



## Certification Page Regular and Emergency Rules

Revised July 2019

**Emergency Rules** (Complete Sections 1-3 and 5-6)

**Regular Rules**

<b>1. General Information</b>			
a. Agency/Board Name <b>079 Nursing Home Administrators</b>			
b. Agency/Board Address <b>2001 Capitol Ave #105</b>		c. City <b>Cheyenne</b>	d. Zip Code <b>82002</b>
e. Name of Agency Liaison <b>Maxine Cordova</b>		f. Agency Liaison Telephone Number <b>777-7764</b>	
g. Agency Liaison Email Address <b>maxie.cordova@wyo.gov</b>		h. Adoption Date <b>10/08/2019</b>	
i. Program <b>Nursing Home Administrators</b>			
<b>2. Legislative Enactment</b> For purposes of this Section 2, "new" only applies to regular (non-emergency) 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 non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?			
<input checked="" type="checkbox"/> <b>No.</b> <input type="checkbox"/> <b>Yes.</b> If the rules are new, please provide the Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):			
<b>3. Rule Type and Information</b> For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.			
a. Provide the Chapter Number, Title* and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed	
<b>1</b>	<b>General Provisions</b>		
<b>2</b>	<b>Licensure Requirements</b>		
<b>3</b>	<b>Application Process</b>		
<b>4</b>	<b>Fees</b>		
<b>10</b>	<b>Information Practices</b>		
<b>11</b>	<b>Complaints and Hearing Process</b>		
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 Repealed	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 Repealed	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 Repealed	
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	

\* If the name of a chapter of rules is changing, please only provide the NEW chapter name on this rules certification form.

**4. Public Notice of Intended Rulemaking**

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

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

Date:	Time:	City:	Location:

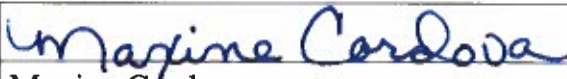
**5. Checklist**

a.  For regular rules, the Statement of Principal Reasons is attached to this Certification 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

b.  For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

**6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

Signature of Authorized Individual	
Printed Name of Signatory	Maxine Cordova
Signatory Title	Executive Director
Date of Signature	10/8/2019

**7. Governor's Certification**

I have reviewed these rules and determined that they:

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

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

STATEMENT OF PRINCIPAL REASONS  
Wyoming Board of Nursing Home Administrators  
For Formal Adoption of Regular Rules

The Wyoming Board of Nursing Home Administrators is proposing to amend Chapters 1, 2, 4, 10 and 11 of its rules and repeal Chapter 3. In general, the Board made several changes to update and clarify the rules.

In Chapter 1, the Board is proposing to update several definitions to remove outdated language, such as “health facility,” and to define new terms used elsewhere in the rules, such as “preceptor.”

In Chapter 2, the Board is proposing to allow people with associate’s degrees in related fields to apply for licensure. The Board believes that those with associate’s degrees in nursing or business can adequately run nursing homes with the proper training, and understands that some qualified persons with long experience in nursing homes would otherwise not be qualified to apply for licensure.

The Board is also proposing to change the requirement for receiving “six months” of training to require applicants to receive 500 hours of training in order to clarify the precise amount of training required and to waive the training requirement for applicants with sufficient experience or who can demonstrate that they have met nationally-accepted qualifications for nursing home administration. The Board is proposing these changes in order to clarify how applicants may be trained and to provide alternative paths to licensure for applicants who have already demonstrated their qualifications without training. The Board is also proposing to add a provisional license for those who have not yet met the training requirements in order to clarify that they are permitted to practice while they are being trained. As a result, the Board is clarifying and narrowing the scope of the temporary license, and proposing to only issue those licenses to administrators who are already licensed out-of-state.

The Board is also combining many of the provisions of Chapter 3, which dealt with continuing education, renewal, and the review of applications, into Chapter 2 in order to gather all of the provisions relating to licensure applications into one chapter.

When the Board incorporated the uniform rules for charging fees for electronic public records, it inadvertently failed to include language that Wyoming law requires agencies to include when incorporating rules by reference. The Board is now proposing to include this language in Chapter 4 in order to fix this error.

The Board is proposing to clarify Chapter 10, Section 2(iii) in order to ensure that it charges the appropriate fees for producing copies of public records.

Finally, the Board is proposing to update the complaint and hearing process in Chapter 11 to clarify the process for licensees and bring the process in line with other professional licensing boards.

## SUMMARY OF COMMENTS

The Board of Nursing Home Administrators received two comments on these proposed rules, both concerning proposed changes to Chapter 2.

The first commenter expressed that the Board should allow staff with an associate's degree in nursing home management to apply for a license from the Board. The Board is not making a change in response to this comment because it believes that a degree in nursing home management is a "healthcare or business-related discipline," and would likely process an application for a license from an applicant with such a degree, all other things being equal.

The second commenter expressed support for the proposed change to allow applicants with some associate's degrees to apply for licensure and expressed concern that the proposed rules would still require five years of administrator experience in another state. The commenter expressed that many executive-level positions in nursing homes, while not requiring licensure under the Board's statute, still provide those executives with significant experience in running nursing homes and meeting the Board's rules. The Board agrees with this comment and decided to remove the proposed provision requiring applicants under this subsection to have five years of experience as a nursing home administrator in another state.

Part of the proposed rules require administrators to undergo 500 hours in a Board-approved training program. The Board considered suggesting 8 of those 500 hours be live, face-to-face training between the applicant and a licensed administrator in a guidance document. Both commenters expressed concern that requiring face-to-face contact may present an undue and unnecessary burden on applicants in faraway rural areas. In considering its response to these comments, the Board decided to move the 8-hour direct training requirement from a guidance document into the proposed changes to Chapter 2 to ensure that it is enforceable. The Board is also clarifying that live videoconferences using technology such as Facetime, Google Hangout, Skype, or so on will suffice, and will instead use a guidance document to recommend live training where possible.

## CHAPTER 1

### GENERAL PROVISIONS

**Section 1. Authority.** These rules and regulations are promulgated by the Wyoming State Board of Nursing Home Administrators (Board) pursuant to its authority under the Act and pursuant to the Wyoming Administrative Procedure Act, W.S. 16-3-101, et seq.

**Section 2. Statement of Purpose.** These rules and regulations are adopted to implement the authority of the Board to:

(a) Regulate the qualifications and standards of performance of persons licensed as Nursing Home Administrators in Wyoming;

(b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(c) Issue licenses to qualified individuals who have met required standards and suspend or revoke licenses previously issued by the Board in any case where the licensee is determined to have failed to conform to the requirements of standards;

(d) Establish and carry out procedures designed to insure that licensees comply with the requirements of such standards;

(e) Receive, investigate and take appropriate action with respect to any charge or complaint filed with the Board to the effect that any licensee has failed to comply with the requirements of standards, the Act or Board rules and regulations; and

(f) Conduct investigations, hearings and proceedings concerning alleged violations and to administer appropriate disciplinary action against licensees for proven violations.

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

**Section 4. Definitions.**

(a) "Act" means W.S. 33-22-101 et seq., relating to Nursing Home Administrators.

(b) "Health service executive (HSE)" means an individual who has the leadership competencies required to be a nursing home administrator, assisted living community administrator, or home and community based service provider, and has been certified as a qualified health services executive by the NAB.

(c) "NAB" means the National Association of Long Term Care Administrator Boards.

(d) "Board" means the Wyoming Board of Nursing Home Administrators.

(e) "Nursing Home Administrator" shall mean a person who operates, manages, supervises, or is in charge of a health facility; a licensee; an administrator; a respondent.

(f) "Passing Score" means a scaled score as determined by the testing service for the national exam.

(g) "Preceptor" means a Wyoming licensed nursing home administrator who has completed the NAB Preceptor Online Module Course and who has been approved by the Board.

(h) "Provisional License" means a license that has been granted by the Board to an applicant who is otherwise qualified, but not yet passed the national exam and/or completed an AIT program.

(i) "Resident" means individual residing in and receiving care in a health facility.

#### **Section 6. Board Meetings.**

(a) The Board shall meet at least once annually to transact its business. The first meeting of each year shall be designated as the annual meeting for the purpose of electing officers, establishing dates of board meetings for the coming year and Board reorganization and planning. The Board may meet at other times as deemed necessary to transact its business.

(b) Notice of Board meetings shall be given to any person who requests notice. The notice shall specify the time and place of the meeting and the business to be transacted.

(c) All meetings shall be open to the public. The Board may conduct executive sessions in accordance with W.S. 16-4-105.

(d) A written record shall be kept of all meetings and shall be retained as the permanent record of the transactions of the Board.

(e) For the purposes of conducting business during a Board meeting, a quorum shall consist of a majority of the voting members.

## CHAPTER 2

### LICENSURE REQUIREMENTS

**Section 1. License Required.** No individual shall perform any function specifically authorized for a Nursing Home Administrator nor function as a Nursing Home Administrator nor represent himself as a Nursing Home Administrator unless licensed by the Board.

#### **Section 2. Education Requirement**

(a) Every applicant for licensure shall have earned a minimum of a college bachelor's degree from a college or university accredited by a body approved by the U.S. Department of Education.

(b) The requirement for a bachelor's degree does not apply to those individuals who were licensed prior to the effective date of these rules, held a current Wyoming Board of Nursing Home Administrators license as of November 12, 1996 and have maintained active Wyoming licensure since that date.

(c) The requirement for a bachelor's degree may be waived for individuals who have a minimum of an associate degree in Business Administration, Healthcare Administration, Public Health, Long Term Care Administration, Gerontology, Nursing or other healthcare or business-related discipline that may be deemed acceptable at the discretion of the Board.

#### **Section 3. Administrator in Training (AIT) Program**

(a) Every applicant for licensure shall have completed 500 hours of administrator-in-training under the supervision of a Board-approved preceptor, 8 hours of which must be direct training between the applicant and preceptor either in person or through videoconference, or has completed an AIT program from another state having equal or equivalent standards.

(b) The requirement for administrator-in-training may be waived by the Board if the candidate has been employed for two (2) or more years as a Nursing Home Administrator or similar facility administrator within the last five (5) years, or has met the qualifications for the health services executive (HSE) as established by the NAB, which are in effect on January 1, 2017.

#### **Section 4. Examination Requirement.**

(a) Every applicant for licensure shall have successfully completed a national Nursing Home Administrator licensing examination with a passing score.



(b) Candidates who fail the exam three (3) times are not eligible to take the exam again for one year following the third attempt and must prove they completed additional education in the field of long term care administration during that one (1) year period. Such a candidate must submit a new application form, pay all applicable fees, and obtain all required verifications to be eligible to take the test again.

(c) Applications and fees are void one (1) year after the application form is received by the Board if no action has been taken.

(d) Examination results are considered void one (1) year after the date the examination was taken if the applicant does not become fully licensed.

### **Section 5. Temporary License.**

(a) A temporary license may be granted by the Board.

(i) To an applicant holds an active Nursing Home Administrator license in another jurisdiction, which is in good standing, and

(ii) Who has been employed as a Nursing Home Administrator for at least two (2) of the five (5) years immediately preceding the date the application is submitted.

(b) Temporary licenses expire ninety (90) days from the date of issuance.

(c) To request a temporary license the applicant shall submit to the Board;

(i) A completed application and fee,

(ii) The temporary license fee, and

(iii) A verification of an active Nursing Home Administrator license, in good standing, from another jurisdiction.

### **Section 6. License by Endorsement.**

(a) Applicants must submit the following:

(i) A completed application and fees,

(ii) Evidence of holding a current license in good standing in another jurisdiction, that has standards or requirements for licensure that are at least equivalent to the Board's;

(iii) Has been employed as a Nursing Home Administrator for at least two (2) of the preceding five (5) years, or has met the qualifications for the HSE as established by the NAB, which are in effect on January 1, 2017; and

(iv) Two (2) letters of recommendation from professional associates, attesting to the applicant's ability to perform as a Nursing Home Administrator.

**Section 7. License by Examination.**

- (a) Applicants shall submit the following:
- (i) A completed application and fees;
  - (ii) Official transcripts indicating the award of a bachelor's degree or an associate degree, pursuant to Section 2;
  - (iii) Two (2) letters of recommendation from professional associates, attesting to the applicant's ability to perform as a Nursing Home Administrator;
  - (iv) Verification of completion of AIT; and
  - (v) Official passing scores of the Nursing Home Administrator licensing examination as stated in Section 4 of this chapter.

**Section 8. Provisional License.**

- (a) The applicant shall submit:
- (i) A completed application and fees;
  - (ii) Official transcripts indicating the award of a bachelor's degree or an associate degree, pursuant to Section 2;
  - (iii) Two (2) letters of recommendation from professional associates, attesting to the applicant's ability to perform as a Nursing Home Administrator; and
  - (iv) Board AIT/Preceptor forms.
- (b) The provisional license shall expire six (6) months from the date of issuance.

(c) A one-time extension of not more than sixty (60) days may be granted if requested at least fifteen (15) calendar days prior to the expiration of the provisional license.

(d) Upon evidence of passing the national exam and completing an AIT program, the license shall convert to full licensure.

**Section 9. Application Review Process.**

(a) Upon receipt of a completed application, the Board Office shall review the application and if it is complete and, if there are no known grounds for denial of the license requested, issue the license. If there are known grounds for denial, the Board Office shall forward the application to the Application Review Board Member (ARBM).

(b) The ARBM shall review the application and all other information available and following the review may:

(i) Approve the application if the applicant meets all requirements, or

(ii) If there are questions as to whether denial is appropriate, forward the application and an ARBM report to the Assistant Attorney General assigned to the Board for prosecution to review.

(c) If, after review, the ARBM and Assistant Attorney General recommend denial of an application:

(i) A preliminary denial letter shall be sent to applicant. The letter shall state the basis for the denial including relevant statutes and rules; and

(ii) Advise the applicant of the right to request reconsideration.

(d) If the applicant fails to request reconsideration in writing within 30 days of the date of the preliminary denial letter, the preliminary denial becomes final.

(e) If the applicant requests reconsideration within thirty (30) days, a reconsideration conference shall be held with the ARBM, the Assistant Attorney General, and the applicant.

(f) Following a reconsideration conference, the ARBM shall either approve or deny the application.

(g) If denied, the applicant must submit a written request for a hearing within thirty (30) days of the date of the denial letter.

(h) Application denial hearings:

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

(ii) The hearing is to be conducted in the presence of a quorum of the Board, and follow the process set forth in Chapter 11. Section 4.

(iii) The applicant has the burden of proving that he/she meets all requirements for the license requested.

(i) The ARBM shall not take part in the consideration of any contested case.

(j) The ARBM shall not, by this rule, be barred from attending any contested case hearing.

**Section 10. License Renewal.**

(a) All licenses issued by the Board expire on December 31 each year.

(i) The Board shall mail a renewal notice to active licensees at their address of record no later than thirty (30) days before the license expiration date.

(ii) In order to avoid paying a late fee license renewal applications with appropriate fee and documentation must be postmarked no later than the expiration date.

**Section 11. Continuing Education.**

(a) As a condition of renewal, each licensee shall provide evidence of completion of twenty five (25) hours of continuing education every year.

(i) Continuing education hours submitted for renewal must be obtained during the current license year, or one year prior.

(ii) The continuing education requirement is waived for all licensees during the first calendar year they are licensed in Wyoming.

(iii) Continuing education requirements may be fulfilled through in-service, coursework, conference or workshop attendance, in person, online, tele-conference, or other means as deemed adequate by the Board.

(iv) All continuing education shall have significant intellectual or practical content with the primary objective being to increase the licensee's competence in

nursing home administration. Continuing education shall constitute an organized program of learning consisting of matters directly related to nursing home administration.

(v) The licensee shall send a listing of the continuing education hours to the Board on a form approved by the Board. Licensee shall also attach copies of any certificates of attendance, letters certifying attendance, transcripts or any official documents which serve as proof of participation or attendance.

(vi) Licensees are responsible for maintaining their own continuing education files. Prior to the license renewal date, the licensee will receive notice to submit copies to the Board for review.

### **Section 12. Failure to Renew.**

(a) A licensee who fails to renew a license shall have one (1) calendar year from the expiration date to renew the expired license by submitting the following to the Board;

- (i) The renewal application,
- (ii) Documentation of any continuing education hours that may be required,
- (iii) Both the renewal fee and the late fee.

(b) A licensee who fails to renew the licensure by the December 31 expiration date and continues to practice, is unlawfully practicing without a license, subject to the penalties provided for violation(s) of the Wyoming Nursing Home Administrators Act, including W.S. 33-22-110 and shall apply for re-licensure in order to legally practice nursing home administration in the State of Wyoming.

### **Section 13. Reinstatement After Disciplinary Action.**

(a) A licensee whose license has been suspended may petition the Board for reinstatement of the license thirty (30) days before the end of the suspension period.

(i) A petition for reinstatement shall be accompanied by at least two (2) verified recommendations from licensed Nursing Home Administrators and by at least two (2) recommendations from individuals each having personal knowledge of the activities of the licensee since the disciplinary action was imposed.

(ii) A petition for reinstatement shall be considered at the next Board meeting.

(iii) Any petition for reinstatement of a license shall be acted upon by the Board within one hundred and eighty (180) days after the filing of a proper petition and the accompanying documents.

(iv) A licensee whose license is reinstated shall pay the renewal fee for the year in which the license is reinstated.

## **CHAPTER 3**

### **APPLICATION PROCESS**

This rule has been repealed.

**CHAPTER 4**

**FEEES**

**Section 1. General Information.**

- (a) A copy of the current fee schedule shall be available on the Board’s website.
- (b) Fees shall be paid in the exact amount, by money order or cashier's check or credit card and shall be paid in advance of the services rendered. Fees for renewal of licensure may be paid by personal check.
- (c) All fees collected by the Board are non-refundable.

**Section 2. Fees.**

(a) Services for which the Board charges a fee shall include but is not limited to the following schedule:

(i)	Application Fee.....	\$350.00
(ii)	Provisional License fee.....	\$400.00
(iii)	Annual License Renewal Fee.....	\$300.00
(iv)	Late Renewal Fee .....	\$100.00
(v)	Temporary License Fee .....	\$ 50.00
(vi)	License Verification.....	\$ 30.00
(vii)	Duplicate Certificate.....	\$ 30.00
(viii)	Credit Card Processing Fee .....	\$ 5.00

(ix) In accordance with W.S. 1-1-115 the Board may charge a collection fee for any returned checks.

(b) The Board incorporates the rules found in Chapter 2 of the Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records adopted by the Department of Administration and Information, effective



September 6, 2016. Found at: <https://rules.wyo.gov> under Reference Number: 006.0011.2.09062106.

- (c) For these rules incorporated by reference:
  - (i) The Board 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) other section; and
  - (iii) The incorporated rules are maintained at the Board's office and are available for public inspection and copy at the same location.

## CHAPTER 10

### INFORMATION PRACTICES

#### **Section 1. Disclosure.**

(a) The disclosure of confidential records and public records shall be governed by Wyoming Public Records Act, W.S. 16-4-201 through 16-4-204.

#### **Section 2. Access.**

(a) Any licensee, prospective licensee or others with the licensee's notarized written consent may personally inspect the contents of a respective Board's file except for personal recommendations, and unofficial complaints.

(b) Record inspection shall take place under the following conditions:

(i) An appointment shall be made to review the file during regular business hours at the offices of the Board;

(ii) In the presence of a Board member or a representative of its administrative staff; and

(iii) Original documents shall remain with the Board but may be copied at the Board's office. Copy fees will be in accordance with Chapter 4, Section 2(b) of these rules.

**Section 3. Correction and Amendment.** Any licensee or prospective licensee may clarify erroneous, inaccurate or misleading information in their file by submitting a written statement to the Board which shall be placed in the file.

#### **Section 4. Change of Name and/or Address.**

(a) A licensee shall notify the Board in writing of any change in legal name within thirty (30) days. A copy of the legal document changing the name must be submitted with the written request and fee.

(b) A licensee shall notify the Board of any change of home or professional mailing addresses and telephone numbers within thirty (30) days.

**Section 5. Verification of Licensure to Another Jurisdiction.** Upon receipt of a written request for verification of licensure and the required fee, the Board shall provide the information to the jurisdiction specified by the licensee.

**Section 6. Requests for Roster of Licensees.**

(a) The roster shall be made available upon request, free of charge, in an electronic format.

## CHAPTER 11

### COMPLAINTS AND HEARING PROCESS

#### **Section 1. Complaints.**

(a) A disciplinary action is initiated against a licensee by submitting a written complaint to the Board office. A complaint concerning an alleged violation of the Act or Board Rules may be submitted by any person or entity, a Board member, or a Board staff member. The written complaint should provide as much of the following information as may be available and applicable:

- (i) The name and address of 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 alleged to constitute the violation,
- (iv) The name and address of any other witnesses, and
- (v) The signature of the complainant.

#### **Section 2. Investigation and Board Action.**

(a) Written complaints shall be referred to an Investigative Board Member (IBM) selected by Board staff from a rotating schedule. Licensees against whom charges are made will be advised of the investigation, and the nature of the complaint.

- (i) The IBM shall not take part in the consideration of any contested case.
- (ii) The IBM shall not, by this rule, be barred from attending any contested case hearing.

- (b) Upon completion of the investigation, the IBM may:
- (i) Recommend dismissal of the complaint;
  - (ii) Recommend issuance of a notice of warning;
  - (iii) Recommend approval of a settlement agreement, which may include a reprimand, conditions, restrictions, suspension, voluntary surrender, other discipline, or a combination thereof;

(iv) Recommend disciplinary action, which may include a reprimand, conditions, restrictions, suspension, revocation, other discipline, or a combination thereof.

(c) Voluntary Surrender. A licensee may petition the Board in writing to surrender his or her license voluntarily. The Board shall hold an expedited proceeding at its earliest convenience to consider a petition under this section. The Board may accept or reject the petition for voluntary surrender and may consider whether the licensee is under investigation.

### **Section 3. Service of Notice**

(a) The IBM shall notify the licensee of his or her recommended action.

(i) The notice shall:

(A) Include a brief description of facts or conduct which warrant the intended action; and

(B) Provide the licensee an opportunity to respond to the action within twenty (20) days of the date of the mailing.

(ii) The licensee may request a contested case hearing.

(A) The request for a contested case hearing shall be in writing and within the twenty (20) days permitted to respond to the IBM's recommended decision.

(B) If a contested case hearing is requested the IBM shall initiate formal proceedings for disciplinary action by serving a petition and notice of hearing to the licensee.

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

(c) If the licensee does not provide a written response within twenty (20) days, the IBM shall provide the Board with his or her recommended decision for approval or rejection by the Board.

(i) The IBM shall notify the licensee of the date and time that the recommendation will be presented to the Board.

### **Section 4. Rules of Procedures.**

(a) All contested case hearings shall be sent to the Office of Administrative Hearings (OAH) in order for OAH to conduct the hearing and issue a recommended decision.

(b) Upon receipt of the recommended decision the Board shall issue a final decision.

(c) The Board incorporates the administrative practice and procedure rules found in Chapter 2 of the Uniform Rules for Contested Case Practice and Procedure adopted by the Office of Administrative Hearings and effective July 20, 2017. These rules can be found at <https://rules.wyo.gov>, Reference Number 270.0001.2.07202017.

(i) The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules.

(ii) This incorporation by reference in subsection (a) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.

(iii) A copy of the incorporated rule is available for public inspection or copying at the Board office.

**Section 6. Appeals.** A Petition for Judicial Review of the Board decision may be filed in the district court in accordance with the Wyoming Rules of Appellate Procedure.

## CHAPTER 1

### **GENERAL PROVISIONS**

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- (d) Establish and carry out procedures designed to insure that licensees comply with the requirements of such standards;
- (e) Receive, investigate and take appropriate action with respect to any charge or complaint filed with the Board to the effect that any licensee has failed to comply with the requirements of standards, the Act or Board rules and regulations; and
- (f) Conduct investigations, hearings and proceedings concerning alleged violations and to administer appropriate disciplinary action against licensees for proven violations.

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

**~~Section 4. Terms Defined by Statute.~~** ~~Terms defined in W.S. 33-9-101 through 33-9-113 shall have the same meaning when used in these regulations unless the context or subject matter clearly requires a different interpretation.~~

**Section 54. Terms Defined Herein Definitions.** As used in these regulations, the following terms shall have the meanings set forth unless the context or subject matter clearly requires a different interpretation.

(a) "Act" means W.S. 33-22-101 et seq., relating to Nursing Home Administrators.

~~(b) "Administrator" means a person who is charged with the general administration of a health facility, regardless of whether that person has an ownership interest in the facility or whether the functions and duties are shared with one or more persons.~~

(eb) "Affidavit" means a written notarized statement of facts made voluntarily under oath. "Health service executive (HSE)" means an individual who has the leadership competencies required to be a nursing home administrator, assisted living community administrator, or home and community based service provider, and has been certified as a qualified health services executive by the NAB.

~~(dc) "Agency" means the State agency or Board responsible for licensing the individual.~~ "NAB" means the National Association of Long Term Care Administrator Boards.

(ed) "Board" means the Wyoming Board of Nursing Home Administrators.

~~(f) "Designee" means the appointed agent of the Board having all the authority of the Board.~~

~~(g) "Educational equivalency" means educational or experiential options specified in the University of Wyoming Regulation 719 (see addendum).~~

~~(h) "Health facility" means a nursing facility or intermediate care facility for the mentally retarded.~~

~~(i) "Nursing facility" means an institution primarily providing residents with skilled nursing care and related services on a continuing basis for residents who require mental, medical, or nursing care, or services for rehabilitation of injured, disabled, or sick persons.~~

(je) "Nursing Home Administrator" shall mean a person who operates, manages, supervises, or is in charge of a health facility; a licensee; an Administrator; a respondent.

(kf) "Passing Score" means a scaled score as determined by the testing service for the national exam.



(g) “Preceptor” means a Wyoming licensed nursing home administrator who has completed the NAB Preceptor Online Module Course and who has been approved by the Board.

(h) “Provisional License” means a license that has been granted by the Board to an applicant who is otherwise qualified, but not yet passed the national exam and/or completed an AIT program.

(i) "Resident" means individual residing in and receiving care in a health facility.

#### **Section 6. Board Meetings.**

(a) The Board shall meet at least once annually to transact its business. ~~One~~ ~~(1)~~ The first meeting of each year shall be designated as the annual meeting for the purpose of electing officers, establishing dates of board meetings for the coming year and Board reorganization and planning. The Board may meet at other times as deemed necessary to transact its business.

(b) Notice of Board meetings shall be given to any person who requests notice. The notice shall specify the time and place of the meeting and the business to be transacted.

(c) All meetings shall be open to the public. The Board may conduct executive sessions in accordance with W.S. 16-4-105.

(d) A written record shall be kept of all meetings and shall be retained as the permanent record of the transactions of the Board.

(e) For the purposes of conducting business during a Board meeting, a quorum shall consist of a majority of the voting members.

## CHAPTER 2

### LICENSURE REQUIREMENTS

**Section 1. License Required.** No individual shall perform any function specifically authorized for a Nursing Home Administrator nor function as a Nursing Home Administrator nor represent ~~themselves~~himself as a Nursing Home Administrator unless licensed by the Board.

#### **Section 2. Education Requirement**

(a) Every applicant for licensure shall have earned a minimum of a college bachelor's degree from a college or university accredited by a body approved by the U.S. Department of Education.

(b) The requirement for a bachelor's degree does not apply to those individuals who were licensed prior to the effective date of these rules, held a current Wyoming Board of Nursing Home Administrators license as of November 12, 1996 and have maintained active Wyoming licensure since that date.

(c) The requirement for a bachelor's degree may be waived for individuals who have a minimum of an associate degree in Business Administration, Healthcare Administration, Public Health, Long Term Care Administration, Gerontology, Nursing or other healthcare or business-related discipline that may be deemed acceptable at the discretion of the Board.

#### **Section 3. Administrator in Training (AIT) Program (~~AIT~~)**

(a) Every applicant for licensure shall have completed ~~six (6) months~~ 500 hours of administrator-in-training under the supervision of a Board-approved preceptor, 8 hours of which must be direct training between the applicant and preceptor either in person or through videoconference, who is a Nursing Home Administrator licensed in Wyoming, or has completed an AIT program from another state having equal or equivalent standards.

(b) The requirement for administrator-in-training may be waived by the Board if the candidate has been employed for two (2) or more years as a Nursing Home Administrator or similar facility administrator within the last five (5) years; or has met the qualifications for the health services executive (HSE) as established by the NAB, which are in effect on January 1, 2017.

#### **Section 4. Examination Requirement.**

(a) Every applicant for licensure shall have successfully completed a national ~~written examination with a passing scaled score that is acceptable to the Board~~ Nursing Home Administrator licensing examination with a passing score.

~~(i) Applicants failing the examination are entitled to re-examination at the next scheduled administration upon payment of an additional exam fee.~~

~~(ii) Only two (2) re-examinations shall be granted to any applicant.~~

~~(iii) If the applicant fails to appear for a scheduled re-examination, the fee shall be forfeited. The Board may negate forfeiture of the fees for good cause shown.~~

(b) ~~The Board may designate the time and place for examination to determine the suitability for licensure. The Board shall administer the national examination in accordance with schedules established by the national examination service. Candidates who fail the exam three (3) times are not eligible to take the exam again for one year following the third attempt and must prove they completed additional education in the field of long term care administration during that one (1) year period. Such a candidate must submit a new application form, pay all applicable fees, and obtain all required verifications to be eligible to take the test again.~~

~~(c) All applicants must certify on a form provided by the Board that they have read, understand and shall abide by the Act and the State of Wyoming Department of Health, Division of Preventive Medicine rules and regulations pertaining to nursing homes.~~

~~(d) Applications and fees become~~ are void one (1) year after the application form is received by the Board if no action has been taken.

~~(e) Examination results are considered void two (2)~~ one (1) years after the date the examination was taken if the applicant does not become fully licensed.

**Section 5. Temporary License.** ~~A Temporary License may be granted by the Board:~~

(a) ~~To fill a position of Nursing Home Administrator that unexpectedly becomes vacant;~~ A temporary license may be granted by the Board;

(i) To an applicant that holds an active Nursing Home Administrator license in another jurisdiction, which is in good standing; and

(ii) Who has been employed as a Nursing Home Administrator for at least two (2) of the five (5) years immediately preceding the date the application is submitted.

(b) For a period not to exceed six (6) months; Temporary licenses expire ninety (90) days from the date of issuance.

(c) After consideration on an individual basis; and To request a temporary license the applicant shall submit to the Board:

(i) A completed application and fee;

(ii) The temporary license fee; and

(iii) A verification of an active Nursing Home Administrator license, in good standing, from another jurisdiction.

~~(d) — To an individual who does not meet all the licensing requirements under the Act, but who is of good character and meets the educational requirements as stated.~~

~~(e) — A Temporary License may be renewed for good cause for one (1) time if requested thirty (30) days prior to the termination of the initial Temporary License.~~

**Section 6. License by Endorsement.** ~~Each applicant requesting licensure by endorsement shall be individually considered by the Board. Endorsement applications shall be considered if:~~

~~(a) The applicant holds a current license in good standing in another jurisdiction; Applicants must submit the following:~~

~~(i) A completed application and fees;~~

~~(ii) Evidence of holding a current license in good standing in another jurisdiction, that has standards or requirements for licensure that are at least equivalent to the Board's;~~

~~(iii) Has been employed as a Nursing Home Administrator for at least two (2) of the preceding five (5) years, or has met the qualifications for the HSE as established by the NAB, which are in effect on January 1, 2017; and~~

~~(iv) Two (2) letters of recommendation from professional associates, attesting to the applicant's ability to perform as a Nursing Home Administrator.~~

~~(b) That jurisdiction has standards or requirements for licensure that are at least equivalent to the Board's; and~~

~~(c) Has been employed as a Nursing Home Administrator for at least two (2) of the preceding five (5) years.~~

**Section 7. License by Examination.**

(a) Applicants shall submit the following:

(i) A completed application and fees;

(ii) Official transcripts indicating the award of a bachelor's degree or an associate degree, pursuant to Section 2;

(iii) Two (2) letters of recommendation from professional associates, attesting to the applicant's ability to perform as a Nursing Home Administrator;

(iv) Verification of completion of AIT; and

(v) Official passing scores of the Nursing Home Administrator licensing examination as stated in Section 4 of this chapter;

**Section 8. Provisional License.**

(a) The applicant shall submit:

(i) A completed application and fees;

(ii) Official transcripts indicating the award of a bachelor's degree or an associate degree, pursuant to Section 2;

(iii) Two (2) letters of recommendation from professional associates, attesting to the applicant's ability to perform as a Nursing Home Administrator; and

(iv) Board AIT/Preceptor forms.

(b) The provisional license shall expire six (6) months from the date of issuance.

(c) A one-time extension of not more than sixty (60) days may be granted if requested at least fifteen (15) calendar days prior to the expiration of the provisional license.

(d) Upon evidence of passing the national exam and completing an AIT program, the license shall convert to full licensure.

**Section 9. Application Review Process.**

(a) Upon receipt of a completed application, the Board Office shall review the application and if it is complete and, if there are no known grounds for denial of the license requested, issue the license. If there are known grounds for denial, the Board shall forward the application to the Application Review Board Member (ARBM).

(b) The ARBM shall review the application and all other information available and following the review may:

(i) Approve the application if the applicant meets all requirements; or

(ii) If there are questions as to whether denial is appropriate, forward the application and an ARBM report to the Assistant Attorney General assigned to the Board for prosecution to review.

(c) If, after review, the ARBM and Assistant Attorney General recommend denial of an application. A preliminary denial letter shall be sent to applicant. The letter shall:

(i) State the basis for the denial including relevant statutes and rules;  
and

(ii) Advise the applicant of the right to request reconsideration.

(d) If the applicant fails to request reconsideration in writing within 30 days of the date of the preliminary denial letter, the preliminary denial becomes final.

(e) If the applicant requests reconsideration within thirty (30) days, a reconsideration conference shall be held with the ARBM, the Assistant Attorney General, and the applicant.

(f) Following a reconsideration conference, the ARBM shall either approve or deny the application.

(g) If denied, the applicant must submit a written request to the Board for a hearing within thirty (30) days of the date of the denial letter.

(h) Application denial hearings:

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

(ii) The hearing is to be conducted in the presence of a quorum of the Board, and follow the process set forth in Chapter 11. Section 4. Of these rules.

(iii) The applicant has the burden of proving that he/she meets all requirements for the license requested.

(i) The ARBM shall not take part in the consideration of any contested case.

(j) The ARBM shall not, by this rule, be barred from attending any contested case hearing.

### **Section 10. License Renewal.**

(a) All licenses issued by the Board expire on December 31 each year.

(i) The Board shall mail a renewal ~~application~~ notice to active licensees at their address of record no later than thirty (30) days before the license expiration date.

(ii) In order to avoid paying a late fee license, renewal applications with appropriate fee and documentation must be postmarked no later than the expiration date.

### **Section 11. Continuing Education.**

(a) As a condition of renewal, each licensee shall provide evidence of completion of twenty five (25) hours of continuing education every year.

(i) Continuing education hours submitted for renewal must be obtained during the current license year, or one year prior.

(ii) The continuing education requirement is waived for all licensees during their first calendar year they are licensed in Wyoming.

(iii) Continuing education requirements may be fulfilled through in-service, coursework, conference or workshop attendance which shall include in person, online, tele-conference, or other means of participation as deemed adequate by the Board.

(iv) All continuing education shall have significant intellectual or practical content with the primary objective being to increase the licensee's competence in nursing home administration. Continuing education shall constitute an organized program of learning consisting of matters directly related to nursing home administration.

(v) The licensee shall send a listing of the continuing education hours to the Board on a form approved by the Board. Licensee shall also attach copies of any

certificates of attendance, letters certifying attendance, transcripts or any official documents which serve as proof of participation or attendance.

(vi) Licensees are responsible for maintaining their own continuing education files. Prior to the license renewal date, the licensee will receive notice to submit copies to the Board for review.

### **Section 12. Failure to Renew.**

(a) A licensee who fails to renew a license shall have one (1) calendar year from the expiration date to renew the expired license by submitting the following to the Board:

(i) The renewal application;

(ii) Documentation of any continuing education hours that may be required; and

(iii) Both the renewal fee and the late fee.

(b) A licensee who fails to renew the licensure by the December 31 expiration date and continues to practice, is unlawfully practicing without a license, subject to the penalties provided for violation(s) of the Act, including W.S. 33-22-110 and shall apply for re-licensure in order to legally practice nursing home administration in the State of Wyoming.

### **Section 13. Reinstatement After Disciplinary Action.**

(a) A licensee whose license has been suspended may petition the Board for reinstatement of the license thirty (30) days before the end of the suspension period.

(i) A petition for reinstatement shall be accompanied by at least two (2) verified recommendations from licensed Nursing Home Administrators and by at least two (2) recommendations from individuals each having personal knowledge of the activities of the licensee since the disciplinary action was imposed.

(ii) A petition for reinstatement shall be considered at the next Board meeting.

(iii) Any petition for reinstatement of a license shall be acted upon by the Board within one hundred and eighty (180) days after the filing of a proper petition and the accompanying documents.



(iv) A licensee whose license is reinstated shall pay the renewal fee for the year in which the license is reinstated.

## CHAPTER 3

### APPLICATION PROCESS

This rule has been repealed.

~~Section 1. **Application for Licensure by Examination.** As proof of satisfaction of the licensure requirements stated in Chapter II, all applicants for licensure by examination shall submit the following documents at least six (6) weeks prior to the next scheduled examination:~~

~~(a) A complete and legible application form, including a full face photograph, and the proper fee;~~

~~(b) An official college transcript indicating the award of a bachelor's degree; and~~

~~(c) Two (2) letters of recommendation from professional associates which shall:~~

~~(i) Be on the individual's letterhead and be addressed directly to the Board;~~

~~(ii) Attest to the applicant's performance in the calendar year immediately preceding the date of application; and~~

~~(iii) Address the applicant's ability to perform as a Nursing Home Administrator.~~

~~Section 2. **Application for Licensure by Endorsement.** As proof of satisfaction of the licensure requirements stated in Chapter II, all applicants for licensure by endorsement shall submit the following documents:~~

~~(a) A complete and legible application form, including a full face photograph, and the proper fee; and~~

~~(b) Verification of Licensure form, as supplied by the Board, from each licensed jurisdiction.~~

~~Section 3. **Notification of Applicants and Right of Appeal.** Approval of the initial application should be communicated by the Board in writing to the applicant together with information concerning the national examination. If the initial applicant is denied, the reasons for denial shall be communicated in writing. The applicant shall have the right of reconsideration upon submission of new information and may appear before the Board to demonstrate satisfaction of the licensure requirements.~~

**Section 4. Issuance of License.** ~~The Board shall issue to the successful applicant, a license bearing the full name of the licensee, date of issuance, license number and appropriate seal.~~

~~(a) The licensee shall notify the Board if a license is lost, stolen or destroyed.~~

~~(b) Duplicate wall certificates may be issued by the Board. All requests for duplicate certificates shall be in writing and accompanied by the appropriate fee.~~

**Section 5. License Renewal.** ~~All licenses issued by the Board expire on December 31 of each year.~~

~~(a) The Board shall mail a renewal application notice to active licensees at their address of record no later than thirty (30) days before the license expiration date.~~

~~(b) In order to avoid paying a late fee license renewal applications with appropriate fee and documentation must be postmarked no later than the expiration date.~~

~~(c) Failure to receive notice for renewal of license from the Board shall not excuse a licensee from the requirement for renewal under the Act or this chapter.~~

**Section 6. Failure to Renew.**

~~(a) A licensee who fails to renew the licensure shall have one (1) calendar year from the expiration date to renew the expired license by submitting the application and fee for renewal to the board.~~

~~(b) A licensee who fails to renew the licensure by the December 31st expiration date and continues to practice, is unlawfully practicing without a license, subject to the penalties provided for violation(s) of the Wyoming Nursing Home Administrators Act, including W.S. 33-22-110 and shall apply for re-licensure in order to legally practice nursing home administration.~~

**Section 7. Continuing Education.** ~~As a condition for renewal, each licensee shall provide evidence of completion of twenty five (25) hours of continuing education every year.~~

~~(a) No more than twenty five (25) hours of continuing education hours may be carried over from one year to another.~~

~~(b) The continuing education requirement is waived for all licensees during their first year or partial year of licensure.~~

~~(c) Continuing education requirements may be fulfilled through in-service, coursework, conference or workshop attendance, presentation, publication or other means as deemed adequate by the Board.~~

~~(d) The continuing education shall have significant intellectual or practical content and the primary objective shall be to increase the licensee's competence in nursing home administration. It shall constitute an organized program of learning consisting of matters directly related to nursing home administration.~~

~~(e) Each licensee shall submit an affidavit on a form approved by the Board attesting to the number of continuing education hours (Appendix B). The affidavit shall be filed as part of the licensee's renewal.~~

~~(f) The licensee shall send to the Board a listing of the continuing education hours on a form approved by the Board (Appendix B). The licensee shall also attach copies of any certificates of attendance, letters certifying attendance, transcripts or any official documents which serve as proof of participation or attendance.~~

~~(g) Licensees are responsible for maintaining their own continuing education files. Prior to the license renewal date, the licensee will receive notice to submit copies to the Board for review.~~

~~Section 8. **Re-Licensure.**~~

~~(a) A licensee who has failed to renew a license within the renewal period, may apply for re-licensure, and shall meet all criteria required of new applicants for Application by Examination as set forth in Section 1. of this chapter.~~

**CHAPTER 4**

**FEEES**

**Section 1. General Information.**

- (a) A copy of the current fee schedule shall be available on the Board's website.
- (b) Fees shall be paid in the exact amount, by money order or cashier's check or credit card and shall be paid in advance of the services rendered. Fees for renewal of licensure may be paid by personal check.
- (c) All fees collected by the Board are non-refundable.

**Section 2. Fees.**

(a) Services for which the Board charges a fee shall include but is not limited to the following schedule:

- (i) Application Fee.....\$350.00
- (ii) Provisional License Fee.....\$400.00
- (iii) Annual License Renewal Fee.....\$300.00
- (iv) Late Renewal Fee .....\$100.00
- (v) Temporary License Fee .....\$ 50.00
- ~~(vi) Insufficient Funds Check Fee.... In accordance with W.S. 1-1-115~~
- (vii) License Verification.....\$ 30.00
- (viii) Duplicate Certificate.....\$ 30.00
- (viii) Credit Card Processing Fee .....\$ 5.00

(ix) In accordance with W.S. 1-1-115 the Board may charge a collection fee for any returned checks.

(b) The Board incorporates the rules found in Chapter 2 of the Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records adopted by the Department of Administration and Information, effective September 6, 2016. Found at: <https://rules.wyo.gov> under Reference Number: 006.0011.2.09062106.

(c) For these rules incorporated by reference:

(i) The Board 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) other section; and

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

## CHAPTER 10

### INFORMATION PRACTICES

#### **Section 1. Disclosure.**

(a) The disclosure of confidential records and public records shall be governed by Wyoming Public Records Act, W.S. 16-4-201 through 16-4-204.

#### **Section 2. Access.**

(a) Any licensee, prospective licensee or others with the licensee's notarized written consent may personally inspect the contents of a respective Board's file except for personal recommendations, and unofficial complaints.

(b) Record inspection shall take place under the following conditions:

(i) An appointment shall be made to review the file during regular business hours at the offices of the Board;

(ii) In the presence of a Board member or a representative of its administrative staff; and

(iii) Original documents shall remain with the Board but may be copied at the Board's office. eCopy fees will be in accordance with the Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records Chapter 4, Section 2(b) of these rules.

**Section 3. Correction and Amendment.** Any licensee or prospective licensee may clarify erroneous, inaccurate or misleading information in their file by submitting a written statement to the Board which shall be placed in the file.

#### **Section 4. Change of Name and/or Address.**

(a) A licensee shall notify the Board in writing of any change in legal name within thirty (30) days. A copy of the legal document changing the name must be submitted with the written request and fee.

(b) A licensee shall notify the Board of any change of home or professional mailing addresses and telephone numbers within thirty (30) days.

**Section 5. Verification of Licensure to Another Jurisdiction.** Upon receipt of a written request for verification of licensure and the required fee, the Board shall provide the information to the jurisdiction specified by the licensee.

**Section 6. Requests for Roster of Licensees.**

(a) The roster shall be made available upon request, free of charge, in an electronic format.



## CHAPTER 11

### COMPLAINTS AND HEARING PROCESS

#### Section 1. Complaints.

(a) A disciplinary action is initiated against a licensee by submitting a written complaint to the Board office. A complaint concerning an alleged violation of the Act or Board Rules may be submitted by any person or entity, a Board member, or a Board staff member. The written complaint should provide as much of the following information as may be available and applicable:

- (i) The name and address of 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 alleged to constitute the violation,
- (iv) The name and address of any other witnesses, and
- (v) The signature of the complainant.

#### Section 2. ~~Review of Written Complaint~~Investigation and Board Action.

(a) Written complaints shall be referred to an Investigative Board Member (IBM) selected by Board staff from a rotating schedule. Licensees against whom charges are made will be advised of the investigation, ~~the name of the IBM~~, and the nature of the complaint.

- (i) The IBM shall not take part in the consideration of any contested case.
- (ii) The IBM shall not, by this rule, be barred from attending any contested case hearing.

(b) Upon completion of the investigation, the IBM may:

- (i) Recommend dismissal of the complaint;
- (ii) Recommend issuance of a notice of warning;
- (iii) Recommend approval of a settlement agreement, which may include a reprimand, conditions, restrictions, suspension, voluntary surrender, other discipline, or a combination thereof;

(iv) Recommend disciplinary action, which may include a reprimand, conditions, restrictions, suspension, revocation, other discipline, or a combination thereof.

(c) Voluntary Surrender. A licensee may petition the Board in writing to surrender his or her license voluntarily. The Board shall hold an expedited proceeding at its earliest convenience to consider a petition under this section. The Board may accept or reject the petition for voluntary surrender and may consider whether the licensee is under investigation.

~~**Section 3. Investigations and Board Action.** The IBM and Board staff shall investigate those written complaints received which merit further investigation~~

~~(a) Upon completion of the investigation the IBM shall;~~

~~(i) Dismiss the complaint if no evidence of violation of the Act or Board rules is found; or~~

~~(ii) Prepare an investigative report which shall include;~~

~~(A) The findings;~~

~~(B) A list of statutes and/or Board rules believed to have been violated; and~~

~~(C) A relevant additional information.~~

~~(b) The IBM shall review the investigative report, forward the report and his/her recommendations to the Assistant Attorney General assigned to the Board for prosecution, and consult with the Assistant Attorney General.~~

~~(c) Following consultation with the Assistant Attorney General, the IBM may:~~

~~(i) Send the notice required by Section 4.~~

~~(ii) Prepare and file a formal petition and notice of hearing setting the matter for a contested case hearing before the Board;~~

~~(iii) Recommend the Board accept an offer of conditional terms for settlement, which may include educational courses;~~

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

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

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

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

~~(iii) Dismissal.~~

**Section 43. Service of Notice and Opportunity to Show Compliance.**

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

(a) The IBM shall notify the licensee of his or her recommended action.

(i) The notice shall:

(A) Include a brief description of facts or conduct which warrant the intended action; and

(B) Provide the licensee an opportunity to respond to the action within twenty (20) days of the date of the mailing.

(ii) The licensee may request a contested case hearing.

(A) The request for a contested case hearing shall be in writing and within the twenty (20) days permitted to respond to the IBM's recommended decision.

(B) If a contested case hearing is requested the IBM shall initiate formal proceedings for disciplinary action by serving a petition and notice of hearing to the licensee.

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

(c) If the licensee does not provide a written response within twenty (20) days, the IBM shall provide the Board with his or her recommended decision for approval or rejection by the Board.

(i) The IBM shall notify the licensee of the date and time that the recommendation will be presented to the Board.

**Section 54. Rules of Procedures.**

(a) All contested case hearings shall be sent to the Office of Administrative Hearings (OAH) in order for OAH to conduct the hearing and issue a recommended decision.

(b) Upon receipt of the recommended decision the Board shall issue a final decision.

(a~~c~~) The Board incorporates the administrative practice and procedure rules found in Chapter 2 of the Uniform Rules for Contested Case Practice and Procedure adopted by the Office of Administrative Hearings and effective July 20, 2017. These rules can be found at <https://rules.wyo.gov>, Reference Number 270.0001.2.07202017.

(b~~i~~) The Board determined that incorporation of the full text of this rule would be cumbersome and inefficient given the length and nature of the rules.

(e~~ii~~) This incorporation by reference in subsection (a~~c~~) does not include any later amendments or editions of the incorporated matter beyond the applicable date identified.

(d~~iii~~) A copy of the incorporated rule is available for public inspection or copying at the ~~cost from the~~ Board's office.s located at 2001 Capitol Avenue #105, Cheyenne, WY 82002.

**Section 6~~5~~. Appeals.** A Petition for Judicial Review of the Board decision may be filed in the district court in accordance with the Wyoming Rules of Appellate Procedure.

**Section 7. — Transcripts.** ~~If a Petition for Judicial Review is filed in the district court, the petitioner shall either 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.~~