURE MATTERS~~

Section 1. **Authority.** The Board is authorized under Wyoming Statute 33-47-105(a)(vi), 107(f), and the WAPA to promulgate rules and regulations related to the discipline of dietitians in Wyoming.

Section 12. **Statement of Purpose.** These Board ~~r~~Rules are adopted to implement the Board's authority to:

- (a) Conduct investigations, hearings, and proceedings concerning:
 - (i) Actions relating to an application for a licensure ~~including granting or denying~~; or
 - (ii) Alleged violations of the Act or the Board ~~r~~Rules.
- (b) Determine and administer appropriate disciplinary action against licensee.

Section 23. **Grounds for Discipline.**

(a) The Board may take disciplinary action, refuse to issue or renew a license, or issue a license subject to conditions or restrictions for one (1) or more of the following acts or conduct:~~to an applicant or may suspend, revoke, or otherwise discipline any licensee who has been found guilty of violations of the Act or the Board Rules.~~

- (b) Unprofessional conduct, ~~including includes, but is not limited to:~~
 - (i) Violation of any provision of the:
 - (A) Act;
 - (B) Board ~~r~~Rules; or
 - (C) Code of Ethics as referenced in Chapter 1;
 - (ii) Practicing below the applicable standard of care;
 - (iii) Practicing outside the areas of professional competence;
 - (iv)(iii) Incompetence, negligence, or malpractice;

~~(v)(iii)~~ Mental incompetency;

~~(vi)(iv)~~ Addiction or ~~habitual intemperate~~ use of alcohol, drugs and/or controlled substances to a degree ~~that~~which renders the licensee unsafe or unfit to practice;

~~(vii)(v)~~ Sexual exploitation of a client, defined as:

(A) Offering professional services for some form of sexual gratification; or

(B) Sexual assault or contact with a client;

~~(viii)(vi)~~ Client abandonment;

~~(ix)(vii)~~ Conviction of a felony related to the practice of dietetics;

~~(x)(viii)~~ Conviction of a misdemeanor related~~relating~~ to the practice of dietetics;

~~(xi)(ix)~~ Suspension, revocation, denial, or other disciplinary action imposed upon a licensee in another jurisdiction;

~~(xii)(x)~~ Soliciting clients by any form of false or misleading communication;

~~(xiii)(xi)~~ Knowingly submitting false information to the Board;

~~(xiv)(xii)~~ Representation of oneself as legally authorized to engage in the practice of dietetics without a license issued by this Board; or

~~(xv)(xiii)~~ Renting or lending a license to any person.

Section 34. Application Review and Investigation Process.

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

~~(i) The applicant bears the burden of satisfying license requirements; and~~

~~(ii) Each application for licensure shall be subject to investigation to determine whether the requirements set forth in the Act and Board rules are satisfied.~~

~~(i) Every application shall be reviewed by the ARC.~~

~~(ii) An applicant for licensure shall have committed no acts which are grounds for disciplinary action, or if the act was committed, the ARC has found after investigation that~~

sufficient restitution has been made and the applicant no longer presents a threat to the public safety.

~~_____ (iii) If the ARC is unable to ascertain from documents submitted by the applicant that the applicant is eligible for licensure, the ARC may require the applicant to provide additional documentation, information, or meet informally with the ARC.~~

(b) ~~Application Review Committee~~ Action. The ARC may recommend:

(i) A license be issued, renewed, reinstated, reissued, ~~returned to practice, or~~ relicensed;

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

~~(iii)(ii) Approval of a settlement agreement which may include the issuance, renewal, reinstatement, reissuance, return to practice, or relicensure of a license with imposition of subject to conditions, restrictions, conditions, reprimand, other disciplined disciplinary action, or a combination thereof; or~~

(iv)(iii) Denial of licensure the application.

(c) ~~Notice of Intent to Recommend Denial~~. The ARC shall notify the applicant of its intent to recommend issuance of the license subject to conditions, restrictions, or other disciplinary action or denial of the license. Such notification shall contain:

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

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

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

(d) Applicant's Request for Hearing. ~~If the ARC recommends denial of an application, the applicant may request a contested case hearing in writing within thirty (30) days of the mailing of the notification.~~

(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 licensure.

(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.

Section 45. Complaint Review and Disciplinary Investigation Process.

(a) Complaint Review. Every complaint submitted to the Board or initiated on behalf of the Board shall be investigated by an IDC. 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.

(b) Voluntary Surrender. A licensee may petition the Board, in writing, to voluntarily surrender their license. ~~The Board shall convene a special meeting to consider the petition. The Board may accept or reject the petition for voluntary surrender and may consider whether the licensee is under investigation. The Board shall consider the petition at its earliest convenience. The Board may accept or reject the petition for voluntary surrender.~~

(c) ~~IDC~~ Disciplinary Committee Action. The IDC may recommend:

(i) Dismissal of a complaint;

(ii) Issuance of an advisory letter;

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

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

(v) Summary suspension.

~~(d) Summary Suspension. The Board shall convene a special meeting to conduct a hearing if the DC believes that the licensee's continued practice presents a danger to the public health, safety, or welfare and recommends summary suspension.~~

Section 6. Summary Suspension.

(a) Recommendation. If the IC 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 IC shall notify the licensee of its intent to recommend summary suspension.

(ii) The notice of intent shall contain:

(A) Copy of the complaint; and

(B) Notice that an expedited proceeding shall be set at the earliest opportunity a quorum of Board members may be assembled.

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

(d) Scope of Expedited Proceeding. The scope of the expedited summary suspension proceeding shall be limited to a presentation of the evidence the investigating party believes warrants summary suspension. The Board shall order summary suspension if it concludes probable cause exists that the charges if proven, would imperatively require emergency action to protect the public health, safety, or welfare. The Board shall incorporate a finding to that effect in its order granting summary suspension.

Section 7. Formal Proceedings for Disciplinary Action.

(a) Notice of intent to recommend disciplinary action.

(i) The IC 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 to provide any additional information or to resolve an administrative complaint without a hearing.

Section 58. Petition. The IDC shall initiate formal proceedings for disciplinary action by serving a Petition to the last known address of the licensee by certified mail, ~~or~~ 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. 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 relating to:

(A) The recommendation to deny licensure, issue a license subject to conditions, restrictions, or other disciplinary action, the facts upon which the recommendation is based, and the statutory provisions or the Board Rules the applicant is alleged to have violated; or

(B) The nature of the Petition, the facts upon which the Petition is based, the statutory provisions 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 the 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 6. Notice of Hearing.~~ The Notice of Hearing shall contain:

~~(a) The name and last known address of the licensee;~~

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

~~_____ (i) 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~~

~~_____ (ii) 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;~~

~~_____ (c) The time, place, and nature of the hearing;~~

~~_____ (d) The legal authority and jurisdiction; and~~

~~_____ (e) A statement indicating:~~

~~_____ (i) The applicant's failure to appear at a noticed hearing or pursue proceedings may result in a dismissal; or~~

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

Section 10. Lawful Service. There shall be a presumption of lawful service of a notice of intent, petition, and notice of hearing or any other communication required by these Board Rules if sent to the last known address of the applicant or licensee by certified mail, by regular mail, by electronic mail to the e-mail address indicated to be the preferred method of communication, or by personal service.

~~**Section 7. Lawful Service.** There shall be a presumption of lawful service of a Petition, Notice of Hearing, or any other communication required by these Board Rules if sent to the last known address of the licensee or applicant by certified or regular mail.~~

Section 811. Dismissal or Default.

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

(b) Default. The Board may enter an order of default judgment based on the allegations contained in a 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 12. Contested Case Hearing. The hearing officer shall preside over the contested case hearing, which shall be conducted pursuant to the WAPA and the Office of

Administrative Hearings rules concerning contested case proceedings incorporated by reference in Chapter 1.

Section 913. Burden and Standard of Proof.

(a) Application/Licensure Matters. The applicant shall bear the burden to prove by a preponderance of evidence that he or she ~~they~~ meets the qualifications for licensure. The burden shall shift to the ARC or IDC to prove by clear and convincing evidence that applicant should be denied licensure or issued a license subject to conditions, restrictions, or other disciplinary action. The burden shall shift to the applicant to persuade the Board that the ARC or IDC's grounds for denial or issuance subject to conditions, restrictions, or other disciplinary action are insufficient.

(b) Discipline Matters. The IDC shall bear the burden to prove by clear and convincing evidence that a licensee violated the Act or the Board's Rules.

~~Section 10. Contested Case Hearing.~~ The hearing officer shall ~~preside over the formal contested case hearing which shall be conducted pursuant to the WAPA and the Office of Administrative Hearings rules concerning contested case proceedings incorporated by reference in Chapter 1.~~

Section 114. Board Decision and Order.

(a) Board Action. The Board may resolve a complaint or application by:

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

~~(ii) Dismissing a complaint;~~

~~(iii) Issuing an advisory letter; or~~

~~(iv)(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, reinstate, reissue, ~~return to practice~~, or relicense a license;

(B) Issue, renew, reinstate, reissue, ~~return to practice~~, or relicense a license subject to conditions, restrictions, or other disciplinary action;

(C) Deny a license, renewal, reinstatement, reissuance, ~~return to practice~~, or relicensure;

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

(E) Issue an advisory letter; ~~and/or~~

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

(b) Board Order. The Board shall make and enter a written decision and order. The decision and order shall be sent to the applicant, licensee, or their representative attorneys by ~~certified or regular mail~~.

Section ~~12~~15. Judicial Review.

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

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