

CHAPTER 5

~~RULES OF PRACTICE AND PROCEDURE GOVERNING HEARINGS~~

~~Section 1. — Scope of Chapter 5.~~

~~Rules governing all hearings before the Board when a hearing is required by the Act, or these rules to be held.~~

~~Section 2. — Notice of Hearing.~~

~~The Board shall cause Written Notice of any hearing held under these rules to be served upon each contestant at least ten (10) days prior to the date set for the hearing. Such notice shall include a statement of:~~

- ~~(a) — The time, place and nature of the hearing;~~
- ~~(b) — The legal authority and jurisdiction under which the hearing is to be held;~~
- ~~(c) — Such other matters as may be required by the Wyoming Administrative Procedure Act and Chapter 3 of these Rules.~~

~~Section 3. — Service of Notice.~~

~~Service may be made either personally or by publication as follows:~~

~~(a) — Personally.~~

~~Said service, if made by Sheriff, or other official, shall be made in the manner prescribed by the Wyoming Rules of Civil Procedure. Said service may be made by any person, not an officer, who is of lawful age, and not a party in interest. The return of said service shall be made by the certification of the officer who made such service, or if made by a person other than an officer, by his affidavit. Such return of service must be filed with the Board prior to the commencement of the hearing.~~

~~(b) — Publication —~~

~~If it is determined by the Board that personal service may not be made, service may be made by one publication in a newspaper published in the county where the hearing shall be held. Following such publication, the Board shall mail a true and correct printed copy of any such notice, by certified or registered mail to the last known post office address of the contestant. Proof of such service shall be kept and retained in the records of the Board. Where indispensable and necessary parties are composed of a large class, notice of hearings may be served upon a reasonable number thereof or by giving notice by publication in the manner specified by an order of the, Board. All other pleadings, motions or notices shall be served in the same manner as provided in this section.~~

~~Section 4. Motions.~~

~~The Board may at any time after three (3) days notice to all parties hear orally, or otherwise, any motion filed in connection with hearings under these rules.~~

~~Section 5. Docket.~~

~~When a contestant is entitled to a hearing under these rules, a copy of the order to show cause and the notice of hearing shall be filed with the Board which shall then assign it a docket number and enter the proceeding with the date of its filing on a separate page of a docket provided for such purpose. The clerk shall establish a separate file for each docketed case in which shall be systematically placed all papers, pleadings, documents, transcripts and evidence pertaining thereto, and all such items shall have noted thereon the docket number assigned and the date of filing.~~

~~Section 6. Form of Pleadings.~~

~~The form of pleadings or other papers filed in each docketed case shall be substantially as follows:~~

~~BEFORE THE WYOMING STATE BOARD OF PHARMACY~~

~~STATE OF WYOMING~~

~~IN THE MATTER OF~~

~~Docket No. Contestant~~

~~(Body of Pleading or Motion)~~

~~(Signature)~~

~~____ Name (typed or printed)~~

~~(Signature)~~

~~____ Name (typed or printed)~~

~~Address
Attorney~~

~~Section 7. Settlements.~~

~~Unless precluded by law informal disposition may be made of any hearing by stipulation,~~

~~agreed settlement, consent, order or default.~~

~~Section 8. — Continuances.~~

~~For good cause shown, continuances and extensions of time may be granted or denied in the discretion of the Board, provided that except where both parties agree, no continuance shall be granted which shall extend the time for hearing beyond the time in which such hearing must be held as provided by law.~~

~~Section 9. — Pre-Hearing Conference.~~

~~At a time on or before the day of the hearing, the Board may direct the attorneys for the parties to appear before the Board to consider:~~

~~(a) — The simplification of the issues.~~

~~(b) — The necessity or desirability of amending the pleadings.~~

~~(c) — The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.~~

~~(d) — Such other matters as may aid in the disposition of the case.~~

~~Such conferences shall be conducted informally. A memorandum will be prepared which recites the actions taken at the conference, amendments allowed, agreements of the parties and limitation of the issues to those undisposed of by admissions or agreements of counsel and the parties. The prehearing memorandum will control the course of the hearing unless modified by the Board to prevent manifest injustice.~~

~~Section 10. — Subpoenas.~~

~~The Chairman of the Board, upon written application of any party or his attorney, shall issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or requiring the production of any books, papers or other documents relevant or material to the inquiry, all subject to the provisions of Section 16-3-107 of the Wyoming Administrative Procedures Act.~~

~~Section 11. — Order of Procedure at Hearing.~~

~~As nearly as may be, hearings shall be conducted in accordance with the following order of procedure:~~

~~(a) — The Chairman shall announce that the Board is open to transact business and call by docket number and title the case to be heard.~~

~~(b) — The Board will be allowed an opening statement to briefly explain its position and outline the evidence it proposes to offer, together with the purpose thereof.~~

~~— (c) — The contestant will be allowed an opening statement.~~

~~— (d) — Any additional parties will be allowed an opening statement.~~

~~(e) — The Board's evidence will be heard. Witnesses may be cross-examined by the contestant or his attorney and by members of the Board and legal counsel for the Board. The Board's offered exhibits will be marked by letters of the alphabet, beginning with "A".~~

~~(f) — The evidence of the contestant will be heard, and exhibits of such contestant will be marked with numbers, beginning with "1". Each member of the Board, and the attorney for the Board, shall have the right to cross-examine all witnesses presented on behalf of the contestant.~~

~~(g) — The Board may offer rebuttal evidence.~~

~~(h) — The Board may, in its discretion, allow evidence to be offered out of order, as herein prescribed.~~

~~— (i) — Closing statements will be made in the following sequence:~~

~~(i) — Board~~

~~(ii) — Contestant~~

~~(iii) — Board in rebuttal~~

~~The time for oral argument may be limited by the Chairman.~~

~~— (j) — The Chairman may recess the hearing as required.~~

~~(k) — After all interested parties have been offered an opportunity to be heard, the Chairman shall excuse all witnesses and declare the evidence closed. The evidence of the case may be re-opened at a later date, for good cause shown, by order of the Board upon motion of any party to the proceeding, the Chairman, or the Board itself.~~

~~(l) — Parties may tender briefs, or the Board may call for such briefs as may be desirable.~~

~~(m) — The Chairman may declare that the matter is taken under advisement and that the decision and order of the Board will be announced at a later date.~~

~~Section 12. — Witnesses at Hearings to be Sworn.~~

~~All persons testifying at any hearing before the Board shall stand and be administered the following oath by a member of the Board:~~

~~"Do you swear (or affirm) to tell the truth, the whole truth, and nothing but the truth in the matter now before the Board, so help you, God?"~~

~~No testimony will be received from a witness except under such oath or affirmation.~~

~~Section 13.—Applicable Rules of Civil Procedure.~~

~~The rules of practice and procedure contained in the Rules of Civil Procedure of the State of Wyoming, insofar as the same may be applicable and not inconsistent with the laws of the State of Wyoming, shall apply in all hearings before the Board. For the application of such rules, the clerk is designated to be in the same relationship to the Board as a clerk of court to a court.~~

~~Section 14.—Attorneys.~~

~~The filing of a pleading or other appearance by an attorney constitutes his appearance for the party for whom made. The Board must be notified in writing of his withdrawal from any matter. Any person appearing before the Board at a hearing in a representative capacity shall be precluded from examining or cross-examining any witness, unless such person shall be an attorney licensed to practice law in the State of Wyoming, or a nonresident attorney associated with a Wyoming attorney. This rule shall not be construed to prohibit any person from representing himself in any hearing before the Board.~~

~~Section 15.—Attorney for the Board.~~

~~In all hearings before the Board, the Chairman shall request the attorney for the Board to be present to assist and advise the Board.~~

~~Section 16.—Taking of Testimony—Reporter.~~

~~In all hearings, the proceedings, including all testimony, shall be reported verbatim, stenographically or by any other appropriate means determined by the Board or the officer presiding at the hearing.~~

~~Section 17.—Decisions, Findings of Fact, Conclusions of Law, Orders.~~

~~The Board, following a full and complete hearing shall make and enter a written decision and order containing findings of fact, and conclusions of law based upon the evidence, both testimonial and documentary, introduced and admitted during the course of the hearing. In addition, all matters which have been officially noticed by the Board will be taken into consideration as a basis for making findings of fact and conclusions of law. Such decisions, findings of fact, conclusions of law and order shall be filed with the clerk and will, without further action, become the decision, findings of fact, conclusions of law and order based upon the hearing. The clerk shall upon receipt of any~~

~~decision, and order send a copy to contestant and interested parties involved by certified mail, postage prepaid.~~

~~Section 18.—Members of Board Present.~~

~~No member of the Board shall vote upon a decision of the Board unless he shall have been present at the hearing or has read the transcript of the proceedings. The vote of the Board shall be shown in its decision.~~

~~Section 19.—Appeals to District Court.~~

~~Appeals to the District Court from decisions of the Board may be taken in the manner prescribed by the Wyoming Administrative Procedure Act.~~

~~Section 20.—Transcripts.~~

~~Oral proceedings or any part thereof shall be transcribed on request of any party upon payment of the cost thereof. In case of an appeal to the District Court, the party appealing shall secure and file a transcript of the testimony and other evidence offered at the hearing with the Board, which transcript shall be verified by the oath of the reporter or transcribed as a true and correct transcript of the testimony and other evidence in the hearing. The cost of making the transcript shall be paid by the party prosecuting such appeal. The complete record on appeal, including the transcript of testimony, shall be verified by the clerk.~~