



Notice of Intent to Adopt Rules

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

Revised August 2023

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		
Amended Program Name (if applicable):		

* 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 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 regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. If the rules are new, please provide the Legislative Chapter Number and Year Enacted: Chapter: _____ Year: _____

3. Rule Type and Information

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 type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
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 Repealed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 Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		



Additional Rule Information

Revised June 2020

Include this page only if needed.

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
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g. Agency Liaison Email Address		
h. Program		
Amended Program Name (if applicable):		

2. Rule Type and Information, Cont.

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

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
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
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		

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/repealed to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:

Indicate one (1):

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

The proposed rules exceed minimum federal requirements.

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

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

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

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

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

b. The Agency has completed a takings assessment as required by 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: _____

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.

Printed Name of Authorized Individual

Title of Authorized Individual

Date of Authorization

STATEMENT OF PRINCIPAL REASONS FOR FORMAL ADOPTION OF REGULAR RULES

The Wyoming Dietetics Licensing Board (Board) is authorized to adopt rules and regulations to implement the Board's practice act. The Board regularly reviews its rules to correct inconsistencies, eliminate any repetition with its practice act, correct grammatical errors, remove unnecessary requirements, and maintain alignment with national standards.

Chapter 1 – General Provisions

- Section 2
 - Stricken as Statement of Purpose is no longer necessary.
- Section 3 (New Section 2)
 - Renumbered section.
- Section 4
 - Stricken as placing the office location in rule is no longer necessary.
- Section 5
 - Stricken as the Public Meetings Act details meeting requirements.
- Section 6 (New Section 3)
 - Renumbered section.
 - Updated website links.
- Section 7 (New Section 4)
 - Renumbered section.
- Section 8 (New Section 5)
 - Renumbered section.
- Section 9
 - Stricken as the board no longer charges a fee for rosters of licensees. This information is publicly available on the Board's website.
- Section 10 (New Section 6)
 - Renumbered section.
- Section 11 (New Section 7)
 - Renumbered section.

Chapter 3 – Application and Licensure Procedures

- Changed title to "Requirements for Licensure" so as not to be confused with New Chapter 10 "Practice and Procedures for Applications".
- Section 2
 - Stricken as Statement of Purpose is no longer necessary.
- Section 3 (New Section 2)
 - Renumbered section.
- Section 4
 - Stricken as this content is covered in New Chapter 10 "Practice and Procedures for Applications".

- Section 5 (New Section 3)
 - Renumbered section.
 - Removed unnecessary language
- Section 6 (New Section 4)
 - Renumbered section.
- Section 7 (New Section 5)
 - Renumbered section.

Chapter 5 – Fees

- Section 2
 - Stricken as Statement of Purpose is no longer necessary.
- Section 3 (New Section 2)
 - Renumbered section.
- Section 3
 - Left as is, we appeared to have had two sections 3 in this Chapter
 - Changed “Replacement Wall Certificate” to Replacement Document and removed “Replacement Pocket ID Cards” fee. This allows the Board to charge a fee for replacement license documents but to remain flexible with documents issued by a future online system.

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

- Section 1
 - Added another provision of Board authority.
- Section 2
 - Stricken as Statement of Purpose is no longer necessary.
- Section 3 (New Section 2)
 - Renumbered section.
- Section 4 (New Section 3)
 - Renumbered section.
 - Clarified continuing education waiver request process.
- Section 5 (New Section 4)
 - Renumbered section.
- Section 6 (New Section 5)
 - Renumbered section.
- Section 7 (New Section 6)
 - Renumbered section.

Chapter 7 – Professional Responsibility

- Section 1
 - Added another provision of Board authority.
- Section 2
 - Stricken as Statement of Purpose is no longer necessary.

- Section 3 (New Section 2)
 - Renumbered section.
- Section 4 (New Section 3)
 - Renumbered section.

Chapter 9 – Process and Procedure for Application, Licensure, and Discipline Matters

- Changed title to “Grounds for Discipline” as other chapter content was stricken as described below.
- Section 1
 - Removed unrelated provision of Board authority.
- Section 2
 - Stricken as Statement of Purpose is no longer necessary.
- Section 3 (New Section 2)
 - Renumbered section.
 - Clarified title of incorporated Code of Ethics.
- Sections 4 through 15
 - Stricken as matters related to application procedures are addressed in New Chapter 10 “Practice and Procedures for Applications” and matters related to application procedures are addressed in New Chapter 11 “Practice and Procedures for Discipline Matters”.

New Chapter 10 – Practice and Procedures for Applications

- The Board is adding this chapter governing recommendations and contested cases for license application matters. The changes are recommended by the Attorney General’s Office and bring the Board’s application procedures chapter in line with the procedures other professional licensing boards use.

New Chapter 11 – Practice and Procedures for Discipline Matters

- The Board is adding this chapter governing recommendations and contested cases for license application matters. The changes are recommended by the Attorney General’s Office and bring the Board’s application procedures chapter in line with the procedures other professional licensing boards use.

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. 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 3. 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 the 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) Referenced in Chapter 10, Section 3 and Chapter 11, Section 6 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>.

(ii) Referenced 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>.

(iii) Referenced 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>.

Section 4. Public Records Inspection. Public records inspections shall be conducted pursuant to the Department of Administration and Information's rules concerning public records.

Section 5. 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 6. 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 7. License Verification. Any person requesting verification of a license shall submit a completed request form and payment of a fee.

CHAPTER 3

REQUIREMENTS FOR LICENSURE

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. 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 3. Initial Licensure.

(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 4. 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 5. 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. 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 Document	\$10.00
(l)	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 (b)(v), and the WAPA to promulgate rules and regulations related to the continuing licensure of dietitians.

Section 2. 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 3. 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.

(i) Waiver requests shall be received no later than July 1 of the year of expiration and shall include documentation demonstrating just cause. Just cause may include experiencing a physical disability, illness, or other disabling situation exceeding one hundred and eighty (180) or more consecutive days in the renewal year.

(ii) The number of hours exempted shall be in proportion to the disability or situation.

Section 4. 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 5. 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 6. 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 (b)(ii), and the WAPA to promulgate rules and regulations related to the standards of the practice of dietetics.

Section 2. 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 3. 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
FOUNDATIONS FOR 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 discipline of dietitians in Wyoming.

Section 2. 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 for the Nutrition and Dietetics Profession 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.

CHAPTER 10

PRACTICE AND PROCEDURES FOR APPLICATIONS

Section 1. Authority. The Board promulgates these rules according to authority granted by Wyoming Statutes 33-47-105(a)(vi) and 16-3-103(j)(i).

Section 2. Application Review.

- (a) Assigning Application Review Committee (ARC).
 - (i) All applications shall be reviewed by the Application Review Committee or Board staff.
 - (ii) When Board staff determines that there may be grounds to deny a license or approve a license subject to discipline or restrictions, Board staff shall refer the application to an ARC.
- (b) The ARC shall investigate the application, which may include requesting additional information, meeting with the applicant, or any other action the ARC deems appropriate.
- (c) The ARC may recommend that the Board:
 - (i) Issue, renew, relicense, or reinstate a license;
 - (ii) Issue, renew, relicense, or reinstate a license subject to reprimand, conditions, restrictions, or other disciplinary action;
 - (iii) Approve a settlement agreement; or
 - (iv) Deny the application.
- (d) Notice of Intent.
 - (i) If the ARC intends to recommend that the Board deny an application or issue a license subject to other disciplinary action, the ARC shall notify the applicant of its recommendation.
 - (ii) The Notice of Intent shall contain:
 - (A) A brief description of the facts or conduct that the ARC alleges warrant denying the license or issuing the license subject to disciplinary action;
 - (B) Citations to the applicable statutory provisions or Board rules that the ARC alleges the applicant violated; and

(C) Notice that an applicant may request a hearing before the Board in writing within thirty (30) days from the date of mailing.

(e) The applicant shall have thirty (30) days from the date the ARC mailed the Notice of Intent to respond. The applicant may:

- (i) Request that the Board hold a hearing on the ARC's recommendation;
- (ii) Request that the Board table consideration of the application; or
- (iii) Withdraw the application.

(f) If an applicant fails to timely respond to the Notice of Intent, the Board may accept the ARC's recommendation.

(g) There shall be a presumption of lawful service of any communication required by these rules if sent by U.S. mail to the address stated on the application or, if applicable, an updated address later provided by the applicant.

Section 3. Hearing Procedure.

(a) Upon receiving a written request for a hearing from an applicant, the Board or a hearing officer appointed by the Board shall begin a contested case proceeding. Board staff or the hearing officer shall serve a Notice of Hearing on the applicant at least thirty (30) days before the hearing. The Notice of Hearing shall contain:

(i) A brief statement of the matters asserted, including:

(A) The ARC's recommendation;

(B) The facts upon which the recommendation is based; and

(C) The statutory provisions or Board rules the applicant is alleged to have violated or failed to meet to qualify for licensure.

(ii) The time, place, and nature of the hearing;

(iii) The legal authority and jurisdiction of the Board; and

(iv) Notice of the burden and standard of proof.

(b) Any hearing officer appointed by the Board shall preside over the contested case proceeding and shall conduct the proceeding according to the Wyoming Administrative Procedure Act and Chapter 2 of the Office of Administrative Hearings rules as incorporated by reference in Chapter 1.

(c) The applicant shall bear the burden to prove by a preponderance of the evidence that he or she meets the qualifications for licensure. The burden of production shall shift to the ARC to prove by clear and convincing evidence that the applicant should not be granted an unrestricted license or license subject to discipline. The burden of production then shifts to the applicant to demonstrate that the ARC's grounds for denial or issuance of a license subject to conditions or restrictions are insufficient and that the applicant is entitled to licensure.

(d) The Board may resolve an application matter by:

(i) Adopting the ARC's recommendation without a hearing if the applicant did not request a hearing;

(ii) Resolving a dispositive motion in either party's favor;

(iii) Conducting a contested case hearing. Following the hearing and the Board's deliberation, the Board may:

(A) Issue, renew, relicense, or reinstate a license;

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

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

(e) The Board shall issue a written decision or order. The decision or order shall be sent by U.S. Mail to the applicant and the applicant's attorney or representative, if any.

(i) Board action is effective on the date that the Board approves the written decision or order and it is entered into the administrative record.

(ii) Written board decisions or orders are final agency action subject to judicial review according to the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

CHAPTER 11

PRACTICE AND PROCEDURES FOR DISCIPLINE MATTERS

Section 1. Authority. The Board promulgates these rules according to authority granted by Wyoming Statutes 33-47-105(a)(vi) and 16-3-103(j)(i).

Section 2. The Board may take disciplinary action for the following:

- (a) Licensee violating the Board's practice act or rules; or
- (b) Licensee violating a Board order.

Section 3. Complaint Review and Disciplinary Investigation.

(a) Complaints that a licensee has violated the Board's practice act or the Board's rules shall be submitted to the Board's office. Board staff may initiate complaints.

(b) After receiving a complaint or initiating a complaint, Board staff shall assign the complaint to an Investigative Committee (IC) for investigation.

(c) After reviewing and investigating the complaint, the IC may recommend that the Board:

- (i) Dismiss the complaint;
- (ii) Summarily suspend a license;
- (iii) Approve a settlement agreement; or
- (iv) Discipline the licensee, including placing the licensee on probation, revocation, suspension, restriction, condition, or reprimand.

Section 4. Summary Suspension.

(a) An IC may recommend that the Board summarily suspend a license at any time when the IC or Board staff believes that the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare.

(b) The IC shall notify the licensee of its intent to recommend summary suspension. The Notice of Intent shall contain:

- (i) A copy of the complaint, if any;
- (ii) A description of the grounds for the summary suspension recommendation; and

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

(c) When the date and time of the summary suspension hearing is set, the Board staff shall notify the licensee of the date and time of the proceeding by mailing written notice and emailing electronic notice to the licensee's mailing and email addresses.

(d) The scope of the expedited summary suspension proceeding shall be limited to a presentation of the information the IC believes warrants summary suspension and any information the licensee may present on his or her behalf.

(e) Hearing Format.

(i) The IC shall describe the allegations that it believes warrant emergency action against the licensee.

(ii) The IC shall present information that demonstrates probable cause that the allegations are true.

(iii) The IC shall explain why the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare.

(iv) The licensee, if present, may present any information demonstrating that the allegations are not true or that, even if the allegations are true, the licensee's continued practice does not imperatively require emergency action to protect the public health, safety, or welfare.

(f) The Board may order summary suspension if it concludes that probable cause exists that the allegations are true and that the licensee's continued practice imperatively requires 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.

(g) No summary suspension shall be effective until the Board has adopted a written order incorporating the reasons justifying its decision.

(h) The Board shall enter a written order granting or denying summary suspension at the summary suspension proceeding or within seven days after the proceeding. The Board shall send the order to the licensee by U.S. mail and by email.

(i) Post-Deprivation Hearing.

(i) A licensee may request a post-deprivation hearing within ten (10) days from the date the summary suspension order is entered.

(ii) If a licensee requests a post-deprivation hearing, the Board shall conduct it

within thirty (30) days of the licensee's request and notify the licensee of the date, time, and location of the hearing.

(iii) Post-deprivation hearings shall be conducted in the same manner as summary suspension proceedings as articulated in Section 4(e) of this chapter. The sole issue before the Board at a post-deprivation hearing shall be whether the IC's allegations imperatively require emergency action to protect the public health, safety, and welfare. The Board shall affirm its decision to summarily suspend a license, and issue a written order to that effect, if it concludes that the IC has proven the allegations by a preponderance of the evidence and that the allegations imperatively require emergency action to protect the public health, safety, or welfare.

(j) Unless earlier terminated by the Board or a petition for discipline is filed under Section 6 of this chapter, summary suspensions shall lapse one hundred eighty (180) days after the written order granting summary suspension is entered under subsection (h) of this section.

Section 5. Surrender in Lieu of Discipline and Licenses Issued in Error.

(a) A licensee may petition the Board, in writing, to voluntarily surrender a license in lieu of discipline.

(i) The IC shall recommend that the Board approve or deny the petition.

(ii) The Board may approve or deny the petition.

(b) If Board staff has reason to believe that a license has been issued despite an applicant not meeting licensure requirements and:

(i) If Board Staff has issued the license and the Board has not ratified its issuance, the license shall be rescinded and the matter shall be referred to an ARC.

(ii) If Board Staff has issued the license and the Board has ratified its issuance, the matter shall be referred to an IC.

(A) The IC may petition the Board to revoke the license or impose practice restrictions according to the procedures outlined in Section 6 of this chapter and may seek summary suspension.

(B) A revocation solely for the reasons specified this subsection shall not be considered license discipline. Nothing in this subsection prohibits discipline or application denial for a licensee's conduct.

(C) A licensee may surrender the license at issue under this provision in lieu of a hearing before the Board without Board approval.

Section 6. Hearing Procedure.

(a) There shall be a presumption of lawful service of a Notice of Intent, Petition, Notice of Hearing, or any other communication required by these rules if sent by U.S. mail to the address the licensee most recently supplied to the Board.

(b) The IC shall notify the licensee of its intent to file a petition for disciplinary action. The Notice of Intent shall:

(i) Include a brief description of the facts or conduct that warrant the intended action;

(ii) Include a description of the nature of the discipline the IC intends to seek; and

(iii) Provide the Licensee no less than thirty (30) days to show that the licensee has complied with all lawful license requirements.

(c) The IC shall initiate proceedings for disciplinary action by filing a Petition with the Board office and serving a copy upon the licensee to the last known address of the licensee by regular U.S. mail.

(d) A licensee may respond to the Petition by filing an Answer admitting or denying the allegations in the Petition or by filing a dispositive motion.

(e) A licensee shall respond to a Petition within twenty (20) days from the date the Petition is filed with the Board office or, if the licensee files a dispositive motion, from the date the dispositive motion is decided by entry of a written order. Failure to respond to the Petition within this time may result in a default judgment.

(f) When a petition for disciplinary action is filed, the Board or a hearing officer appointed by the Board shall begin a contested case proceeding. Board staff or the hearing officer shall serve a Notice of Hearing, with the Petition attached, on the applicant at least thirty (30) days before the hearing. The notice of hearing shall contain:

(i) The legal authority for the Petition and statement of the Board's jurisdiction;

(ii) The facts justifying the disciplinary action sought;

(iii) The statutory provisions or Board rules the licensee is alleged to have violated;

(iv) The time, place, and nature of the hearing; and

(v) Notice of the burden and standard of proof.

(g) If a licensee fails to timely answer the allegations in a Petition or appear at a

noticed hearing, and upon the IC's motion, the Board may enter default against the licensee. In entering default, the Board may:

(i) Order that the factual allegations in the Petition are to be taken as true for the purposes of the hearing;

(ii) Order that the licensee may not present evidence on some or all issues in the matter; or

(iii) Any other relief the Board determines is just.

(h) The Board may set aside an entry of default for good cause.

(i) Any hearing officer appointed by the Board shall preside over the contested case proceeding and shall conduct the proceeding according to the Wyoming Administrative Procedure Act and Chapter 2 of the Office of Administrative Hearings rules as incorporated by reference in Chapter 1.

(j) The IC shall bear the burden to prove by clear and convincing evidence that the licensee violated the Board's practice act or the Board's rules.

(k) The Board may resolve a discipline matter by:

(i) Resolving a dispositive motion in either party's favor;

(ii) Accepting a settlement agreed on by both parties;

(iii) Granting a licensee's petition for voluntary surrender in lieu of discipline under Section 5(a) of this Chapter;

(iv) Conducting a contested case hearing. Following the hearing and the Board's deliberation, the Board may, as applicable:

(A) Find no violation of the Board's practice act or rules and therefore impose no discipline on the licensee;

(B) Find that the licensee has violated the Board's practice act or rules and impose the following discipline: reprimand, conditions, restrictions, suspension, revocation, other discipline, or a combination thereof.

(l) The Board shall issue a written decision or order. The decision or order shall be sent by U.S. Mail to the licensee and the licensee's attorney or representative, if any.

(m) Board action is effective on the date that the Board approves the written decision or order and it is entered into the administrative record.

(n) Written board decisions or orders are final agency action subject to judicial review according to the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

Section 7. Petition for Modifying Conditions or Restrictions.

(a) A licensee may petition the Board to modify any conditions or restrictions on his or her license. The licensee shall submit a written petition for modification to the Board office. The petition for modification shall include evidence demonstrating:

- (i) Compliance with all previously entered Board orders;
- (ii) That the modification is consistent with any treatment plan or medical orders, if applicable; and
- (iii) That the modification will ensure the public is adequately protected.

(b) The IC assigned the matter shall review the petition and shall recommend that the Board either grant or deny the petition within thirty (30) days of the Board office receiving the petition.

(c) Board Consideration.

- (i) The Board shall consider the petition and the IC's recommendation at its earliest convenience.
- (ii) The Board may approve or deny the petition for modification.

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 2.~~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 3.~~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 the 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) Referenced in ~~Chapter 9, Section 10~~Chapter 10, Section 3 and Chapter 11, Section 6 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) Referenced 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) Referenced 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 4.~~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 5.~~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 6.~~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 7.~~Section 11.~~ License Verification. Any person requesting verification of a license shall submit a completed request form and payment of a fee.

CHAPTER 3

REQUIREMENTS FOR LICENSURE 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 2.~~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 3.~~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 4.~~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 5.~~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 2.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 Document 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 (b)(v), 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 2.~~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 3.~~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.

(i) Waiver requests shall be received no later than July 1 of the year of expiration and shall include documentation demonstrating just cause. Just cause may include experiencing a physical disability, illness, or other disabling situation exceeding one hundred and eighty (180) or more consecutive days in the renewal year.

(ii) The number of hours exempted shall be in proportion to the disability or situation.

Section 4.~~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 5.~~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 6.~~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 (b)(ii), 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 2.~~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 3.~~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 GROUNDS FOR DISCIPLINE

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 2.~~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 for the Nutrition and Dietetics Profession 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.~~

~~_____ (e) 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 10

PRACTICE AND PROCEDURES FOR APPLICATIONS

Section 1. Authority. The Board promulgates these rules according to authority granted by Wyoming Statutes 33-47-105(a)(vi) and 16-3-103(j)(i).

Section 2. Application Review.

(a) Assigning Application Review Committee (ARC).

(i) All applications shall be reviewed by the Application Review Committee or Board staff.

(ii) When Board staff determines that there may be grounds to deny a license or approve a license subject to discipline or restrictions, Board staff shall refer the application to an ARC.

(b) The ARC shall investigate the application, which may include requesting additional information, meeting with the applicant, or any other action the ARC deems appropriate.

(c) The ARC may recommend that the Board:

(i) Issue, renew, relicense, or reinstate a license;

(ii) Issue, renew, relicense, or reinstate a license subject to reprimand, conditions, restrictions, or other disciplinary action;

(iii) Approve a settlement agreement; or

(iv) Deny the application.

(d) Notice of Intent.

(i) If the ARC intends to recommend that the Board deny an application or issue a license subject to other disciplinary action, the ARC shall notify the applicant of its recommendation.

(ii) The Notice of Intent shall contain:

(A) A brief description of the facts or conduct that the ARC alleges warrant denying the license or issuing the license subject to disciplinary action;

(B) Citations to the applicable statutory provisions or Board rules that the ARC alleges the applicant violated; and

(C) Notice that an applicant may request a hearing before the Board in writing within thirty (30) days from the date of mailing.

(e) The applicant shall have thirty (30) days from the date the ARC mailed the Notice of Intent to respond. The applicant may:

(i) Request that the Board hold a hearing on the ARC's recommendation;

(ii) Request that the Board table consideration of the application; or

(iii) Withdraw the application.

(f) If an applicant fails to timely respond to the Notice of Intent, the Board may accept the ARC's recommendation.

(g) There shall be a presumption of lawful service of any communication required by these rules if sent by U.S. mail to the address stated on the application or, if applicable, an updated address later provided by the applicant.

Section 3. Hearing Procedure.

(a) Upon receiving a written request for a hearing from an applicant, the Board or a hearing officer appointed by the Board shall begin a contested case proceeding. Board staff or the hearing officer shall serve a Notice of Hearing on the applicant at least thirty (30) days before the hearing. The Notice of Hearing shall contain:

(i) A brief statement of the matters asserted, including:

(A) The ARC's recommendation;

(B) The facts upon which the recommendation is based; and

(C) The statutory provisions or Board rules the applicant is alleged to have violated or failed to meet to qualify for licensure.

(ii) The time, place, and nature of the hearing;

(iii) The legal authority and jurisdiction of the Board; and

(iv) Notice of the burden and standard of proof.

(b) Any hearing officer appointed by the Board shall preside over the contested case proceeding and shall conduct the proceeding according to the Wyoming Administrative Procedure Act and Chapter 2 of the Office of Administrative Hearings rules as incorporated by reference in Chapter 1.

(c) The applicant shall bear the burden to prove by a preponderance of the evidence that he or she meets the qualifications for licensure. The burden of production shall shift to the ARC to prove by clear and convincing evidence that the applicant should not be granted an unrestricted license or license subject to discipline. The burden of production then shifts to the applicant to demonstrate that the ARC's grounds for denial or issuance of a license subject to conditions or restrictions are insufficient and that the applicant is entitled to licensure.

(d) The Board may resolve an application matter by:

(i) Adopting the ARC's recommendation without a hearing if the applicant did not request a hearing;

(ii) Resolving a dispositive motion in either party's favor;

(iii) Conducting a contested case hearing. Following the hearing and the Board's deliberation, the Board may:

(A) Issue, renew, relicense, or reinstate a license;

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

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

(e) The Board shall issue a written decision or order. The decision or order shall be sent by U.S. Mail to the applicant and the applicant's attorney or representative, if any.

(i) Board action is effective on the date that the Board approves the written decision or order and it is entered into the administrative record.

(ii) Written board decisions or orders are final agency action subject to judicial review according to the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

CHAPTER 11

PRACTICE AND PROCEDURES FOR DISCIPLINE MATTERS

Section 1. Authority. The Board promulgates these rules according to authority granted by Wyoming Statutes 33-47-105(a)(vi) and 16-3-103(j)(i).

Section 2. The Board may take disciplinary action for the following:

(a) Licensee violating the Board's practice act or rules; or

(b) Licensee violating a Board order.

Section 3. Complaint Review and Disciplinary Investigation.

(a) Complaints that a licensee has violated the Board's practice act or the Board's rules shall be submitted to the Board's office. Board staff may initiate complaints.

(b) After receiving a complaint or initiating a complaint, Board staff shall assign the complaint to an Investigative Committee (IC) for investigation.

(c) After reviewing and investigating the complaint, the IC may recommend that the Board:

(i) Dismiss the complaint;

(ii) Summarily suspend a license;

(iii) Approve a settlement agreement; or

(iv) Discipline the licensee, including placing the licensee on probation, revocation, suspension, restriction, condition, or reprimand.

Section 4. Summary Suspension.

(a) An IC may recommend that the Board summarily suspend a license at any time when the IC or Board staff believes that the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare.

(b) The IC shall notify the licensee of its intent to recommend summary suspension. The Notice of Intent shall contain:

(i) A copy of the complaint, if any;

(ii) A description of the grounds for the summary suspension recommendation; and

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

(c) When the date and time of the summary suspension hearing is set, the Board staff shall notify the licensee of the date and time of the proceeding by mailing written notice and emailing electronic notice to the licensee's mailing and email addresses.

(d) The scope of the expedited summary suspension proceeding shall be limited to a presentation of the information the IC believes warrants summary suspension and any information the licensee may present on his or her behalf.

(e) Hearing Format.

(i) The IC shall describe the allegations that it believes warrant emergency action against the licensee.

(ii) The IC shall present information that demonstrates probable cause that the allegations are true.

(iii) The IC shall explain why the licensee's continued practice imperatively requires emergency action to protect the public health, safety, or welfare.

(iv) The licensee, if present, may present any information demonstrating that the allegations are not true or that, even if the allegations are true, the licensee's continued practice does not imperatively require emergency action to protect the public health, safety, or welfare.

(f) The Board may order summary suspension if it concludes that probable cause exists that the allegations are true and that the licensee's continued practice imperatively requires 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.

(g) No summary suspension shall be effective until the Board has adopted a written order incorporating the reasons justifying its decision.

(h) The Board shall enter a written order granting or denying summary suspension at the summary suspension proceeding or within seven days after the proceeding. The Board shall send the order to the licensee by U.S. mail and by email.

(i) Post-Deprivation Hearing.

(i) A licensee may request a post-deprivation hearing within ten (10) days from the date the summary suspension order is entered.

(ii) If a licensee requests a post-deprivation hearing, the Board shall conduct it

within thirty (30) days of the licensee's request and notify the licensee of the date, time, and location of the hearing.

(iii) Post-deprivation hearings shall be conducted in the same manner as summary suspension proceedings as articulated in Section 4(e) of this chapter. The sole issue before the Board at a post-deprivation hearing shall be whether the IC's allegations imperatively require emergency action to protect the public health, safety, and welfare. The Board shall affirm its decision to summarily suspend a license, and issue a written order to that effect, if it concludes that the IC has proven the allegations by a preponderance of the evidence and that the allegations imperatively require emergency action to protect the public health, safety, or welfare.

(j) Unless earlier terminated by the Board or a petition for discipline is filed under Section 6 of this chapter, summary suspensions shall lapse one hundred eighty (180) days after the written order granting summary suspension is entered under subsection (h) of this section.

Section 5. Surrender in Lieu of Discipline and Licenses Issued in Error.

(a) A licensee may petition the Board, in writing, to voluntarily surrender a license in lieu of discipline.

(i) The IC shall recommend that the Board approve or deny the petition.

(ii) The Board may approve or deny the petition.

(b) If Board staff has reason to believe that a license has been issued despite an applicant not meeting licensure requirements and:

(i) If Board Staff has issued the license and the Board has not ratified its issuance, the license shall be rescinded and the matter shall be referred to an ARC.

(ii) If Board Staff has issued the license and the Board has ratified its issuance, the matter shall be referred to an IC.

(A) The IC may petition the Board to revoke the license or impose practice restrictions according to the procedures outlined in Section 6 of this chapter and may seek summary suspension.

(B) A revocation solely for the reasons specified this subsection shall not be considered license discipline. Nothing in this subsection prohibits discipline or application denial for a licensee's conduct.

(C) A licensee may surrender the license at issue under this provision in lieu of a hearing before the Board without Board approval.

Section 6. Hearing Procedure.

(a) There shall be a presumption of lawful service of a Notice of Intent, Petition, Notice of Hearing, or any other communication required by these rules if sent by U.S. mail to the address the licensee most recently supplied to the Board.

(b) The IC shall notify the licensee of its intent to file a petition for disciplinary action. The Notice of Intent shall:

(i) Include a brief description of the facts or conduct that warrant the intended action;

(ii) Include a description of the nature of the discipline the IC intends to seek;
and

(iii) Provide the Licensee no less than thirty (30) days to show that the licensee has complied with all lawful license requirements.

(c) The IC shall initiate proceedings for disciplinary action by filing a Petition with the Board office and serving a copy upon the licensee to the last known address of the licensee by regular U.S. mail.

(d) A licensee may respond to the Petition by filing an Answer admitting or denying the allegations in the Petition or by filing a dispositive motion.

(e) A licensee shall respond to a Petition within twenty (20) days from the date the Petition is filed with the Board office or, if the licensee files a dispositive motion, from the date the dispositive motion is decided by entry of a written order. Failure to respond to the Petition within this time may result in a default judgment.

(f) When a petition for disciplinary action is filed, the Board or a hearing officer appointed by the Board shall begin a contested case proceeding. Board staff or the hearing officer shall serve a Notice of Hearing, with the Petition attached, on the applicant at least thirty (30) days before the hearing. The notice of hearing shall contain:

(i) The legal authority for the Petition and statement of the Board's jurisdiction;

(ii) The facts justifying the disciplinary action sought;

(iii) The statutory provisions or Board rules the licensee is alleged to have violated;

(iv) The time, place, and nature of the hearing; and

(v) Notice of the burden and standard of proof.

(g) If a licensee fails to timely answer the allegations in a Petition or appear at a

noticed hearing, and upon the IC's motion, the Board may enter default against the licensee. In entering default, the Board may:

(i) Order that the factual allegations in the Petition are to be taken as true for the purposes of the hearing;

(ii) Order that the licensee may not present evidence on some or all issues in the matter; or

(iii) Any other relief the Board determines is just.

(h) The Board may set aside an entry of default for good cause.

(i) Any hearing officer appointed by the Board shall preside over the contested case proceeding and shall conduct the proceeding according to the Wyoming Administrative Procedure Act and Chapter 2 of the Office of Administrative Hearings rules as incorporated by reference in Chapter 1.

(j) The IC shall bear the burden to prove by clear and convincing evidence that the licensee violated the Board's practice act or the Board's rules.

(k) The Board may resolve a discipline matter by:

(i) Resolving a dispositive motion in either party's favor;

(ii) Accepting a settlement agreed on by both parties;

(iii) Granting a licensee's petition for voluntary surrender in lieu of discipline under Section 5(a) of this Chapter;

(iv) Conducting a contested case hearing. Following the hearing and the Board's deliberation, the Board may, as applicable:

(A) Find no violation of the Board's practice act or rules and therefore impose no discipline on the licensee;

(B) Find that the licensee has violated the Board's practice act or rules and impose the following discipline: reprimand, conditions, restrictions, suspension, revocation, other discipline, or a combination thereof.

(l) The Board shall issue a written decision or order. The decision or order shall be sent by U.S. Mail to the licensee and the licensee's attorney or representative, if any.

(m) Board action is effective on the date that the Board approves the written decision or order and it is entered into the administrative record.

(n) Written board decisions or orders are final agency action subject to judicial review according to the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

Section 7. Petition for Modifying Conditions or Restrictions.

(a) A licensee may petition the Board to modify any conditions or restrictions on his or her license. The licensee shall submit a written petition for modification to the Board office. The petition for modification shall include evidence demonstrating:

(i) Compliance with all previously entered Board orders;

(ii) That the modification is consistent with any treatment plan or medical orders, if applicable; and

(iii) That the modification will ensure the public is adequately protected.

(b) The IC assigned the matter shall review the petition and shall recommend that the Board either grant or deny the petition within thirty (30) days of the Board office receiving the petition.

(c) Board Consideration.

(i) The Board shall consider the petition and the IC's recommendation at its earliest convenience.

(ii) The Board may approve or deny the petition for modification.