

Chapter 9

Practice and Procedures for Disciplinary, Application, and Licensure Matters **Emergency rules are in effect no longer than 120 days after filing** **with the Registrar of Rules.**

Section 1. Authority. These rules are adopted under the Board's authority granted by Wyoming Statute § 33-35-101.

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 license including granting or denying; or
 - (ii) Alleged violations of the Act or the Board Rules.
- (b) Determine and administer appropriate disciplinary action against an applicant or licensee.

Section 3. Grounds for Discipline. The Board may refuse to issue a license, certificate or registration to an applicant or may suspend, revoke, or otherwise discipline any licensee or certificate holder who has been guilty of unprofessional conduct within the meaning of W.S. 33-33-305(a). Unprofessional conduct includes, but is not limited to:

- (a) Violating or conspiring to violate or aiding or abetting any person in violating the provision(s) of the Act or any provision of the Board rules and regulations;
- (b) Committing a dishonest or fraudulent act related to practice;
- ~~(c) Diagnosing or treating individuals for speech or hearing disorders by mail, telephone, video, or other electronic means unless the individual has been previously examined by a licensee and the diagnosis or treatment is related to such examination;~~
- ~~(d)~~ (dc) Being incompetent or negligent in the practice of Speech-Language Pathology or Audiology which has endangered or is likely to endanger the health, welfare, or safety of the public;
- ~~(e)~~ (ed) Attempting to procure a license by bribery, fraudulent misrepresentation, or through an error in information provided to the Board;
- ~~(f)~~ (fe) Making or filing a report or record signed as a Speech-Language Pathologist or Audiologist which the licensee knows to be false, intentionally or negligently failing to file a

report or records required by state or federal law, willfully impeding or obstructing such a filing, or inducing another person to impede or obstruct such a filing;

(~~g~~f) Improperly supervising an aide, audiometric technician, or a SLPA;

(~~h~~g) Violating a lawful order of the Board entered in a disciplinary matter, or failing to comply with a lawfully issued subpoena of the Board;

(~~i~~h) Practicing while a license is revoked, suspended, or expired;

(~~j~~i) Exercising influence on a client in such a manner as to exploit the client for financial gain of the Licensee or of a third party;

(~~k~~j) Failing to comply with the Board's request for production of documents not otherwise protected by law;

(~~l~~k) Failing to adequately refer or transfer care; or

(~~m~~l) Abandoning a client.

Section 4. Application Review and Investigation Process.

(a) Application Review. Every application for a license, certificate, or registration shall be subject to investigation to determine if the requirements set forth in the Act and Board Rules are satisfied. Every application that reveals information that merits further investigation shall be assigned to the ARC.

(b) ARC Action. Following investigation, the ARC may recommend:

(i) A license or certificate be issued, renewed, relicensed, or reinstated;

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

(iii) Approval of a settlement agreement, which may include the issuance, renewal, reactivation or reinstatement of a license or certificate with the imposition of a reprimand, conditions, restrictions, suspension, other discipline or a combination thereof; or

(iv) Denial of the application.

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

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

(ii) A statement of the nature of the actions that warrant the approval subject to conditions, restrictions, other disciplinary action, or denial, the facts upon which the 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 by the Board office within thirty (30) days of the date of mailing the notice of intent.

(d) Applicant's Request for Hearing.

(i) If the ARC recommends an issuance of a license or certificate subject to conditions, restrictions, other disciplinary action or denial, the applicant may request a contested case hearing in writing with thirty (30) days of the mailing of the notification.

Section 5. Complaint Review and Investigation Process.

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

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

(c) Disciplinary Committee Action. The DC may recommend:

(i) Dismissal of a complaint;

(ii) Issuance of an advisory letter;

(iii) A settlement agreement which may include voluntary surrender, suspension, imposition of restrictions or conditions, reprimand or other discipline;

(iv) Disciplinary action against the licensee including revocation, suspension, reprimand, restrictions or conditions, or other discipline; or

(v) Summary suspension.

Section 6. Summary Suspension

(a) Recommendation. If the DC recommends summary suspension, the Board shall conduct an expedited proceeding to determine whether the public health, safety, or welfare imperatively requires emergency action.

- (b) Notice of Intent to Recommend Summary Suspension.
 - (i) The DC shall notify the licensee of its intent to recommend summary suspension;
 - (ii) The Notice of Intent shall contain:
 - (A) Copy of the complaint; and
 - (B) Notice that an expedited summary suspension 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 DC shall notify the licensee in writing of the date and time of the proceeding.

Section 7. Formal Proceedings for Disciplinary Action.

- (a) Notice of Intent to Recommend Disciplinary Action.
 - (i) The DC shall notify the licensee of its intent to recommend disciplinary action.
 - (ii) The Notice of Intent shall:
 - (A) Include a brief description of the facts or conduct that warrants the intended action; and
 - (B) Provide the licensee an opportunity to show compliance or respond to the allegations for disciplinary action within fifteen (15) days of the date of the mailing.
- (b) Informal Conference. The licensee may request an informal conference with the DC to provide any additional information or to resolve an administrative complaint without a hearing.

Section 8. Petition. The DC shall initiate formal proceedings for disciplinary action by serving a Petition to the last known address of the licensee by certified mail or by regular mail at least thirty (30) days prior to the date set for hearing.

Section 9. Notice of Hearing. The Notice of Hearing shall contain:

- (a) The name and last known address of the applicant or licensee;
- (b) A brief statement of the matters asserted relating to:

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

(ii) The nature of the Petition, the facts upon which the Petition is based, the statutory provisions and/or the Board Rules the licensee is alleged to have violated;

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

(d) The legal authority and jurisdiction; and

(e) A statement indicating:

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

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

Section 10. Lawful Service. There shall be a presumption of lawful service of a Petition, Notice of Hearing, or any other communication required by these Board Rules if sent to the last known address of the licensee or applicant by email, certified, or regular mail.

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 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 the Petition in any case where the licensee or the licensee's representative has not answered the allegations contained in the Petition and has not appeared at a noticed hearing.

Section 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 they meet the qualifications for licensure. The burden shall shift to the ARC or DC to prove by clear and convincing evidence that the Board should deny the

applicant a license or certificate. The burden shall shift to the applicant to persuade the Board that the ARC or DC's grounds for denial are insufficient.

(b) Discipline Matters. The DC 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 an application matter, complaint, or Petition by:

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

(ii) Dismissing or issuing an advisory letter; or

(iii) 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, relicense, or reinstate a license or certificate;

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

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

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

(E) Issue an advisory letter; and/or

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

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

Section 15. Judicial Review.

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

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