

DEPARTMENT OF REGULATORY AGENCIES

Division of Registrations

STATE BOARD OF NURSING

3 CCR 716-1

Chapter VII

INITIAL DECISIONS AND RELATED MATTERS

BASIS: The authority for the promulgation of these rules and regulations by the State Board of Nursing is set forth in §§ 12-38-108(1)(j) and 12-38-116.5(1)(c)(d), C.R.S.

PURPOSE: The purpose of these rules and regulations is to set forth the procedures surrounding the filing of exceptions and review of initial decisions pursuant to §24-4-105(14) and (15), C.R.S.

1. WRITTEN FORM, SERVICE, AND FILING REQUIREMENTS

- 1.1 All Designations of Record, Requests, Exceptions, and Responsive Pleadings (“Pleadings”) must be in written form, mailed with a certificate of mailing to the Board and the opposing party.
- 1.2 All Pleadings must be filed with the Board by 5:00 pm on the date the filing is due. These rules do not provide for any additional time service by mail.
- 1.3 Any Pleadings must be served on the opposing party by mail or by hand delivery on the date on which the Pleading is filed with the Board.
- 1.4 All Pleadings must be filed with the Board and not with the Office of Administrative Courts. Any Pleadings filed in error with the Office of Administrative Courts will not be considered

2. AUTHORITY TO REVIEW

- 2.1 Through this Rule, the Board [or Hearings Panel] initiates a review of an initial decision on its own motion pursuant to §24-4-105(14)(a)(II) and (b)(III), C.R.S. without requiring a vote for each case.
- 2.2 This option to review shall apply regardless of whether a party files exceptions to the initial decision.

3. DESIGNATION OF RECORD AND TRANSCRIPTS

- 3.1 Any party seeking to reverse or modify the initial decision of the administrative law judge shall
 - A. File with the Board a designation of the relevant parts of the record for review (“Designation of Record”). Designations of Record must be filed with the Board within twenty days of the date on which the Board mails the initial decision to the parties’ address of record with the Board.
- 3.2 Even if no party files a Designation of Record, the record shall include the following:
 - A. All pleadings;
 - B. All applications presented or considered during the hearing;

- C. All documentary or other exhibits admitted into evidence;
- D. All documentary or other exhibits presented or considered during the hearing;
- E. All matters officially noticed;
- F. Any findings of fact and conclusions of law proposed by any party; and
- G. Any written brief filed.

4. TRANSCRIPTS

4.1 Transcripts will not be deemed as part of a Designation of Record unless specifically identified and ordered. Should a party wish to designate a transcript or portion thereof, the following procedures will apply:

- A. The Designation of Record must identify with specificity the transcript or portion thereof to be transcribed. For example, a party may designate the entire transcript, or may identify witness(es) whose testimony is to be transcribed, the legal ruling or argument to be transcribed, or other information necessary to identify a portion of the transcript.
- B. Any party who includes a transcript or a portion thereof as part of the Designation of Record must order the transcript or relevant portions by the date on which the Designation of Record must be filed (within twenty days of date on which the Board mails the initial decision to the parties).
- C. When ordering the transcript, the party shall request the court reporter to prepare the transcript within thirty days. The party shall timely pay the necessary fees to obtain and file with the Board an original transcription and one copy within thirty days.
- D. The ordering party shall direct the court reporter to complete and file with the Board the transcript and one copy of the transcript within thirty days.
- E. If a party designates a portion of the transcript, the opposing party may also file a Supplemental Designation of Record, in which the opposing party may designate additional portions of the transcript. This Supplemental Designation of Record must be filed with the Board within ten days after the date on which the original Designation of Record was due.
- F. An opposing party filing a Supplemental Designation of Record must order and pay for such transcripts or portions thereof within the deadlines set forth above. An opposing party must also cause the court reporter to complete and file with the Board the transcript and one copy of the transcript within thirty days.
- G. Transcripts that are ordered by either party and not filed with the Board in a timely manner by the reporter due to non-payment, insufficient payment or failure to direct as set forth above will not be considered by the Board.

5. FILING OF EXCEPTIONS AND RESPONSIVE PLEADINGS

5.1. Any party wishing to file exceptions shall adhere to the following timelines:

- A. If no transcripts are ordered, exceptions are due within thirty days from the date on which the Board mails the initial decision to the parties. Both parties' exceptions are due on the same date.
- C. If transcripts are ordered by either party, the following procedure shall apply. Upon receipt of transcripts identified in all Designations of Record, the Board shall mail notification to the parties stating that the transcripts have been received by the Board. Exceptions are due within thirty days from the date on which such notification is mailed. Both parties' exceptions are due on the same date.

- 5.2 Either party may file a responsive pleading to the other party's exceptions. All responsive pleadings shall be filed within 12 days of the date on which the exceptions were due with the Board. No other pleadings will be considered except for good cause shown.
- 5.3. The Board [or Hearings Panel] may in its sole discretion grant an extension of time to file exceptions or responsive pleadings, or may delegate the discretion to grant such an extension of time to the Board's Program Director.

6. REQUEST FOR ORAL ARGUMENT

- 6.1 All requests for oral argument must be in writing and filed by the deadline for responsive pleadings. Requests filed after this time will not be considered.
- 6.2 It is within the sole discretion of the Board to grant or deny a request for oral argument. If oral argument is granted, both parties shall have the opportunity to participate.
- 6.3 . Each side shall be permitted five minutes for oral argument unless such time is extended by the Board or Hearings Panel] or its Program Director.

Adopted: July 30, 2008

Effective: October 1, 2008