

CHAPTER 17

COMPLAINTS: PRACTICE AND PROCEDURE

Section 1. Complaints. All complaints shall be filed with the Board in writing and shall contain:

- (a) Name and address of licensee or certificate holder;
- (b) Name, address and telephone number of complainant;
- (c) Nature of alleged violations;
- (d) A short and concise statement of facts relating to the alleged violations; and
- (e) Signature of complaint.

Section 2. Investigation.

(a) The Board shall assign an investigation committee comprised of one (1) or two (2) Board members or other individuals with assistance from a representative of the Attorney General's Office.

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

(i) Prepare and file a formal complaint and notice of hearing with the Board, setting the matter for a contested case hearing;

(ii) Recommend to the Board that the complaint be dismissed.

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

(i) Sending a written letter of reprimand/warning to the licensee or certificate holder;

(ii) Accepting a voluntary surrender of a license or certification;

(iii) Accepting conditional terms for settlement;

(iv) Dismissal.

Section 3. Service of Notice and Formal Complaint. Notice and Complaint shall be served by mail at least twenty (20) days prior to the date set for hearing. It shall be sent by

certified or registered mail with return receipt thereof to the licensee's or certificate holder's last known address.

Section 4. Docket. A contested case shall be assigned a number when a complaint is filed with the Board. A separate file shall be established for each docketed case, in which shall be systematically placed all papers, pleadings, documents, transcripts, evidence and exhibits.

Section 5. Answer or Appearance. The licensee or certificate holder shall file an Answer or Notice of Appearance, which shall be received by the Board at least three (3) working days prior to the date set for hearing in the matter.

Section 6. Default in Licensee or Certificate Answering or Appearing. In the event of the failure of a licensee or certificate holder to answer or otherwise appear within the time allowed, a default may be entered and the allegations as set forth in the Notice and Complaint shall be taken as true and an Order of the Board entered accordingly.

Section 7. Discovery. In all contested cases coming before the Board, the taking of depositions and discovery shall be available to the parties.

Section 8. Subpoenas. Subpoenas for appearance and to produce testimony, books, papers, documents, or exhibits may be issued by the Board or hearing officer on behalf of any party to the contested case.

Section 9. Contested Case Hearing. All issues and matters set forth in the Notice and Complaint shall be presented to the Board. A licensee or certificate holder may be represented by an attorney, licensed to practice law in this State or otherwise associated at the hearing with an attorney licensed to practice law in this State.

Section 10. Hearing Officer. The Board may employ and secure a hearing officer to assist and advise the Board in the conduct of a hearing and the preparation of recommended findings of fact, conclusions of law and order.

Section 11. Order of Procedure. As nearly as may be, hearings shall be conducted in accordance with the following order of procedure:

(a) The Board or hearing officer shall announce that the hearing is convened upon the call of the docket number and title of the matter and case to be heard, and thereupon the Board or hearing officer shall incorporate all pleadings into the record and shall note for the record all subpoenas issued and all appearances of record;

(b) All persons testifying at the hearing shall be administered the standard oath;

(c) The attorney or representative of the State shall thereupon proceed to present the State's evidence. Witnesses may be cross-examined by the licensee, certificate holder, or attorney if represented. Redirect examination may be permitted;

(d) The licensee or certificate holder shall be heard in the same manner as the State's evidence. The State shall have the opportunity of cross-examination and redirect examination may be permitted;

(e) Opening statements may be made;

(f) Closing statements, at the conclusion of the presentation of evidence, may be made by parties or attorneys. A rebuttal statement may be made by the State. The time for oral argument may be limited by the Board or hearing officer;

(g) After all proceedings have been concluded, the Board or hearing officer shall dismiss and excuse all witnesses and declare the hearing closed. Any party who may wish or desire to tender written briefs of law unto the Board may do so. The Board may take the case under advisement and shall declare unto each of the parties that the decision of the Board shall be announced within due and proper time following consideration of all the matters presented at the hearing; and

(h) The Board and hearing officer shall retain the right and opportunity to examine any witness upon the conclusion of all testimony offered by a particular witness.

Section 12. Rules of Civil Procedure to Apply. The rules of practice and procedure contained in the Wyoming Rules of Civil Procedure insofar as they are applicable and not inconsistent with the matters before the Board and applicable to the rules and orders promulgated by the Board shall apply.

Section 13. Attorneys. The filing of an answer or other appearance by an attorney constitutes an appearance for the party for whom the pleading is filed. The Board and all parties shall be notified in writing of any withdrawal. Any person appearing before the Board at a hearing in a representative capacity shall be precluded from examining or cross-examining any witness unless the person is an attorney licensed to practice law in this State, or associated with an attorney licensed to practice law in this State. This rule shall not be construed to prohibit any licensee or certificate holder from representing themselves in any hearing before the Board, but any licensee or certificate holder appearing in their own behalf shall not be relieved of abiding by all rules established for the hearing proceedings.

Section 14. Attorney General to be Present. In all hearings held upon formal action brought before the Board, a representative of the Office of the Attorney General of Wyoming shall appear on behalf of the State, and shall present all evidence, testimony and legal authority in support of the Notice and Complaint to be considered by the Board.

Section 15. Record of Proceedings. When the denial, revocation or suspension of any license or certification is the subject for hearing, it shall be regarded as a contested case and the proceedings, including all testimony, shall be reported verbatim by a court reporter or other adequate recording device.

Section 16. Decision, Findings of Fact and Conclusions of Law and Order.

(a) The Board shall, with the assistance of the hearing officer, following the full and complete hearing, make and enter a written decision and order containing findings of fact and conclusions of law. The decision and order shall be filed with the Board and shall, without further action, become the decision and order as a result of the hearing.

(b) No member, staff or agent of the Board who participated or advised in the investigation or presentation of evidence at the hearing shall participate or advise in the decision.

(c) Upon entry and filing, the Board shall mail copies of the decision to each licensee, or certificate holder, and attorneys of record.

Section 17. Appeals to District Court. Appeals from Board decisions shall be taken to the district court having jurisdiction and proper venue in accordance with applicable statutes and the Wyoming Rules of Appellate Procedure.

Section 18. Transcript in Case of Appeal. In the case of an appeal to the district court, the appellant shall pay and arrange for the transcript of the testimony. The transcript shall be verified by the oath of the reporter who took the testimony as a true and correct transcript of the testimony and other evidence in the case.