

HOUSE BILL NO. HB0127

Wyoming Medical Practice Act revisions.

Sponsored by: Representative(s) Tipton, McMurtrey and Meuli and Senator(s) Barrasso

A BILL

for

1 AN ACT relating to professions and occupations; revising
2 Medical Practice Act provisions including definitions and
3 general provisions, the state board of medicine, licensing,
4 investigations and disciplinary proceedings and physicians
5 assistants; creating disciplinary provision pertaining to
6 physicians assistants; conforming amendments; repealing
7 certain provisions; and providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 33-26-512 is created to read:

12

13 **33-26-512. Voluntary and mandatory revocation;**
14 **restriction; suspension.**

15

1 (a) A licensee may request the board, in writing, to
2 accept the voluntary relinquishment, restriction or
3 suspension of his license. The board may, but shall not be
4 required to accept the relinquished license, grant the
5 request for restriction or suspension, attach conditions to
6 the license or waive the commencement of any proceedings
7 under this article. The board shall put in writing any
8 agreement with the licensee. Removal of a voluntary
9 relinquishment, restriction or suspension is subject to the
10 procedure for reinstatement of a license pursuant to W.S.
11 33-26-509.

12

13 (b) Unless the board and the licensee have agreed to
14 the relinquishment of or imposition of restrictions or
15 conditions on a license, the board shall conduct a
16 proceeding to suspend, restrict, refuse to renew or revoke
17 a license pursuant to W.S. 33-26-508(a) as a contested case
18 under the Wyoming Administrative Procedure Act.

19

20 (c) The board may temporarily suspend the license of
21 any licensee without a hearing pursuant to W.S.
22 16-3-113(c).

23

1 **Section 2.** W.S. 33-26-102(a)(iv), (vi), (vii)(D),
2 (viii), (ix), (xi)(A) through (C), (E), by creating a new
3 subparagraph (F), (xii), (xiii), (xiv), (xvii)(B), (E) and
4 by creating new paragraphs (xviii) through (xxi),
5 33-26-103(a)(iii), (vi) and (viii), 33-26-201(a), (c),
6 (d)(ii) and (e), 33-26-202(b)(viii), (x), (xii) and by
7 creating a new paragraph (xiv), 33-26-203,
8 33-26-301(b)(ii), (iii) and by creating a new paragraph
9 (iv), 33-26-302(a), 33-26-303(a)(intro), (iv) through (x)
10 and by creating a new subsection (b), 33-26-304,
11 33-26-305(a), (c) and (d), 33-26-307(a)(intro) and (b),
12 33-26-401, 33-26-402(a)(intro), (vi) through (viii), (xi),
13 (xv), (xix), (xxi) through (xxiii), (xxv), (xxvi), (xxvii)
14 by creating new subparagraphs (B) through (T), by creating
15 new paragraphs (xxxii) and (xxxiv) and (b), 33-26-403(a)
16 through (c) and by creating a new subsection (e),
17 33-26-404(a) through (c), 33-26-405(a)(intro), (iv), (ix),
18 by creating a new paragraph (x) and (b)(iii), 33-26-406(a)
19 through (c), 33-26-407, 33-26-408(c) through (e) and by
20 creating new subsections (f) through (j), 33-26-409(a), (c)
21 and (d), 33-26-410(c), 33-26-501(a)(iii)(A), (B), (iv),
22 (v)(A) and by creating new paragraphs (viii) through (x),
23 33-26-503(a) and (b) by creating a new paragraph (vi),
24 33-26-504(b)(ii) and (iii), 33-26-506(a) and (c),

1 33-26-507(a) (intro), 33-26-508(a) (intro) and (b),
2 33-26-509(a) and by creating new subsections (c) through
3 (g) and 33-26-510(c) are amended to read:

4

5 **33-26-102. Definitions.**

6

7 (a) As used in this chapter:

8

9 (iv) "Errant conduct" means conduct by a
10 licensee which may constitute grounds for revocation,
11 suspension or restriction of a license as set forth in W.S.
12 33-26-402 discipline as set forth in this act;

13

14 (vi) "Health care entity" means any hospital,
15 clinic, training program, professional society or committee
16 of physicians or other licensed health care practitioners
17 that follows a formal-peer review process for the purpose
18 of furthering quality health care;

19

20 (vii) "Impaired" means a person who cannot
21 practice medicine with reasonable skill and safety to
22 patients by reason of one (1) or more of the following:

23

1 (D) ~~Excessive use or abuse of drugs,~~
2 ~~including alcohol~~ Chemical impairment.

3
4 (viii) "Lapsed" means the status of a license
5 when the ~~holder of a license to practice medicine~~ licensee
6 fails to ~~secure a renewal certificate~~ renew the license by
7 July 1 of any year or when the holder of a temporary
8 license ~~to practice medicine~~ fails to appear for an
9 interview at the next board meeting following the date of
10 issuance or fails to submit a written request for extension
11 of a temporary license or when a written request for
12 extension is not approved by the board;

13
14 (ix) "License" means a license to practice
15 medicine in this state issued by the board pursuant to this
16 chapter;

17
18 (xi) "Practicing medicine" means any person who
19 in any manner:

20
21 (A) Advertises, holds out, or represents to
22 the public that he is authorized to practice medicine in
23 this state; or

24

1 (B) ~~Prescribes or provides medical~~
2 ~~diagnosis or medical treatment for human disease, injury,~~
3 ~~deformity, ailment, pregnancy or delivery of infants~~ Offers
4 or undertakes to prevent, diagnose, correct or treat, in
5 any manner, by any means, method or device, any human
6 disease, illness, pain, wound, fracture, infirmity, defect
7 or abnormal physical or mental condition, injury, deformity
8 or ailment, including the management of pregnancy and
9 parturition; or

10

11 (C) Attaches the title of M.D., D.O.,
12 physician, surgeon, osteopathic physician or osteopathic
13 surgeon, doctor, or any other words, letters or
14 abbreviations ~~which represent the person as being engaged~~
15 ~~in the practice of medicine~~ or any combination thereof when
16 used in the conduct of any occupation or profession
17 pertaining to the prevention, diagnosis or treatment of
18 human disease or condition unless the designation
19 additionally contains the description of another branch of
20 the healing arts for which one holds a valid license in
21 this state; or

22

1 (E) ~~Prescribes~~ Offers or undertakes to
2 prescribe, order, give or administer drugs which can only
3 be obtained by prescription according to law; ~~or~~ or
4

5 (F) Renders a determination of medical
6 necessity or appropriateness of proposed treatment.
7

8 (xii) "Reactivation" after a license has lapsed
9 means the completion of ~~an application, payment of a fee~~
10 ~~and fulfillment of all other~~ requirements ~~for the granting~~
11 ~~of an initial license, including an interview before the~~
12 ~~board~~ set forth in W.S. 33-26-305(c);
13

14 (xiii) "Sexual ~~exploitation of a patient~~
15 misconduct" means:
16

17 (A) Any verbal or nonverbal behavior by a
18 ~~physician or a physician assistant as defined in W.S.~~
19 ~~33-26-501(a)(iii)~~ licensee which involves offers of
20 exchange of medical services for some form of sexual
21 gratification; ~~or~~
22

1 (B) ~~Unlawful or unprofessional sexual~~
2 ~~contact with a patient.~~ Sexual contact that occurs
3 concurrent with the physician-patient relationship; or
4

5 (C) Any verbal or nonverbal behavior by a
6 licensee toward a patient, former patient, another
7 licensee, an employee of a health care facility, an
8 employee of the licensee or a relative or guardian of a
9 patient that exploits the position of trust, knowledge,
10 emotions or influence of the licensee.
11

12 (xiv) "USMLE ~~examination~~" means the United
13 States medical licensing examination;
14

15 (xvii) "Fifth pathway" means an academic year of
16 supervised clinical education provided by an L.C.M.E.
17 accredited medical school to students who have:
18

19 (B) Studied at a medical school outside of
20 the United States, ~~and~~ Puerto Rico or Canada;
21

22 (E) Passed the foreign medical graduate
23 examination in the medical sciences, parts I and II of the

1 examination of the national board of medical examiners, or
2 steps 1 and 2 of the USMLE. ~~examination.~~

3

4 (xviii) "FLEX examination" means the federation
5 of state medical boards post-licensure competency
6 examination;

7

8 (xix) "RCPSC" means the royal college of
9 physicians and surgeons of Canada;

10

11 (xx) "Physician-patient relationship" means a
12 relationship between a licensee and any person formed for
13 the purpose of the licensee providing medical diagnosis or
14 treatment to the person, whether or not for compensation;
15 and

16

17 (xxi) "This act" means the Medical Practice Act.

18

19 **33-26-103. Applicability of chapter.**

20

21 (a) This chapter does not apply to:

22

23 (iii) ~~The performance of official duties by a~~
24 ~~physician or physician assistant of the United States armed~~

1 ~~services or a physician or physician assistant employed by~~
2 ~~the federal government~~ Commissioned medical officers of the
3 United States armed services and medical officers of the
4 United States public health service of the veterans
5 administration of the United States in the discharge of
6 their official duties or within federally controlled
7 facilities or enclaves, provided that the persons who are
8 licensees of the board shall be subject to the provisions
9 of this act and further provided that all such persons
10 shall be the holder of a full and unrestricted license to
11 practice medicine in one (1) or more jurisdictions of the
12 United States;

13

14 (vi) The treatment of disease, injury, deformity
15 or ailments by prayer or spiritual means provided that
16 federal and state health and sanitation laws, rules and
17 regulations are not violated;

18

19 (viii) ~~Persons~~ Health care providers licensed ~~or~~
20 ~~registered~~ under any other chapter of this title engaged in
21 the ~~scope of~~ practice for of the profession ~~or occupation~~
22 for which he is ~~registered or~~ licensed;

23

1 **33-26-201. State board of medicine; composition;**
2 **appointment; terms; qualifications; removal; vacancies;**
3 **quorum.**

4
5 (a) The Wyoming state board of medicine shall consist
6 of five (5) physicians licensed to practice medicine in
7 Wyoming, one (1) of whom shall possess the degree of doctor
8 of osteopathy, one (1) physician assistant and two (2)
9 ~~nonphysician~~ lay members not directly related to
10 physicians, appointed by the governor by and with the
11 consent of the senate as required by W.S. 28-12-101 through
12 28-12-103. Board members appointed by the governor shall
13 serve at the pleasure of the governor. The board members
14 shall annually elect a president, ~~and~~ a vice-president, ~~and~~
15 a secretary.

16
17 (c) Physician and physician assistant members shall
18 reside in, ~~and practice medicine in this state, and~~
19 ~~nonphysician~~ hold a full and unrestricted license and
20 actively practice in this state. Lay members shall reside
21 in this state.

22
23 (d) The governor shall appoint a new board member if
24 a vacancy occurs. A person appointed to fill a vacancy

1 shall serve for the unexpired portion of the vacated term.

2 A vacancy occurs if a member:

3

4 (ii) ~~Fails to physically reside in and remain~~
5 ~~licensed to practice medicine~~ No longer holds a full and
6 unrestricted license to practice in this state or no longer
7 engages in active practice in this state;

8

9 (e) A quorum of the board consists of ~~six (6)~~ five
10 (5) board members, ~~and shall have a nonphysician member~~
11 ~~present~~ including a lay member.

12

13 **33-26-202. Board; duties; general powers.**

14

15 (b) The board is empowered and directed to:

16

17 (viii) Publicize ~~the availability of a grievance~~
18 ~~board and~~ information regarding the filing of complaints;

19

20 (x) ~~Determine on a monthly basis by contact~~
21 Verify the status of licenses and privileges held by
22 licensees with the federation of state licensing boards
23 ~~whether or not any licensee has been denied a license or~~
24 ~~had his license suspended or revoked by another state~~

1 ~~medical licensing or examining board~~ and federal data
2 banks, and make a similar inquiry with regard to all
3 applicants for licensure;

4
5 (xii) Participate in and contribute to a program
6 or programs to assist in the return to practice of
7 licensees who ~~are physically or mentally impaired~~ have
8 exhibited disruptive behaviors, substance dependence or are
9 suffering from physical or mental impairment;

10
11 (xiv) Adopt, amend, repeal, enforce and
12 promulgate reasonable rules and regulations necessary to
13 implement and administer continuing medical education
14 requirements of its licensees.

15
16 **33-26-203. Board; employment and salary of executive**
17 **secretary; and other employees; per diem and expenses of**
18 **members.**

19
20 (a) The board may employ or contract with an
21 executive secretary, board counsel and other necessary
22 staff. The executive secretary shall not be a board member.

23

1 (b) The executive secretary's salary shall and board
2 counsel's salary may be set by the board. The salaries of
3 other staff shall be set by the human resources division of
4 the department of administration and information.

5
6 (c) Board members shall not receive compensation for
7 their services but shall receive mileage and per diem in
8 the same manner and amount as ~~state employees~~ members of
9 the Wyoming legislature. Any incidental expenses
10 necessarily incurred by the board or any member, if
11 approved by the board, shall be paid from the account
12 within the earmarked revenue fund from fees collected
13 pursuant to this chapter.

14
15 **33-26-301. License required.**

16
17 (b) Upon appropriate application, fulfillment of
18 eligibility criteria and successful completion of all other
19 requirements, the board may grant:

20
21 (ii) A temporary license to practice medicine
22 pursuant to W.S. 33-26-304; ~~or~~

23
24 (iii) A restricted or conditional license; ~~or~~ or

1

2

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6

33-26-302. USMLE examination.

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33-26-303. Requirements for granting license.

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(iv) An inactive license, provided the qualifications for and the conditions of this license shall be established by rule.

(a) The board ~~or its agent~~ shall ~~administer step 3 of the USMLE examination not more than four (4) times per year~~ adopt regulations for the qualification for and administration of the USMLE.

(a) The board may grant a license to practice medicine in this state to any applicant who demonstrates, to the satisfaction of a majority of the board, that he:

(iv) ~~Provides~~ Has provided written evidence that he has completed at least one (1) year of postgraduate training in an A.C.G.M.E., A.O.A. or ~~Canadian~~ R.C.P.S.C. accredited program. An applicant who graduated from a medical school not accredited by the L.C.M.E. or A.O.A. shall present written evidence that he has completed at

1 least two (2) years of medical education at the medical
2 school from which he graduated and that he has completed at
3 least three (3) years of postgraduate training in an
4 A.C.G.M.E., A.O.A. or ~~Canadian~~ R.C.P.S.C. accredited
5 program;

6
7 (v) Has ~~completed at least two (2) years of on-~~
8 ~~campus medical education at the medical school from which~~
9 ~~he graduates~~ presented other credentials and qualifications
10 equivalent to or exceeding the criteria in paragraph (iv)
11 of this subsection as may be considered by the board to
12 demonstrate competency to practice medicine in this state;

13
14 (vi) Has successfully completed all three (3)
15 parts of the USMLE, national boards, the FLEX, a board
16 approved, state constructed licensing examination, the
17 examination by the licentiate of the medical council of
18 Canada, the examination ~~administered by the A.O.A. or an~~
19 ~~appropriate composite.~~ For purposes of this section,
20 "FLEX" means the federal licensure examination developed by
21 the national board of osteopathic medical examiners;

22
23 (vii) ~~Completes~~ Has completed an application
24 form provided by the board;

1

2 (viii) ~~Pays~~ Has paid the appropriate fees ~~set~~
3 ~~forth at~~ pursuant to W.S. 33-26-307;

4

5 (ix) ~~Completes~~ Has completed to the satisfaction
6 of a majority of board members, a personal interview
7 consisting of inquiry and oral response to medical
8 knowledge, personal and professional history and intentions
9 for practicing medicine in this state;

10

11 (x) Has not had his license suspended, revoked
12 or restricted by or have any disciplinary or clinical
13 privilege action pending before any committee of a health
14 care facility, any other state medical or licensing board,
15 or if his license ~~was~~ or privileges were suspended,
16 revoked or restricted or relinquished while under
17 investigation or the threat of an investigation, has had
18 his license or privileges reinstated, is eligible for
19 reinstatement or the imposed license or privilege
20 restrictions have been removed; and

21

22 (b) A person who has pled guilty to or has been
23 convicted of a felony or any crime that is a felony under
24 Wyoming law in any state or federal court or in any court

1 of similar jurisdiction in another country may apply for
2 licensure provided, the board may deny licensure based upon
3 the plea or conviction alone.

4

5 **33-26-304. Temporary license to practice medicine;**
6 **application; qualifications.**

7

8 (a) The board may issue a temporary license for
9 ninety (90) days a term that expires on the date of the
10 next regularly scheduled board meeting to a person who:

11

12 (i) Completes an application in a form as
13 approved by the board prescribes for temporary licensure;

14

15 (ii) Meets all licensing requirements of W.S.
16 33-26-303 except that the board may waive defer the
17 interview required by W.S. 33-26-303(a)(ix) at its
18 discretion until the next board meeting;

19

20 (iii) Pays a temporary license fee prescribed in
21 W.S. 33-26-307 in an amount set by the board.

22

23 (b) A temporary license is valid until the date of
24 the next board meeting following the date of issuance. The

1 board, in its discretion may extend ~~the a~~ temporary license
2 for ~~up to one hundred eighty (180) days~~ an additional term
3 no longer than the date of the second regular board meeting
4 following the date of issuance.

5
6 **33-26-305. Annual renewal; cancellation; reactivation**
7 **of lapsed licenses; duplicates.**

8
9 (a) All licenses other than temporary licenses to
10 practice medicine shall ~~expire on~~ lapse at 12:01 a.m. July
11 1 of each year. A licensee may renew his license by
12 sending his signature, current address, the registration
13 number, practice related information requested by the
14 board, proof of compliance with and fulfillment of
15 continuing medical education requirements of the board in
16 the manner set forth in the board's continuing medical
17 education rules and regulations and renewal fee to the
18 board after April 1 but prior to July 1 of each year. The
19 licensee additionally shall report any ~~information~~
20 ~~concerning~~ disciplinary action pending or taken by a state
21 examining board, a health care entity or the grievance
22 committee of a medical society during the preceding year.

23

1 (c) The board may ~~reinstate~~reactivate a lapsed
2 license if the applicant pays a ~~reinstatement~~reactivation
3 fee and fulfills the requirements for the granting of an
4 initial license.

5
6 (d) A licensee shall apply to the board for a
7 duplicate license if his license is stolen, lost or
8 destroyed. Upon proof of proper identification, the
9 required fee and submission of other information as the
10 board may require, the board shall issue a duplicate
11 license bearing on its face the word "DUPLICATE".

12

13 **33-26-307. Fees.**

14

15 (a) The board shall set by regulation appropriate
16 ~~fees in an amount not exceeding the maximum fees specified~~
17 ~~in the following schedule:~~ license application, renewal and
18 reactivation fees, examination fees and fees for
19 information verification or document production and other
20 services of the board to be charged under this chapter.

21

22 (b) All money received or collected under this
23 chapter shall be paid to the state treasurer for deposit in
24 an account within the earmarked revenue fund. The money in

1 the account is subject at all times to the warrant of the
2 state auditor drawn upon written requisition of the
3 president and attested by the executive secretary of the
4 board, with seal attached, for the payment of any board
5 expenses.

6

7 **33-26-401. Board duties; investigation; interview.**

8

9 (a) The board shall investigate, upon a written and
10 signed complaint or by its own motion, any information
11 ~~appearing to show that a licensee may be impaired or has~~
12 ~~engaged in errant conduct~~ that if proven would fall within
13 the jurisdiction of the board and would constitute a
14 violation of this act.

15

16 (b) Before holding a contested case hearing, ~~to~~
17 ~~revoke, suspend, restrict, or limit a license,~~ the board
18 shall ~~request~~ conduct an informal interview with the
19 licensee unless the licensee waives an interview.

20

21 (c) Notwithstanding any other provision of law the
22 board may require, by administrative subpoena, the
23 testimony of licensees and witnesses and the production of
24 evidence relating to any matter under investigation.

1

2 (d) All evidence admitted into the record of any
3 contested case hearing held before the board shall be
4 subject to the confidentiality provisions set forth in W.S.
5 33-26-408 unless waived by the licensee.

6

7 (e) The board retains jurisdiction over only those
8 licensees to whom temporary or full licenses were granted
9 and who are subject to ongoing investigation by the board,
10 regardless of whether the license expired, lapsed or was
11 relinquished during or after the alleged occurrence of
12 conduct proscribed by W.S. 33-26-402 by the licensee.

13

14 **33-26-402. Grounds for suspension; revocation;**
15 **restriction; imposition of conditions; refusal to renew or**
16 **other disciplinary action.**

17

18 (a) The board may refuse to ~~grant or~~ renew, and may
19 revoke, suspend or restrict a license or take other
20 disciplinary action, including the imposition of conditions
21 or restrictions upon a license on one (1) or more of the
22 following grounds:

23

1 (vi) Obtaining any fee or claim for payment of a
2 fee by fraud or misrepresentation;

3

4 (vii) Sexual ~~exploitation of a patient~~
5 misconduct;

6

7 (viii) Conviction of ~~a felony including pleas of~~
8 ~~nolo contendere. A copy of the conviction certified by the~~
9 ~~clerk of the court entering the conviction is conclusive~~
10 ~~evidence of the conviction~~ or pleading guilty or nolo
11 contendere to a felony or any crime that is a felony under
12 Wyoming law in any jurisdiction;

13

14 (xi) Except as permitted by law, repeatedly
15 prescribing or administering, selling or supplying any drug
16 legally classified as a narcotic, addicting or scheduled
17 drug to ~~an addict or drug~~ a known abuser;

18

19 (xv) Failure to appropriately supervise ~~or~~
20 ~~collaborate with~~ nonphysicians to whom the licensee has
21 delegated medical responsibilities;

22

1 (xix) ~~The A~~ manifest incapacity ~~or incompetence~~
2 to practice medicine with reasonable skill and safety to
3 patients;

4
5 (xxi) ~~Repeated U~~se of a drug or intoxicant to
6 such a degree as to render the licensee unable to practice
7 medicine or surgery with reasonable skill and safety to
8 patients;

9
10 (xxii) ~~Negligence or malpractice~~ Practicing
11 medicine below the applicable standard of care, regardless
12 of causation or damage;

13
14 (xxiii) Failure to submit to an informal
15 interview or a mental, physical or medical competency
16 examination following a proper request by the board
17 pursuant to W.S. 33-26-403;

18
19 (xxv) Suspension, ~~restriction~~ probation,
20 imposition of conditions or restrictions or revocation of a
21 license to practice medicine in another ~~state~~ jurisdiction;

22
23 (xxvi) Any action by a health care entity that:
24

1 (A) Adversely affects clinical privileges
2 for a period exceeding thirty (30) days;~~or~~

3

4 (B) Results in the surrender of clinical
5 privileges to the health care entity while the licensee is
6 under investigation by the health care entity for possible
7 professional incompetence or improper professional conduct;
8 or

9

10 (C) Results in the surrender of clinical
11 privileges in return for the health care entity not
12 conducting an investigation for possible professional
13 incompetence or improper professional conduct.~~†~~

14

15 (xxvii) Unprofessional or dishonorable conduct
16 not otherwise specified in this subsection, including but
17 not limited to:

18

19 (B) Failure to conform to the applicable
20 standard of care;

21

22 (C) Willful or careless disregard for the
23 health, welfare or safety of a patient;

24

1 (D) Engaging in any conduct or practice
2 that is harmful or dangerous to the health of a patient or
3 the public;

4
5 (E) Engaging in conduct intended to or
6 likely to deceive, defraud or harm the public;

7
8 (F) Using any false, fraudulent or
9 deceptive statement in any document connected with the
10 practice of medicine including the intentional
11 falsification or fraudulent alteration of a patient or
12 health care facility record;

13
14 (G) Failing to prepare and maintain legible
15 and complete written medical records that accurately
16 describe the medical services rendered to the patient,
17 including the patient's history, pertinent findings,
18 examination, results, test results and all treatment
19 provided;

20
21 (H) Practicing outside of the scope of the
22 licensee's expertise and training;

23

1 (J) Repeatedly engaging in harassing,
2 disruptive or abusive behavior directed at staff, co-
3 workers, a patient or a patient's relative or guardian or
4 that interferes with the provision of patient care;

5
6 (K) Engaging in conduct that constitutes
7 moral turpitude, including but not limited to conviction of
8 or pleading guilty or nolo contendere to domestic abuse,
9 stalking, sexual assault, sexual abuse or unlawful
10 exploitation of a minor, indecent exposure, incest or
11 distribution of pornography;

12
13 (M) Failing or neglecting to attempt to
14 inform a patient within a reasonable time of the results of
15 a laboratory test indicating the need for further clinical
16 review;

17
18 (N) Improperly terminating a physician-
19 patient relationship by failing to send the patient by
20 certified mail at least thirty (30) days prior to the date
21 of the termination, a written notice that includes the
22 following statements:

23

1 (I) That the physician-patient
2 relationship shall be terminated as of a date certain at
3 least thirty (30) days following the date of the notice;
4 and

5
6 (II) That the licensee's care of the
7 patient will continue until the date of termination or
8 until the date that the patient notifies the licensee of
9 the name and address of the patient's new physician,
10 whichever date occurs first.

11
12 (O) Representing that a manifestly
13 incurable disease or condition can be permanently cured or
14 that any disease or condition can be cured by a secret
15 method, procedure, treatment, medicine or device if the
16 representation is untrue;

17
18 (P) Intentionally or negligently releasing
19 or disclosing confidential patient information. This
20 restriction shall not apply to disclosures required by
21 state or federal law or when disclosure is necessary to
22 prevent imminent risk of harm to the patient or others;

23

1 (Q) Failing or refusing to transfer a copy
2 of patient records to the patient or the patient's legally
3 designated representative within thirty (30) days after
4 receipt of a written request;

5
6 (R) Utilization of experimental forms of
7 therapy without proper informed consent from the patient,
8 without conforming to generally-accepted criteria or
9 standard protocols, without keeping detailed, legible
10 records or without having periodic analysis of the study
11 and results reviewed by a committee of peers;

12
13 (S) Except in emergency situations where
14 the consent of the patient or the patient's legally
15 designated representative cannot be reasonably obtained,
16 assisting in the care or treatment of a patient without the
17 consent of the patient, the attending physician or the
18 patient's legal representative;

19
20 (T) Using or engaging in fraud or deceit to
21 obtain third party reimbursement.

22

1 (xxxii) Acquiring or attempting or conspiring to
2 acquire any drug classified as a narcotic, addicting or
3 scheduled drug by fraud or deception;

4
5 (xxxiii) Prescribing any controlled substance
6 specified in W.S. 35-7-1016 through 35-7-1022 for any
7 person through the Internet, the World Wide Web or a
8 similar proprietary or common carrier electronic system
9 absent a documented physician-patient relationship;

10
11 (xxxiv) Violating any final order, consent
12 decree or stipulation between the board and the licensee.

13
14 (b) Upon a finding of ineligibility for licensure or
15 refusal to grant a license under subsection (a) of this
16 section, the board shall file its written order and
17 findings.

18
19 **33-26-403. Impaired physicians.**

20
21 (a) The board may order a licensee to undergo one (1)
22 or more mental, physical competency or medical competency
23 examinations if it has reasonable cause to believe that the
24 licensee is impaired. Any disciplinary proceeding pending

1 against the licensee shall be stayed until the results of
2 the examination have been finalized and submitted to the
3 board.

4
5 (b) Every licensee is deemed to have consented to and
6 shall submit to a board requested mental, physical, or
7 medical competency examination and to have waived all
8 objections to the production of the report of the
9 examination to the board and the admissibility of the
10 ~~results-report~~ of the examination in any board proceedings
11 ~~on the ground that the results constitute a privileged~~
12 ~~communication~~ in which the licensee is a respondent. If a
13 licensee fails to submit to an examination when requested
14 by the board, the board may ~~suspend the license unless the~~
15 ~~failure was beyond the licensee's control~~ initiate a
16 disciplinary proceeding against the licensee based upon a
17 violation of this section.

18
19 (c) If the board finds that there is reasonable cause
20 to conduct ~~an~~ a mental, physical competency or medical
21 competency examination of the licensee, it shall appoint
22 three (3) practicing licensees who are not board members to
23 serve as an examination committee. At least one (1) of the
24 licensees shall be a psychiatrist if a question of mental

1 illness is involved and, if available, at least one (1)
2 member shall be from the same medical specialty as the
3 licensee under investigation. The examination committee
4 shall conduct an examination and report its recommended
5 findings to the board within ~~thirty (30)~~ sixty (60) days
6 following the date of their appointment.

7
8 (e) The results of any board ordered mental, physical
9 competency or medical competency examination shall be
10 provided to the licensee and the board prior to any further
11 board action.

12
13 **33-26-404. Voluntary and mandatory revocation;**
14 **restriction; suspension.**

15
16 (a) A licensee may request the board, in writing, to
17 accept the voluntary relinquishment, restriction or
18 suspension of his license. The board may, but shall not be
19 required to accept the relinquished license, grant the
20 request for restriction or suspension, attach conditions to
21 the license or waive the commencement of any proceedings
22 under this article. Removal of a voluntary relinquishment,
23 restriction or suspension is subject to the procedure for
24 reinstatement of a license as provided in this article.

1

2 (b) Unless the board and the licensee ~~has voluntarily~~
3 ~~relinquished or restricted his license~~ have agreed to the
4 relinquishment of or imposition of restrictions or
5 conditions on a license, the board shall conduct ~~any a~~
6 proceeding to ~~deny,~~ refuse to renew or reinstate, revoke,
7 restrict or suspend a license on the grounds ~~that a~~
8 ~~licensee is impaired or has engaged in errant conduct~~ set
9 forth in W.S. 33-26-402(a) as a contested case under the
10 Wyoming Administrative Procedure Act.

11

12 (c) The board may temporarily suspend the license of
13 any licensee without a hearing pursuant to W.S. ~~16-3-113~~
14 16-3-113(c).

15

16 **33-26-405. Order of the board.**

17

18 (a) Following a hearing to refuse to renew or
19 reinstate, revoke, restrict or suspend a license on the
20 grounds ~~that a licensee is impaired or has engaged in~~
21 ~~errant conduct~~ set forth in W.S. 33-26-402(a), the board
22 shall enter its order and findings pursuant to the Wyoming
23 Administrative Procedure Act. The board may take one (1) or
24 more of the following actions:

1

2 (iv) Impose a civil fine not exceeding ~~five~~
3 ~~thousand dollars (\$5,000.00)~~ twenty-five thousand dollars
4 (\$25,000.00);

5

6 (ix) Take other action as the board in its
7 discretion finds proper~~;~~

8

9 (x) Place the licensee on probation.

10

11 (b) Restriction of a license may include, but is not
12 limited to, the following:

13

14 (iii) Forbidding the use of certain medical
15 procedures without consultation with and approval by
16 another physician.

17

18 **33-26-406. Reinstatement of license; removal of**
19 **restrictions or conditions from a license.**

20

21 (a) A person whose license has been revoked,
22 restricted or suspended under this chapter, voluntarily or
23 by action of the board, may petition for reinstatement of
24 his license or for removal of any restrictions or

1 conditions placed upon his license pursuant to W.S.
2 33-26-405 not less than six (6) months after final judicial
3 review of a board order revoking, restricting or suspending
4 the petitioner's license or six (6) months after the date
5 of the board order if there is no judicial review.

6
7 (b) The petitioner shall submit a petition in writing
8 to the board. ~~The petition shall state reasons and contain~~
9 ~~information demonstrating that the petitioner is no longer~~
10 ~~impaired and is able to safely, skillfully and competently~~
11 ~~resume the practice of medicine or has otherwise corrected~~
12 ~~the conduct or condition which formed the basis for the~~
13 ~~revocation, restriction or condition placed on his license~~
14 that, at a minimum, sets forth and provides information
15 regarding the petitioner's fulfillment of any and all
16 conditions or compliance with all restrictions imposed upon
17 petitioner by any prior order of the board or success in
18 correcting the conduct that formed the basis for revocation
19 of petitioner's license.

20
21 (c) Upon receipt of the petition, the board shall set
22 the matter for hearing in accordance with the provisions of
23 the Wyoming Administrative Procedure Act. The burden of

1 proof upon the petitioner at the hearing shall be to
2 demonstrate, by a preponderance of evidence, that:

3
4 (i) Petitioner has corrected the conduct that
5 formed the basis for the revocation of petitioner's license
6 and that petitioner is able to safely, skillfully and
7 competently resume the practice of medicine; or

8
9 (ii) Petitioner has fulfilled all conditions or
10 complied with all restrictions imposed upon petitioner by
11 any prior order of the board, has otherwise corrected the
12 conduct or condition which formed the basis for the
13 restrictions or conditions placed on petitioner's license
14 and is able to safely, skillfully and competently practice
15 medicine in this state.

16
17 **33-26-407. Judicial review.**

18
19 (a) Judicial review of the findings of the board may
20 be obtained pursuant to the Wyoming Administrative
21 Procedure Act. All final administrative orders of the board
22 shall remain effective pending any ~~administrative~~ and
23 judicial ~~appeal~~ review, except where the board finds that

1 the licensee's continued practice presents no danger to the
2 public.

3

4 (b) In any disciplinary proceeding against a
5 licensee, ~~or a person charged with practicing medicine~~
6 ~~without a license,~~ the board shall bear the burden of
7 proving a violation of this act by ~~a preponderance of the~~
8 clear and convincing evidence.

9

10 **33-26-408. Protected action and communication.**

11

12 (c) ~~All board records except final orders are not~~
13 ~~subject to public disclosure or discovery and are not~~
14 ~~admissible in any nonboard proceeding except when necessary~~
15 ~~for further board action or upon judicial review of a board~~
16 ~~order.~~ Final findings of fact, conclusions of law, orders of
17 the board entered and any consent decree, stipulation or
18 agreement to which the board is a party in any disciplinary
19 docket of the board are public documents. The board may
20 order, under special circumstances and upon entry of
21 specific findings setting forth those circumstances, that a
22 consent decree, stipulation or agreement to which the board
23 is a party in any disciplinary docket is not a public
24 document.

1

2 (d) The board shall promptly report ~~any board action~~
3 ~~taken which limits the privileges of a licensee~~ and provide
4 all final orders entered by it to the chief of the medical
5 staff and hospital administrator of each hospital in which
6 the licensee has medical staff privileges. ~~The board shall~~
7 ~~report any board action taken which limits the privileges~~
8 ~~of a licensee~~ and to all appropriate agencies including the
9 federation of state medical boards, the national
10 practitioner data bank and other state medical boards.

11

12 (e) This ~~subsection~~ section shall not be construed to
13 prohibit the United States or the state of Wyoming from
14 obtaining information from the board concerning a physician
15 who is the subject of a criminal investigation. Upon
16 petition to a state or federal district court, supported by
17 affidavit, the judge may order the Wyoming board of
18 medicine to release records of any proceedings, testimony
19 of witnesses and reports or investigation for in-camera
20 inspection by the judge, or the judge may deny the petition
21 for failure to show good cause. The petition shall state
22 the nature of the criminal investigation and the identity
23 of the physician who is under investigation. If the judge
24 grants the petition and orders the board to produce the

1 board's records for in-camera inspection, the board shall
2 comply within ten (10) days after entry of the order or as
3 otherwise ordered by the court. Upon receipt of the
4 records, the judge shall inspect them to determine what
5 material, if any, is relevant to the criminal
6 investigation. Material deemed to be relevant shall be
7 made available to the investigation if otherwise admissible
8 under the Wyoming Rules of Evidence. All records and
9 material deemed by the court to be irrelevant or otherwise
10 inadmissible under the Wyoming Rules of Evidence shall be
11 returned to the board and the contents thereof shall not be
12 divulged.

13

14 (f) The following documents are not public documents
15 and are not subject to disclosure by the board to any
16 person or entity nor are they subject to discovery in any
17 civil or administrative action or admissible in any
18 nonboard proceeding except when necessary for further board
19 action, in any action in which the board may be named as a
20 party or upon judicial review of a board order:

21

22 (i) Investigative notes, attorney's notes and
23 work product and reports, pleadings, correspondence,
24 witness statements and deposition transcripts and copies of

1 original medical and prescription records in the possession
2 of the board, whether acquired by the board, by any agent
3 of the board or by any agency that has cooperated with or
4 provided information to the board regarding the
5 investigation of a disciplinary docket; and

6
7 (ii) Any and all records of the board regarding
8 licensure applications and proceedings thereon.

9
10 (g) A respondent in a disciplinary case shall not be
11 entitled to copies of investigative material unless the
12 material is relevant to an ongoing investigation or a
13 contested case hearing.

14
15 (h) The confidentiality of all documents and
16 information described in this section shall exist and
17 continue regardless of whether the confidential material is
18 in the custody of any agency of the United States or any
19 other agency of the state of Wyoming with whom the board
20 has cooperated or is cooperating in an investigation.

21
22 (j) This section shall not be construed to prohibit
23 the board from publishing in a directory or otherwise
24 disclosing, general information about its licensees and

1 former licensees including names, practice addresses, dates
2 of licensure, licensure by other states, areas of practice,
3 education, training and specialty board certifications.

4
5 **33-26-409. Health care entity reports required;**
6 **malpractice.**

7
8 (a) Each health care entity shall report:

9
10 (i) Any action ~~taken~~ it takes against a licensee
11 on the grounds that the licensee is impaired, or has
12 engaged in conduct constituting a ground for disciplinary
13 action in W.S. 33-26-402;

14
15 (ii) ~~On physicians when the entity~~ Any action
16 that:

17
18 (A) ~~Takes a professional action that~~
19 Adversely affects the clinical privileges of a ~~physician~~
20 licensee for a period exceeding thirty (30) days;

21
22 (B) Accepts the surrender of a physician's
23 clinical privilege:

24

1 (I) While the ~~physician~~licensee is
2 under investigation by the entity for possible incompetence
3 or improper professional conduct; or

4
5 (C) In the case of an entity which is a
6 professional society, takes a professional review action
7 which adversely affects the membership of a ~~physician~~
8 licensee in the society.

9
10 (c) Each insurer providing health care professional
11 liability insurance in this state shall report to the board
12 all claims for which a reserve has been established against
13 a licensee. Reports required by this subsection shall be
14 made within sixty (60) days of the time the claim comes to
15 the attention of the insurer.

16
17 (d) Other reports required by this section shall be
18 made within ninety (90) days of the time the claim comes to
19 the attention of the person responsible for reporting.
20 ~~them. Claims shall be reported whether or not the person~~
21 ~~believes the claim is valid.~~ Reports shall be in the form
22 and contain information required by the board. Any entity
23 or person subject to the reporting requirements of this
24 section shall be subject to a fine up to one hundred

1 dollars (\$100.00) for each violation of this section. Each
2 day that a requirement of this section is not met shall
3 constitute a separate violation. In the event that the
4 board is required to bring a civil action to enforce this
5 section, the violating party shall additionally be liable
6 to the board for all reasonable attorney's fees and costs
7 incurred by the board in prosecuting the action.

8
9 **33-26-410. Effect of violation.**

10
11 (c) The attorney general, the board, any county or
12 district attorney or any citizen may obtain an injunction
13 in the name of the state of Wyoming upon the relation of a
14 complainant enjoining any person from engaging in the
15 practice of medicine without a license. ~~or contrary to any~~
16 ~~provision of this chapter.~~ The district court of the
17 district in which the offending person resides or the
18 district court of Laramie county has original jurisdiction
19 of any such injunction proceedings. Any defendant who is
20 enjoined and who thereafter violates the injunction shall
21 be punished for contempt of court by a fine of not less
22 than two hundred dollars (\$200.00) or more than one
23 thousand dollars (\$1,000.00) or by imprisonment in the
24 county jail for not less than six (6) months or not more

1 than one (1) year, or both. An injunction may be issued
2 without proof of actual damage sustained and upon proof of
3 one (1) or more acts constituting practice of medicine
4 without a license. ~~or in violation of this chapter~~ The
5 standard of proof of any violation of this subsection shall
6 be by a preponderance of the evidence.

7
8 **33-26-501. Definitions.**

9
10 (a) As used in this article:

11
12 (iii) "Physician assistant" means any person
13 who:

14
15 (A) Graduates from a physician assistant
16 education program approved by ~~the commission on~~
17 ~~accreditation of allied health education programs~~ CAAHEP or
18 its predecessor or successor agency;

19
20 (B) Satisfactorily completes a
21 certification examination administered by ~~the National~~
22 ~~Commission on the Certification of Physician Assistants~~
23 NCCPA or other national physician assistant certifying
24 agency established for such purposes which has been

1 reviewed and approved by the board, and is currently
2 certified;

3

4 (iv) "Certification examination" means the
5 initial certifying examination approved by the board for
6 the certification of physician assistants including, but
7 not limited to, the examination administered by ~~the~~
8 ~~National Commission on the Certification of Physician~~
9 ~~Assistants~~ NCCPA or other national physician assistant
10 certifying agency established for such purpose which has
11 been reviewed and approved by the board;

12

13 (v) "Supervising physician" means a:

14

15 (A) Board-approved physician who utilizes
16 and agrees to be responsible for the medical acts of an
17 approved physician assistant; or

18

19 (viii) "CAAHEP" means the commission on
20 accreditation of allied health education programs;

21

22 (ix) "CAHEA" means the committee on allied
23 health education association;

24

1 (x) "NCCPA" means the national commission on the
2 certification of physician assistants.

3
4 **33-26-503. Board powers and duties.**

5
6 (a) The board shall pass upon the qualifications and
7 determine the fitness of all persons desiring to ~~serve~~
8 practice as physician assistants.

9
10 (b) The board shall:

11
12 (vi) Retain jurisdiction over only those
13 licensees to whom temporary or full licenses were granted,
14 regardless of whether the license expired, lapsed or was
15 relinquished during or after the alleged occurrence of
16 conduct proscribed in W.S. 33-26-508 by the licensee.

17
18 **33-26-504. License required; application;**
19 **qualifications; consideration of applications.**

20
21 (b) The board may grant a physician assistant license
22 to an applicant who:

1 (ii) Has graduated from a physician assistant
2 program accredited by ~~the commission on accreditation of~~
3 ~~allied health education programs (CAAHEP)~~ CAAHEP or its
4 successor organization;

5
6 (iii) Has satisfactorily completed a
7 certification examination administered by ~~the National~~
8 ~~Commission on the Certification of Physician's Assistants~~
9 NCCPA or other national certifying agency established for
10 such purposes which has been reviewed and approved by the
11 board and is currently certified;

12
13 **33-26-506. Term of license; renewal; duplicates.**

14
15 (a) All licenses other than temporary licenses expire
16 annually on December 31. A physician assistant may renew
17 his license by sending his signature, current address,
18 information requested by the board and renewal fee to the
19 board prior to expiration of his current license.

20
21 (c) A physician assistant may apply to the board for
22 a duplicate license if his license is stolen, lost or
23 destroyed. Upon proof of proper identification and
24 submission of such other information as the board may

1 require, the board shall issue a duplicate license bearing
2 on its face the word "DUPLICATE" and establish and require
3 payment of appropriate charges for a duplicate license.

4
5 **33-26-507. License fees.**

6
7 (a) The board shall, by regulation set appropriate
8 license application, renewal and reactivation fees, ~~not~~
9 ~~exceeding the following amounts:~~ examination fees and fees
10 for information verification or document production and
11 other services of the board to be charged under this
12 chapter.

13
14 **33-26-508. Suspension, restriction, revocation or**
15 **nonrenewal of license.**

16
17 (a) ~~Following a contested case hearing~~ The board may
18 ~~deny or revoke a license on the following~~ refuse to renew,
19 and may revoke, suspend or restrict a license or take other
20 disciplinary action, including the imposition of conditions
21 or restrictions upon a license on one (1) or more of the
22 grounds+ enumerated under W.S. 33-26-402(a)(i) through (x),
23 (xii) and (xiv) through (xxxiv) provided that each
24 reference in W.S. 33-26-402(a) to the "practice of

1 medicine," "practice medicine," or like phrase shall be
2 deemed the "practice as a physician assistant" for purposes
3 of this section.

4
5 (b) ~~The board may assess all or part of the costs of~~
6 ~~the contested case proceeding against a disciplined~~
7 ~~physician assistant~~ Upon a finding of ineligibility for
8 licensure, refusal to grant, suspension, restriction,
9 refusal to renew or revocation of a license under
10 subsection (a) of this section, the board shall adopt and
11 enter its written order and findings.

12
13 **33-26-509. Reinstatement.**

14
15 (a) Except as provided in subsection (b) of this
16 section, any person whose license has been ~~relinquished or~~
17 ~~revoked,~~ restricted or suspended under this chapter,
18 voluntarily or by action of the board, may petition for
19 reinstatement ~~at intervals~~ of his license or for removal of
20 any restrictions or conditions placed upon his license
21 pursuant to W.S. 33-26-508 not less than ~~one (1) year six~~
22 ~~(6) months~~ after ~~the board enters its final order~~ judicial
23 review of a board order revoking, restricting or suspending
24 the petitioner's license or six (6) months after the date

1 of the board order if there is no judicial review or six
2 (6) months after the date of the board agreement to accept
3 a relinquished, restricted or conditioned license. The
4 petitioner shall submit a written petition ~~stating reasons~~
5 ~~and containing information demonstrating to the board's~~
6 ~~satisfaction that he is able to safely, skillfully and~~
7 ~~competently resume practice as a physician assistant.~~ The
8 ~~petitioner may request a contested case hearing if the~~
9 ~~board refuses to grant the petition~~ to the board that, at a
10 minimum, sets forth and provides information regarding the
11 petitioner's fulfillment of any and all conditions or
12 compliance with all restrictions imposed upon petitioner by
13 any prior order of the board or success in correcting the
14 conduct that formed the basis for revocation of
15 petitioner's license.

16
17 (c) The burden of proof upon the petitioner at the
18 hearing shall be to demonstrate, by a preponderance of
19 evidence, that:

20
21 (i) Petitioner has corrected the conduct that
22 formed the basis for the revocation of petitioner's license
23 and that petitioner is able to safely, skillfully and
24 competently resume practice as a physician assistant; or

1

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(ii) Petitioner has fulfilled all conditions or complied with all restrictions imposed upon petitioner by any prior order of the board, has otherwise corrected the conduct or condition which formed the basis for the restrictions or conditions placed on petitioner's license and that petitioner is able to safely, skillfully and competently practice as a physician assistant in this state.

(d) Upon receipt of a petition that contains the information required by subsection (a) of this section, the board shall set the matter for a contested case hearing in accordance with the provisions of the Wyoming Administrative Procedure Act.

(e) After a hearing conducted pursuant to subsection (c) of this section, the board shall issue specific findings of facts, conclusions of law and a final order:

(i) Reinstating the license;

(ii) Reinstating the license subject to restrictions or conditions;

1

2

(iii) Removing or modifying the restrictions or conditions of the license; or

4

5

(iv) Denying reinstatement of the license or removal of the restrictions or conditions on the license.

7

8

(f) Any final order issued by the board shall be subject to judicial review as provided for by W.S. 33-26-407.

10

11

12

(g) If the board denies a reinstatement or removal of restrictions or conditions, future petitions for reinstatement or removal of restrictions or conditions may be submitted not less than one (1) year after the board's final order denying reinstatement or removal of restrictions or conditions.

18

19

33-26-510. Prescription of drugs.

20

21

(c) A physician assistant may prescribe medications only as an agent of the supervising physician. A physician assistant may not prescribe schedule ~~II through schedule V~~ I drugs as defined by W.S. ~~35-7-1015~~ 35-7-1013 through

24

1 ~~35-7-1022~~35-7-1014. The supervising physician may delegate
2 authority to the physician assistant to dispense
3 prepackaged medications in rural clinics when pharmacy
4 services are not physically available. The board shall,
5 after consultation with the state board of pharmacy,
6 promulgate rules and regulations governing the prescription
7 of medications by a physician assistant.

8

9 **Section 3.** W.S. 33-26-102 (a) (xvii) (A),
10 33-26-103(a) (ix), 33-26-302(b) through (f), 33-26-303(a) (i)
11 and (iii), 33-26-305 (b), 33-26-307 (a) (i) through (vii),
12 33-26-402 (a) (xxvii) (A), (xxix) and (xxx), 33-26-502 (c),
13 33-26-504 (b) (i), 33-26-506 (d), 33-26-507 (a) (i) through
14 (iii) and 33-26-508 (a) (i) through (viii) and (c) are
15 repealed.

16

17 **Section 4.** This act is effective July 1, 2003.

18

19

(END)