

Wyoming Administrative Rules

Dental Examiners, Board of

Dental Examiners, Board of

Chapter 9: Practice and Procedures for Disciplinary, Application, and Licensure Matters

Effective Date: 09/26/2017 to 01/14/2022

Rule Type: Superceded Rules & Regulations

Reference Number: 034.0001.9.09262017

CHAPTER 9
PRACTICE AND PROCEDURES
FOR DISCIPLINARY, APPLICATION, AND LICENSURE MATTERS

Section 1. Statement of Purpose. These Board Rules are adopted to implement the Board's authority to:

- (a) Conduct investigations, hearings, and proceedings concerning:
 - (i) Alleged violations of the Act or the Board Rules; or
 - (ii) Actions relating to an application for a licensure including granting or denying.
- (b) Determine and administer appropriate disciplinary action against licensee.
- (c) For the purposes of this chapter, "licensee" means a dentist or dental hygienist.

Section 2. Grounds for Discipline. The Board may take disciplinary action or refuse to issue or renew a license for the any one (1) or more of the following acts or conduct:

- (a) Violations of the Act or Board Rules;
- (b) Unprofessional conduct. Unprofessional conduct relates to the practice of dentistry or any dental auxiliary occupation that constitutes a departure from or failure to conform to the standards of acceptable and professional practices, including, but not limited to:
 - (i) Conduct that indicates the licensee or applicant is grossly ignorant of health care and dental related standards and protocols;
 - (ii) Conduct that indicates the licensee or applicant is inefficient by failing to provide timely care to a patient or by failing to refer the patient when circumstances indicate referral is appropriate;
 - (iii) Conduct or factors that indicate the licensee's or applicant's competency is compromised;
 - (iv) Impairment due to drug abuse, alcohol abuse, or a physical or mental condition, which may have compromised, or may compromise, patient safety;
 - (v) Employing directly or indirectly any unlicensed person to perform operations of any kind of treatment for human teeth or jaws, or to perform any task which constitutes the practice of dentistry;

- (vi) Betraying patient confidences;
- (vii) Failing to make and maintain complete patient records that conform to prevailing record-keeping standards within the licensee holder's profession;
- (viii) Failing to provide a patient, or the Board, with a full and complete copy of all patient records, x-rays, molds, or any other item kept in the course of treatment or services rendered by the license holder, for any patient, if either the patient, the patient's legal guardian, or the Board requests said copies;
- (ix) Providing false, deceptive, or misrepresented information to the Board, committees or staff:
 - (A) In procuring or attempting to procure a license to practice dentistry;
 - (B) In filing or reporting any health care information, including but not limited to client documentation, agency records or other essential health documents;
 - (C) In signing any report or record as a dentist; or
 - (D) In submitting any information to the Board;
- (x) Failure of a dentist to verify that all staff employed by the dentist or individuals contracted with the dentists, are licensed or certified by the Board to perform all tasks requiring licensure or certification before such tasks are performed at the direction of the dentist;
- (xi) Directing or permitting any staff member to perform any procedure for which they are not licensed, certified, or competent;
- (xii) Performing any act or gesture which, from the standpoint of the patient, exploits the patient's trust between the patient and the patient's dentist. Such acts may include intimate or sexual advances, intimate or sexual contact, or the use of any unnecessary sedative substance without explicit written consent by the patient;
- (xiii) Performing any study or research without following standardized protocols for the research, including obtaining written and informed consent by the patient for any study;
- (xiv) Failure to maintain current CPR certification;
- (xv) Reprimand or other disciplinary action imposed by any academic institution or professional organization for cheating or plagiarizing;
- (xvi) Financial insolvency which may jeopardize the efficacy of treatment or appropriate standard of care provided to patients;

(xvii) Violation of any order, term, restriction, or condition imposed by the Board; or

(xviii) Failure to conform with any provision of the ADA Principles of Ethics and Code of Professional Conduct, ADHA Bylaws and Code of Ethics, Dental Assisting National Board's Code of Professional Conduct, or the Centers for Disease Control's Summary of Infection Prevention Practices in Dental Settings as referenced in Chapter 1.

Section 3. Application Review and Investigation Process.

(a) Application Review.

(i) Every application for a license or permit issued by the Board shall be subject to investigation to determine whether the requirements set forth in the Act and Board Rules are satisfied.

(ii) If any application, including renewals, reveals any information that which merits further investigation, the matter shall be assigned to the ARC.

(b) ARC Action. The ARC may:

(i) Recommend a license or permit be issued or renewed;

(ii) Recommend a license be issued, renewed, relicensed, or reinstated subject to conditions, restrictions, or other disciplinary action;

(iii) Recommend a settlement agreement, which may include the issuance of a license or renewal with the imposition of restrictions, conditions, reprimand, or a combination thereof; or

(iv) Recommend 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 approval subject to conditions, restrictions, other disciplinary action, or denial of licensure;

(ii) A statement of the nature of the actions which 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 in the Board office within thirty (30) days of the date of mailing the notice of intent.

(d) Applicant's Request for Hearing. If the ARC recommends approval subject to conditions, restrictions, other disciplinary action, or denial of an application, the applicant may request a contested case hearing in writing within thirty (30) days of the mailing of the notification.

Section 4. 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 a DC.

(b) Disciplinary Committee Action. The DC may:

(i) Recommend dismissal of a complaint;

(ii) Recommend issuance of an advisory letter;

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

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

(v) Recommend summary suspension.

(c) Summary Suspension. The Board may conduct an expedited hearing if the DC believes that the licensee's continued practice presents a danger to the public health, safety or welfare and recommends summary suspension.

Section 5. Summary Suspension.

(a) Recommendation. If the DC 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 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 6. Petition and Complaint and Notice of Hearing.

(a) Petition and Complaint. Formal proceedings for disciplinary action against a licensee shall be commenced by serving a petition and complaint and notice of hearing by certified or regular mail at least thirty (30) days prior to the date set for hearing.

(b) Notice of Hearing. The notice of hearing shall contain:

(i) The name and last known address of the licensee;

(ii) A statement in ordinary and concise language of the matters asserted, which shall contain the nature of the complaint filed with the Board, the facts upon which the complaint is based, the specific statutory provisions, and the specific Board Rules that 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 that failure to respond to the petition and complaint within twenty (20) days of its receipt may result in a default judgment.

Section 7. Lawful Service. There shall be a presumption of lawful service of a petition and complaint, 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 certified mail, regular mail, or electronic mail to the e-mail address indicated to be the preferred method of communication.

Section 8. Default. The Board may enter an order of default judgment based on the allegations contained in the petition and complaint in any case where the licensee or the licensee's representative has not responded nor appeared at a scheduled noticed hearing.

Section 9. Contested Case. The hearing officer shall preside over the formal contested case hearing which shall be conducted pursuant to the WAPA and the Office of Administrative Hearings rules concerning contested case proceedings as referenced in Chapter 1.

Section 10. Board Decision and Order.

(a) Board Action. The Board may resolve a complaint by:

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

(ii) Conducting a contested case hearing. Following the hearing and deliberation of all evidence admitted at a contested case hearing, the Board may:

(A) Dismiss the complaint due to lack of clear and convincing evidence;

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

(C) Issue an advisory letter;

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

(E) Impose discipline by revocation, suspension, reprimand, restrictions, conditions, non-renewal, or a combination thereof, for a violation of any provision of the Act or the Board Rules; or

(F) Deny a license, renewal, reactivation, or reinstatement.

(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 attorneys by certified or regular mail.

Section 11. Appeals.

(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.