

CHAPTER 5
RULES OF PRACTICE AND PROCEDURE
BEFORE THE WYOMING COLLECTION AGENCY BOARD

Section 1. **Authority.** The Rules of Practice and Procedure are promulgated by authority of W.S. 33-11-106 and 33-11-112, and pursuant to the Wyoming Administrative Procedure Act, in particular, W.S. 16-3-102.

Section 2. **Definitions.** All of the definitions set forth and contained in W.S. 33-11-101 are incorporated herein by reference.

Section 3. **Complaints.**

(a) Written complaints against a licensee shall be verified and filed with the Board and should contain:

- (i) Name and address of the licensee;
- (ii) Name, address and telephone number of complainant;
- (iii) Nature of alleged violations;
- (iv) A short and concise statement of facts relating to the alleged violations;
- (v) Signature of complainant; and
- (vi) A verification before a Notary Public.

(b) Unresolved complaints and complaints found to be without merit are confidential and are not subject to inspection as a public record. However, the Board shall release to the licensee a copy of a complaint, or pertinent portions thereof, before it has been resolved or determined to be without merit to permit the licensee to respond in writing as specified in Section 4(a)(ii) of this Chapter, unless the Board elects not to release such copy for the safety of the complainant, to preserve the integrity of testimony, or any other reason.

Section 4. **Investigation.**

(a) The Board shall consider the complaint to determine if further investigation of the matter is warranted. Because of the small size of the Board, the rule of necessity dictates that the following pre-screening procedure be

adopted:

(i) If the complaint does not show a violation on its face, it will be summarily dismissed.

(ii) If the complaint shows a possible violation on its face, the agency will be requested to respond in writing to the Board.

(iii) If upon review of the response the Board determines that the issue has been resolved, the complaint will be dismissed.

(iv) If upon review of the response the Board determines that the issue has not been resolved, the complaint will be assigned to an independent investigator who shall be assisted by a representative of the Attorney General's Office for further investigation.

(v) The independent investigator shall report his or her results and conclusions directly to his or her representative of the Attorney General's Office and not to the Board.

(b) Upon completion of the investigation, the representative of the Attorney General's Office 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 a reprimand be given to the licensee;

(iii) Recommend to the Board to accept a voluntary surrender of a license;

(iv) Recommend to the Board to accept conditional terms for settlement;

(v) Recommend to the Board to dispense with the complaint in an informal manner; or

(vi) 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;

- (ii) Accepting a voluntary surrender of a license;
- (iii) Accepting conditional terms for settlement;
- (iv) Dispensing with it in an informal manner; or
- (v) Dismissal.

Section 5. **Service of Notice and Formal Complaint.** Notice and Complaint shall be served by mail at least thirty (30) days prior to the date set for hearing. It shall be sent by certified mail with return receipt thereof to the last known licensee's address.

Section 6. **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 docket case, in which shall be placed all papers, pleadings, documents, transcripts, evidence and exhibits.

Section 7. **Answer or Appearance.** The licensee shall file an Answer or Notice of Appearance, which shall be received by the Board at least ten (10) working days prior to the date set for hearing in the matter.

Section 8. **Default in Licensee Answering or Appearing.** In the event of the failure of the licensee 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 an Order of the Board entered accordingly.

Section 9. **Discovery.** In all contested cases coming before the Board, the taking of depositions and discovery shall be available to the parties.

Section 10. **Subpoenas.** Subpoenas for appearance and to produce testimony, books, papers, documents or exhibits may be issued by the Board on behalf of any party to the contested case.

Section 11. **Contested Case Hearing.** All issues and matters set forth in the Notice and Complaint shall be presented to the Board. The licensee may be represented by an attorney, licensed to practice law in this State or is otherwise associated at the hearing with an attorney licensed to practice law in this State.

Section 12. **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 13. **Order of Procedure at Hearing.** 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) To ensure that the Board has retained its impartiality in the matter, each individual Board member may be subject to a Voir Dire examination by any party in interest;

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

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

(e) The licensee 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;

(f) No opening statement shall be made, but each of the parties may offer rebuttal evidence within the discretion of the Board or hearing officer;

(g) Closing statements, at the conclusion of the presentation of evidence, may be made by the parties or attorneys. No rebuttal statement may be made by any of the parties to the proceeding. The time for oral argument may be limited by the Board or hearing officer;

(h) 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 of the matters presented at the hearing; and

(i) 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 14. **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 15. **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 permittee from representing themselves in any hearing before the Board, but any licensee appearing in their own behalf shall not be relieved of abiding by all rules established for the hearing proceedings.

Section 16. **Record of Proceedings.** When the denial, revocation or suspension of any license 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 17. **Decision, Findings of Fact and Conclusions of Law and Order.**

(a) The Board may require that each party in interest submit to the Board their Proposed Findings of Fact and Conclusions of Law within five (5) days from the conclusion of the hearing;

(b) The Board shall 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.

(c) The decision of the Board shall be based totally on the evidence presented at the hearing and no 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.

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

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. If the proceedings were not stenographically recorded or transcribed, the appellant shall pay and arrange for a written transcript of the audio recording of the proceedings. This transcript need not be verified by oath as the tapes of the proceedings shall always be included as a part of the record or appeal.

Section 19. **Reproduction of Collection Agency Files.** Copies of documents from the collection agency files may, in proper cases, be made available to interested persons having a right thereto by the payment of the following fees to the Collection Agency Board: \$1.00 for each page. These fees may be waived in behalf of governmental agencies.