



## Certification Page Regular and Emergency Rules

Revised June 2013

**Emergency Rules** (After completing all of Sections 1 and 2, proceed to Section 5 below)

**Regular Rules**

| <b>1. General Information</b>   |  |   |   |
|---|--|---|---|
| a. Agency/Board Name<br>Department of Administration & Information  |  |   |   |
| b. Agency/Board Address<br>130 Hobbs Ave., Suite A  |  | c. City<br>Cheyenne                         | d. Zip Code<br>82002  |
| e. Name of Contact Person<br>Kevin Bohnenblust  |  | f. Contact Telephone Number<br>307-778-7053 |   |
| g. Contact Email Address<br>kevin.bohnenblust@wyo.gov   |  | h. Adoption Date<br>April 11, 2014          |   |
| i. Program<br>Board of Medicine   |  |   |   |
| <b>2. Rule Type and Information:</b> For each chapter listed, indicate if the rule is New, Amended, or Repealed.  |  |   |   |
| If "New," provide the Enrolled Act numbers and years enacted:   |  |   |   |
| c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed<br><i>(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)</i> |  |   |   |
| Chapter Number:<br>1  | Short Title:<br>License Eligibility, Application and Interviews                                | <input type="checkbox"/> New                | <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed |
| Chapter Number:<br>2  | Short Title:<br>Examination for Licensure  | <input type="checkbox"/> New                | <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed |
| Chapter Number:<br>3  | Short Title:<br>Practice of Medicine   | <input type="checkbox"/> New                | <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed |
| Chapter Number:<br>4  | Short Title:<br>Rules of Practice and Procedure for Disciplinary Complaints Against Physicians | <input type="checkbox"/> New                | <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed |
| Chapter Number:<br>5  | Short Title:<br>Rules of Practice and Procedure for the Licensure of... Physician Assistants   | <input type="checkbox"/> New                | <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed |
| Chapter Number:<br>6  | Short Title:<br>Miscellaneous  | <input type="checkbox"/> New                | <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed |
| Chapter Number:<br>7  | Short Title:<br>Rules of Practice and Procedure for... Disciplinary Proceedings                | <input type="checkbox"/> New                | <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed |
| Chapter Number:   | Short Title:   | <input type="checkbox"/> New                | <input type="checkbox"/> Amended <input type="checkbox"/> Repealed            |
| Chapter Number:   | Short Title:   | <input type="checkbox"/> New                | <input type="checkbox"/> Amended <input type="checkbox"/> Repealed            |
| Chapter Number:   | Short Title:   | <input type="checkbox"/> New                | <input type="checkbox"/> Amended <input type="checkbox"/> Repealed            |
| d. <input checked="" type="checkbox"/> The Statement of Reasons is attached to this certification.  |  |   |   |
| e. If applicable, describe the <b>emergency</b> which requires promulgation of these rules without providing notice or an opportunity for a public hearing:   |  |   |   |

**3. State Government Notice of Intended Rulemaking**

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the **Secretary of State:** February 4, 2014

b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Legislative Service Office:** February 4, 2014

c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Attorney General:** February 4, 2014

**4. Public Notice of Intended Rulemaking**

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.  Yes  No  N/A

b. A public hearing was held on the proposed rules.  Yes  No

|           |                 |               |                    |  |
|-----------|-----------------|---------------|--------------------|--|
| If "Yes:" | Date: 4/11/2014 | Time: 9:30 AM | City: Cheyenne, WY | Location: Board of Medicine<br>130 Hobbs, Ste A<br>Cheyenne, WY<br>82009 |
|-----------|-----------------|---------------|--------------------|--|

**5. Final Filing of Rules**


a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature:** 4/21/2014

b. Date on which final rules were sent to the **Legislative Service Office:** 4/21/2014

c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State:** 4/21/2014

**6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct.

|  |   |
|--|---|
| Signature of Authorized Individual<br><i>(Blue ink as per Rules on Rules, Section 7)</i> |  |
| Printed Name of Signatory  | Kevin D. Bohnenblust  |
| Signatory Title  | Executive Director  |
| Date of Signature  | April 21, 2014  |

**7. Governor's Certification**

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

|                      |  |
|----------------------|--|
| Governor's Signature |  |
| Date of Signature    |  |

**Attorney General:** 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

**LSO:** 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules: clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

**SOS:** 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

# Wyoming Board of Medicine

*Serving the public and practitioners since 1905*

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Matthew H. Mead  
Governor

## WYOMING BOARD OF MEDICINE RULES AND REGULATIONS STATEMENT OF PRINCIPAL REASONS

January 2014

The proposed rules address all areas of the Board of Medicine's activities, including licensure and discipline of both physicians and physician assistants. Key elements of the changes proposed by the Board are:

1. Streamlining regulations pursuant to Governor Mead's directive. With these modifications, the Board's regulations will be reduced by 9,071 words (a 31% drop) and 26 pages (a 32% reduction). Changes include:
  - Eliminating extraneous language and antiquated provisions in the Board's Rules.
  - Consolidating separate rules for disciplinary proceedings against physicians (Chapter 4) and physician assistants (Chapter 5, § 15) into a single, new chapter (Chapter 7).
  - Consolidating all definitions in the Board's Rules into Chapter 1.
  - Deleting definitions and provisions that duplicate those in the Wyoming Medical Practice Act (WYO. STAT. §§ 33-26-101, *et seq.*).
  - Providing definitions for terms commonly used in the Rules and not otherwise defined elsewhere.
  - Placing requirements for reinstatement of a license in the chapter related to disciplinary proceedings.
2. Providing that expedited temporary medical licenses shall be valid not more than 180 days, and clarifying the ability of the Executive Director to issue expedited temporary medical licenses to well-qualified applicants.
3. Clarifying that physicians working under an emeritus license may receive nominal compensation working in a non-profit facility.
4. Updating the Rules governing licensure of physician assistants by:
  - Setting procedures for electing officers of the Physician Assistant Advisory Council, and setting term lengths and limits for members of the Council.
  - Establishing a process for expedited temporary licensure of well-qualified physician assistant applicants based on the model successfully used for expedited temporary licensure of physician applicants.
  - As part of the expedited licensing process, modifying the fees charged for physician assistant licensing applications by combining the current \$200

application fee and \$100 fee for a temporary license into a single, \$250 fee, saving applicants \$50 each. The changes also adjust the surcharge for using a paper application fee to equal 10 percent of the application fee – a change from \$20 to \$25.

- Eliminating the distinction between “primary” and “back-up” supervising physicians for physician assistants to better reflect current practice and supervisory models.
  - Establishing minimum patient chart review requirements for physician assistant supervision agreements.
  - Creating a system for physician assistants to work in emergency situations under physicians who are not previously approved by the Board to supervise them.
5. Streamlining the investigation and disciplinary processes of the Board by:
- Speeding the review of complaints against licensees by giving staff the authority to make initial review and investigation prior to review by the Board officers.
  - Enabling quicker disciplinary proceedings by permitting the Hearing Officer to conduct evidentiary hearings to compile a record for the hearing panel of Board members to review.
  - Clarifying the records of complaints, investigations and licensee discipline to be maintained by the Board.

As required by WYO. STAT. ANN. § 16-3-103(a)(i)(G), these proposed rules meet minimum substantive state statutory requirements.

**CHAPTER 1**  
**LICENSE ELIGIBILITY, APPLICATION AND INTERVIEWS**

**Section 1. Authority.**

These rules are promulgated pursuant to authority granted by the Act and the APA.

**Section 2. Purpose.**

The rules in this chapter are adopted to establish definitions to be used in the Board's rules, establish procedures to determine eligibility for licensure as a physician, set requirements for physician license applications, establish procedures and requirements for temporary, training and inactive physician licensure and license renewal and establish procedures and criteria for interviews of physician license applicants.

**Section 3. Definitions.**

The definitions contained in the Act and the APA are incorporated herein by this reference. In addition, the following definitions of terms used in all chapters of the rules promulgated under the Act shall apply :

- (a) "A.B.M.S." means the American Board of Medical Specialties.
- (b) "Active practice of medicine" means the practice of medicine and provision of clinical or population-based care for an average of not less than twenty (20) hours per week in any consecutive twelve (12) month period.
- (c) "Advisory council" means the advisory committee to the board of medicine on matters related to physician assistants created pursuant to W.S. 33-26-503(b)(v).
- (d) "Affidavit" means a written, notarized statement of facts made voluntarily under oath.
- (e) "A.M.A." means the American Medical Association.
- (f) "A.P.A." means the Wyoming Administrative Procedure Act, W.S. 16-3-101, *et seq.*
- (g) "Applicant" means any person who has applied to the board for issuance, renewal, or reactivation of a license.
- (h) "Application" means a written submission to the board on a form approved by the board, and any accompanying documents.

(i) “Attending Physician” means a physician licensed by the Board who has established a physician/patient relationship;

(j) “B.O.S.B.O.C.” means the Bureau of Osteopathic Specialists and Boards of Certification.

(k) “Clean application” means that the physician applicant has none of the following:

(i) Professional liability insurance settlement(s) or payment(s) in excess of \$50,000 individually or \$100,000 in the aggregate;

(ii) Criminal record;

(iii) Medical condition(s) which could affect the physician’s ability to practice safely;

(iv) Licensing or regulatory board complaint(s), investigation(s), or action(s) (including withdrawal of a licensure application);

(v) Adverse action taken by a health care entity;

(vi) Investigation(s) or action(s) taken by a federal agency, the United States military, medical society or association; or,

(vii) Suspension or expulsion from, or disciplinary action in, any academic program, including medical school, residency program or fellowship program.

(l) “CLIA waived tests” means those medical tests that are exempt from federal Clinical Laboratory Improvement Amendments requirements.

(m) “C.M.E.” means continuing medical education.

(n) “Complainant” means any identified person, persons, association or entity, including the board or an individual member of the board, or the board staff, who communicates to the board alleging facts, which may constitute a violation of the Act by a licensee.

(o) “Complaint” means a communication received by the board which alleges sufficient to determine the identity of the licensee who allegedly engaged in the conduct, whether the alleged conduct falls within the board’s jurisdiction, and whether the alleged conduct may constitute a violation of the Act.

(p) “Complaint file” means a confidential record of an initial complaint and information received or produced in the screening and investigation of a complaint.



(q) “Consults” means participates in an ongoing, documented consultative relationship including at least one Wyoming licensed, attending physician.

(r) “Core application documents” means the following:

(i) The required application form(s) and appropriate fee(s);

(ii) Form and supporting document(s) demonstrating proof of legal presence in the U.S. pursuant to 8 U.S.C. § 1601, *et seq.*;

(iii) an FSMB Board Action Databank report; and,

(iv) an NPDB report.

(s) “Costs” means those expenses incurred in a hearing to deny, refuse to renew, reactivate, reinstate, revoke, restrict, place conditions upon, or suspend a license pursuant to W.S. 33-26-405(a)(viii) and includes, but is not limited to, reasonable attorneys’ fees incurred by the board, hearing officer fees, service fees, subpoena fees, reporter fees, lay and expert witness and consultant fees, travel and per diem expenses, deposition costs and other costs and expenses incurred in the investigation, discovery, preparation and hearing of any disciplinary matter.

(t) “Delegate” means transfer authority for the performance of a medical task.

(u) “Delegating physician” means a Wyoming-licensed physician who delegates duties to provide health care services to a medical assistant.

(v) “Docket file” means a confidential record of each board proceeding pertaining to a petition filed before the board or a denial of an application, and the reasons and grounds for each and every step in the disciplinary or appeal process, commencing with the first notice of complaint by any complainant or final order in a denial action. The docket file shall reflect every action in the proceeding.

(w) “Executive director” means a non-board member hired by the board pursuant to W.S. 33-26-203(a) and authorized to coordinate and direct board functions.

(x) “FSMB” means the Federation of State Medical Boards of the United States, Inc.

(y) “He,” “his” and all other male pronouns shall be construed as including the corresponding female pronoun.

(z) “Hearing officer” means an attorney experienced in administrative law appointed by the board to perform those functions set forth in W.S. 16-3-112(b) and these rules in a contested case.

(aa) “Hearing panel” means the members of the board who hear and render a decision in a disciplinary case.

(bb) “HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

(cc) “HIPAA privacy rule” means the federal regulations related to the privacy of protected health information at 45 C.F.R. 160 and 164.

(dd) In addition to the definition set forth in the Act, “impaired” means a person who is unable to practice medicine with reasonable skill and safety to patients by reason of professional incompetence.

(ee) “Indeterminate scores” means passing level examination scores that cannot be certified as representing a valid measure of an examinee’s competence in the domains assessed by the test. Indeterminate scores may result from irregular behavior, or they may be due to other factors such as examinee illness during part of an examination. Inconsistency of performance within the examination, between administrations with the same step examination, or other aberrations not reasonably and/or satisfactorily explained may result in passing scores being classified as indeterminate. If irregular behavior is determined to affect score validity, resultant passing scores are considered indeterminate.

(ff) “Informal interview” means a confidential meeting with a licensee and interviewers in which the specification of charges, defenses and responses are discussed after initial screening of the complaint and prior to a contested case hearing.

(gg) “Interviewers” are members of the board, and a member of the advisory council if the licensee is a physician assistant, appointed by the board president, or in his or her absence, the vice president, to investigate a complaint against a licensee, conduct an informal interview with the licensee, and make recommendations to the board officers for further board action.

(hh) “Interview date” means the day designated by the board for the licensure interview.

(ii) “Irregular behavior” means all actions on the part of applicants and/or examinees that subvert or attempt to subvert the examination process. Specific examples of irregular behavior include seeking and/or obtaining access to examination materials prior to the examination, falsification of information on application or registration forms, impersonation of an examinee or engaging a proxy to take the examination, copying answers from another examinee, etc. Irregular behavior is generally identified and subsequently reported by proctors or other individuals involved in examination registration or administration or is reported by examinees or others who believe inappropriate behavior has occurred.



(jj) “Ledger” means a continual, permanent, record of all complaints received by the board. A ledger entry shall commence with the initial complaint or final order in a denial action and shall contain the date of the action or complaint, the section(s) of the Act or the board’s rules relied upon by the board as a basis for its action, the disposition of the matter, the disciplinary action taken, if any, and the date of final disposition. No information likely to disclose the identity of the complainant, applicant or respondent shall be included in the ledger.

(kk) “Legal custodian” means the executive director.

(ll) “Licensure interview” means an interview before a panel of not fewer than three (3) members of the board with an applicant who meets one or more of the criteria set forth in Chapter 1, Section 5(b)(iv) of these Rules.

(mm) “LMCC” means the Licentiate Medical Council of Canada.

(nn) “Medical assistant” means a person who does not hold a license to provide health care services issued under title 33 of the Wyoming Statutes, and is authorized and supervised by a Wyoming-licensed physician to provide health care services under limited delegation by the physician.

(oo) “Medical specialty consultant” means a person who consults with board staff, board prosecutor and interviewers or petitioners in a disciplinary action and provides specialized expertise on medical issues.

(pp) “National Boards” means the examination administered by the National Board of Medical Examiners.

(qq) “National certification” means certification of a physician assistant through the NCCPA or such other certification examination recognized by the board through examination and continuing medical education hours.

(rr) “N.B.M.E.” means the National Board of Medical Examiners.

(ss) “NBOME” means the National Board of Osteopathic Medical Examiners or the examination of graduates of the colleges of osteopathic medicine also known as the NBOME and/or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX).

(tt) “N.P.D.B” means the National Practitioner Data Bank.

(uu) “Officers” means the president, vice president and secretary of the board.

(vv) “Petition” means a formal disciplinary action filed with the Board by the

Board Prosecutor against one or more licensees on behalf of one or more petitioners.

(ww) “Petitioner” means a board or advisory council member who is appointed by the officers to act as a prosecuting party in a formal disciplinary action against one or more licensees.

(xx) “Physical address” the address of a licensee’s practice or office location, or the licensee’s home.

(yy) “Physician/patient relationship” means a relationship between a licensee and any person to whom the licensee provides any services or exhibits any conduct that constitutes practicing medicine.

(zz) In addition to the definition in the act, “practicing medicine” means any person who in any manner operates or delegates the responsibility to operate a medical device classified as a Class II or Class III medical device by the U.S. Food and Drug Administration unless operation or authorization for operation occurs in a site under the direct supervision of a person licensed under this chapter.

(aaa) “Practicing medicine” does not apply to or include:

(i) Licensed health care providers rendering medical assistance without compensation during an emergency, including, but not limited to, physician assistants who may render aid at the scene of an emergency without physician supervision;

(ii) Medical students trained in an L.C.M.E. or A.O.A. accredited or board approved school of medicine, or who are E.C.F.M.G. certified, serving as clinical clerks, residents, fellows or interns under the supervision of a physician licensed in this state;

(iii) Commissioned medical officers of the United States armed services and medical officers of the United States public health services or the veterans’ administration of the United States in the discharge of their official duties or within federally controlled facilities or enclaves, provided that such persons who are licensees of the board shall be subject to the provisions of the act and further provided that all such persons shall be the holder of a full and unrestricted license to practice medicine in one or more jurisdictions in the United States;

(iv) Any individual residing in and licensed to practice medicine in another state or country called into this state for consultation by a physician licensed to practice medicine in this state;

(v) Any individual licensed to practice medicine in another state that comes to this state to remove human organs from brain dead persons;

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

(vii) The gratuitous domestic administration of family remedies;

(viii) A health care provider licensed under any other chapter of this title engaged in the practice of the profession for which he is licensed;

(bbb) "Reactivation" means the procedures set forth in these Rules to restore an emeritus, inactive or lapsed license to active status;

(ccc) "Respondent" means a licensee named in a petition.

(ddd) "Screening" means a review by the officers of complaints received by the board.

(eee) "Sexual misconduct" means:

(i) Any behavior by a licensee which involves offers of exchange of medical services for some form of sexual gratification;

(ii) Sexual contact that occurs concurrent with the physician-patient relationship; or

(iii) Any behavior by a licensee toward a patient, former patient, another licensee, an employee of a health care facility, an employee of the licensee or a relative or guardian of a patient that exploits the position of trust, knowledge, emotions or influence of the licensee.

(fff) "SPEX" means the special purpose examination of current medical knowledge administered by the FSMB.

(ggg) "These rules" means all rules in all chapters properly adopted by the Board and currently in effect.

(hhh) In addition to the definition set forth in the Act, "unprofessional conduct" means:

(i) Improperly terminating a physician-patient relationship.

(ii) Interfering or attempting to interfere with a board investigation, whether of the licensee or another person. This includes, but is not limited to, attempting to intimidate or otherwise influence a complainant or witness to give less than full

cooperation and truthful statements to the board in the course of an investigation.

(iii) Practicing as a physician assistant outside the scope of an approved physician assistant supervisory relationship.

**Section 4. Eligibility for licensure.**

(a) General requirements.

(i) To be eligible for consideration for licensure, an applicant shall submit an application on the form or forms supplied or approved in advance by the board.

(ii) Any application, to be eligible for consideration, shall be accompanied by the required fee in immediately negotiable funds.

(iii) For an application to be considered complete, all documents, reports and related materials must be received in the board's office and meet all requirements set forth in the Act and the rules adopted by the board.

(iv) References shall be submitted on a form approved, and contain information as specified, by the board.

(A) Three (3) original references from physicians are required including at least two (2) from physicians with whom the applicant has practiced medicine within the past three (3) years. In exceptional circumstances the board may waive one (1) or more of the required reference letters. References from physicians with whom the applicant has a current or prospective financial, business or family relationship are not acceptable.

(B) All references shall be on a form prescribed by the board, dated within six (6) months of the application date and signed by the referring physician.

(C) If a submitted reference is incomplete or otherwise fails to provide sufficient information about the applicant, an applicant may be required to submit one or more references in addition to those required in subparagraph (A).

(v) An application, to be considered, shall be complete in all respects no later than fifteen (15) business days prior to the licensure interview date, should a licensure interview be required by these rules.

(vi) The board shall issue a written notice of ineligibility to any applicant who does not meet the eligibility requirements, or has otherwise failed to submit an application which meets the requirements, of the act or these rules.

(vii) Applications shall remain on active status for six (6) calendar months from the date the application document is received in the board office. The applicant is eligible for a licensure interview with the board, if one is required by these rules, at any time within the six (6) month period following the date the application is complete pursuant to Ch. 1, Section 4(a)(iii) of these rules.

(viii) Pursuant to 8 U.S.C. 1621, any applicant for licensure shall verify his or her lawful presence in the United States on a form approved or prescribed by the board.

(ix) Any applicant for licensure or renewal of licensure shall, pursuant to W.S. 33-1-114, provide his or her Social Security number as part of any application for licensure.

(b) To be eligible for consideration for licensure, an applicant shall demonstrate in his or her application that he or she meets each and all of the requirements of the act including, but not limited to, those requirements set forth in W.S. 33-26-303, and these rules.

(c) All applicants for physician licensure shall apply only through the F.C.V.S. and supply additional information as requested by the Board.

(d) Repealed.

(e) Any physician rendering medical diagnosis and/or treatment to a person physically present in this state must have a license issued by the board when such diagnosis/treatment is rendered, regardless of the physician's location and regardless of the means by which such diagnosis/treatment is rendered. This requirement shall not apply to an out-of-state physician who consults by telephone, electronic or any other means with an attending physician licensed by this board or to an out-of-state physician who is specifically exempt from licensure pursuant to W.S. 33-26-103.

(f) Repealed.

(g) Repealed.

(h) All applicants for physician licensure shall have completed all three parts of the examination in a period of not more than seven years (eight years for applicants who have been in a combined D.O. or M.D./Ph.D. program), and shall have taken the three parts of the examination a total of not more than seven times. Persons who have taken the three parts of the examination more than a total of seven times or who have taken more than seven years (eight years for applicants who have been in a combined D.O. or M.D./Ph.D. program) to pass all three parts of the examination shall not be eligible for licensure unless and until they successfully complete either one (1) year of post graduate training in addition to that required in W.S. 33-26-303(a)(iv), or one (1) or

more other comprehensive and suitably-rigorous assessment, training and evaluation programs after passage of all parts of the examination.

(i) Reserved.

(j) All applicants for licensure other than a training license must demonstrate one (1) or more of the following:

(A) Successful completion of not less than two (2) years of postgraduate training in an A.C.G.M.E., A.O.A. or R.C.P.S.C. accredited program; or,

(B) Successful completion of not less than one (1) year of postgraduate training in an A.C.G.M.E., A.O.A. or R.C.P.S.C. accredited program and:

(1) Current certification by a medical specialty board that is a member of the A.B.M.S. or the B.O.S.B.O.C.; or

(2) Continuous full and unrestricted medical licensure in good standing in one or more states and/or the District of Columbia for the preceding five (5) years.

#### Section 5. **Licensure.**

Pursuant to statute, the board may issue the following:

(a) Licenses to practice medicine.

(i) A license to practice medicine, subject to annual renewal.

(ii) A temporary license to practice medicine pursuant to W.S. 33-26-304(a).

(iii) A restricted or conditional license to practice medicine.

(iv) An inactive license. Inactive licenses are available for physicians currently licensed in Wyoming who do not intend to practice medicine, write prescriptions or engage in clinical activity. The Board may grant an inactive license to practice medicine if, in addition to meeting all eligibility requirements of W.S. 33-26-303, the applicant files a verified affidavit with the board attesting that: (1) he shall not see patients or perform procedures in a clinical or office setting for any type of remuneration, (2) he shall not in any way hold himself out as actively engaged in the active practice of medicine, and (3) he shall submit written confirmation to the board on an annual basis confirming that such inactive status is ongoing. An inactive license exempts the licensee from continuing medical education requirements described in Chapter 3, Sec. 7 of these rules. A holder of an inactive license may not prescribe

medications. Licensees claiming inactive status who receive remuneration for providing clinical services, or who prescribe any medication, may be subject to discipline pursuant to W.S. 33-26-402(a)(xxvii).

(v) An emeritus license. Emeritus licenses are available for retired physicians who hold a current Wyoming license to practice medicine and wish to provide clinical care in Wyoming without remuneration or for nominal remuneration in a non-profit facility. Such license may issue to an applicant who provides proof that he is retired from the active practice of medicine, provides proof that he has maintained a license in good standing in Wyoming or another jurisdiction of the United States or Canada for a period of not less than ten (10) years prior to applying for the emeritus license, and signs a notarized statement he will not accept any form of remuneration for medical services rendered in Wyoming while in the possession of an emeritus license, or that he is receiving only nominal remunerations for providing medical care in a non-profit facility. As part of the application process, an applicant for an emeritus medical license who does not hold a current Wyoming license shall complete all requirements for issuance of a Wyoming medical license set forth in W.S. 33-26-303. If a licensure interview is required pursuant to subsection (b) of this rule, such interview may be conducted by one (1) board member and, if deemed appropriate by the board officers, may be conducted by telephonic means.

(A) Physicians possessing an emeritus medical license shall:

(I) Annually sign an affidavit affirming that their medical practice continues to be without remuneration or is for nominal remuneration in a non-profit facility; and

(II) Even though physicians holding an emeritus license are not engaged in active clinical practice, the Board expects that they will engage in life-long learning activities to maintain a base of medical knowledge and skills. Therefore, the requirements for continuing medical education noted in Ch. 3, sec. 7 of these rules apply to emeritus licenses. Continuing medical education may also be satisfied by documented emeritus clinical service in a non-profit health care facility, such clinical service to be credited at one (1) hour of continuing medical education credit for every five (5) hours of clinical service, up to a maximum of ten (10) hours of continuing medical education credit per calendar year.

(B) The board shall require no fees for the application for, or renewal of, an emeritus medical license.

(vi) Training license. A medical training license issued pursuant to W.S. 33-26-304(c) to an applicant who meets all of the requirements of such statute and these rules.



(A) First-year training license (“T-1”). An applicant who is in the first year of enrollment in an A.C.G.M.E. or A.O.A. accredited residency program located in this state may be issued a first-year training license (“T-1” license). The holder of a T-1 license may not practice medicine outside of the duties assigned as part, and under the supervision of the faculty, of the residency program (i.e. “moonlight”). The holder of a T-1 license may not independently prescribe any legend drugs or medications, and may only prescribe legend drugs or medications with the co-signature of a physician holding an active license in good standing in this state. The prohibition on prescribing does not apply to orders written under the supervision of a licensed attending physician for patients receiving inpatient care. The T-1 license expires on June 30th of each year, and may not be renewed.

(B) Second-year training license (“T-2”). An applicant who has successfully completed not less than one (1) year in an A.C.G.M.E. accredited residency program and is enrolled in an A.C.G.M.E. or A.O.A. accredited residency program located in this state as a second- or third-year resident may be issued a second-year training license (“T-2” license). The holder of a T-2 license may not practice medicine outside of the duties assigned as part, and under the supervision of the faculty, of the residency program (i.e., “moonlight”) except as specified in paragraph (H) below. The holder of a T-2 license may independently prescribe legend drugs and medications, subject to all applicable laws and regulations. The T-2 license expires on June 30th of each year, and may be renewed only one (1) time upon applicant’s successful completion of the second year of the residency program. If the applicant meets all requirements for issuance of a regular medical license under W.S. 33-26-301(b)(i) and W.S. 33-26-303, the T-2 license may not be renewed.

(C) To qualify for a training license (T-1 or T-2), an applicant must submit the following:

I. Evidence that the applicant has graduated from a school of medicine accredited by the L.C.M.E., a school of osteopathy accredited by the A.O.A., or a Canadian-accredited school of medicine, or that the applicant has been certified by the E.C.F.M.G.;

II. Evidence that the applicant has passed steps one (1) and two (2) of the U.S.M.L.E. or the COMLEX with a two-digit score of not less than 75 on each part;

III. A copy of the applicant’s signed contract then in force with an A.C.G.M.E., or A.O.A. accredited residency program located in this state (copy of the contract must be submitted with the application);

IV. A recommendation form, as provided by the Board, signed by the director of the residency program, or his or her designee, stating that the applicant is under the supervision of the faculty of the residency program;

V. A completed application on a form provided or approved by the Board; and,

VI. The requisite fee(s) in accordance with this chapter.

(D) Applicants for a second-year (T-2) training license shall be subject to these additional requirements:

I. The applicant will use the Federation F.C.V.S. and have his packet submitted to the board at the applicant's expense;

II. The board shall query the N.P.D.B. and F.S.M.B.'s board action data bank regarding the applicant; and,

III. The applicant will submit documentation that he or she has successfully completed not less than one (1) year in an A.C.G.M.E. or A.O.A. accredited residency program and is enrolled in an A.C.G.M.E. or A.O.A. accredited residency program located in this state as a second- or third-year resident.

(E) When the application for a training license is complete, the Board's executive director shall review the application, and may take the following action:

I. Issue the training license; or

II. Refer the application to the board officers for review. The board officers may issue the training license, issue the training license subject to conditions and/or restrictions agreed upon in writing by the applicant, or deny the application for the training license. If the board officers deny the training license, the applicant may appeal that decision to the full board, which shall review the application de novo, and which may require the applicant and/or the director of the residency program to appear for an interview. The board may issue the training license, issue the training license subject to conditions and/or restrictions agreed upon in writing by the applicant, or deny the application for a training license. If the board denies the application, it shall issue an order to that effect, which shall be appealable to the district court pursuant to the Act and these Rules.

(F) Renewal of T-2 license. To renew a T-2 license, the applicant must provide documentation of the following:

I. Successful completion of the second year of an A.C.G.M.E. or A.O.A. accredited residency program;

II. A copy of the applicant's signed contract then in force with an A.C.G.M.E. or A.O.A. accredited residency program located in this state (copy of the contract must be submitted with the renewal application);

III. A recommendation form, as provided by the Board, signed by the director of the residency program, or his or her designee, stating that the applicant is under the supervision of the faculty of the residency program;

IV. A completed renewal application on a form provided or approved by the Board; and,

V. The requisite fee(s) in accordance with this chapter.

(G) Automatic termination of training license. Issuance of a training license is subject to the applicant's current enrollment in an A.C.G.M.E. or A.O.A. accredited residency program located in this state. If for any reason the holder of a training license resigns or is dismissed from, or otherwise is no longer currently enrolled in, an A.C.G.M.E. or A.O.A. accredited residency program located in this state, the training license shall immediately expire and be deemed automatically terminated without additional action by the Board.

(H) A holder of a T-2 license may practice medicine outside of the duties assigned as part of the residency program in which he or she is enrolled (i.e., "moonlight") only if these following conditions are met:

I. The holder of the T-2 license has passed Step 3 of the USMLE or COMLEX with a two-digit score of not less than 75;

II. The holder of the T-2 license receives advance written approval from the residency program director for his or her proposed "moonlighting"; and,

III. The residency program director notifies the Board in advance and in writing of the approved "moonlighting" arrangement.

(vi) Volunteer license. The board may issue a license to a physician who is in good standing in at least one (1) jurisdiction other than the state of Wyoming for the purpose of providing medical treatment as a volunteer, without compensation. An applicant for a volunteer license must complete and submit a form and documentation prescribed by the board, meet the requirements of W.S. 33-26-303, agree to comply with the Act and these rules, agree to be subject to the jurisdiction of the board, provide proof of licensure in good standing in at least one (1) jurisdiction other than the state of Wyoming, and pay the fee set by the board. A licensure interview is not required for issuance of a volunteer license. A volunteer license shall be valid for not more than twenty-one (21) consecutive days in any calendar year, and may not be renewed.

(vii) Administrative medicine license. The board may issue an administrative medicine license to a physician who meets all qualifications for licensure in the state, including payment of a fee set by the board, but who does not intend to provide medical or clinical services to or for patients while in possession of an administrative medicine license and signs a notarized statement to that effect. An administrative medicine license is subject to annual renewal.

(b) Licensure Application Processing, Review and Interviews.

(i) When an applicant's core application documents have been received by the Board and are deemed to be satisfactory, the executive director or his designee will review the application and supporting materials to determine whether a licensure interview of the applicant will be required pursuant to this rule. If the executive director or his designee determines that the applicant has been continually licensed in good standing (not including training licenses) for the preceding three (3) years in one or more states and/or the District of Columbia; and the applicant has a clean application as defined in this chapter, the executive director may, acting on behalf of the Board, issue a temporary license to the applicant pursuant and subject to Chapter 1, Section 6 of these rules, including the requirement for a complete application set forth therein. In no event shall a temporary license issued under this paragraph be valid for more than 180 days from the original date of issuance.

(ii) If an applicant is not issued a temporary license pursuant to paragraph (b)(i) of this rule, when the application is deemed complete pursuant to Section 4 of this chapter, the executive director or his designee shall review the application and supporting materials and may, acting on behalf of the Board, issue a temporary license to the applicant pursuant and subject to Chapter 1, Section 6 of these rules. If the executive director or his designee declines to issue a temporary license to the applicant, the applicant's file shall be presented to the board officers for their review. The board officers may take one (1) of the following actions:

(A) If a majority of the board officers agree, they may:

(1) Issue a temporary license to the applicant, pursuant to Chapter 1, Section 6 of these rules;

(2) Issue a temporary license to the applicant, pursuant to Chapter 1, Section 6 of these rules, subject to the requirement that the applicant appear for a licensure interview;

(3) Defer action on the application until the applicant appears for a licensure interview.

(B) If a majority of the board officers are unable to agree on one of the options in subparagraph (A), above, then action on the application will be deferred until the applicant appears for a licensure interview.

(iii) A summary of each applicant's licensure file and application will be sent to all members of the Board prior to the next regularly-scheduled board meeting, and any board member may request that the applicant appear for a licensure interview.

(iv) Licensure interviews. If an application or any information received by the Board demonstrates that an applicant is of a status or possesses one or more of the following characteristics, or if any Board member believes a licensure interview is necessary given the information contained on the application, the applicant may be required to submit to a licensure interview before a panel of not less than three (3) board members:

(A) Is seventy (70) years old or older;

(B) Has been licensed as a physician for more than thirty-five (35) years;

(C) Repealed.

(D) Has answered "Yes" to one or more questions on the application form regarding physical or mental impairment, substance or alcohol abuse, criminal convictions, liability claims, prior disciplinary actions, restrictions or conditions on medical licensure, including relinquishment or surrender of a medical license, or restriction, suspension, or resignation while under investigation, of hospital privileges;

(E) Information acquired or received by the board indicates the applicant may not possess sufficient medical training, skill or experience appropriate for the applicant's intended practice in this state;

(F) The applicant's education and/or training verification documents indicate an unexplained delay in completion of his medical education or postgraduate training;

(G) The applicant's verification documents indicate more than one attempt at passage of any examination necessary to obtain initial licensure or to maintain ongoing licensure;

(H) The applicant's verification documents indicate failure to pass board specialty recertification examinations;

(I) One or more board member(s) determine that there are issues raised by the application and/or any supporting or verification documents that should be addressed and ruled on by a panel of board members;

(J) Whose temporary license was deferred by the board officers;

(K) The applicant has not previously engaged in the active practice of medicine for a period of at least twelve (12) continuous months;

(L) The applicant has been convicted of or pled guilty or nolo contendere to a charge of driving while under the influence of an intoxicant within five (5) years of the date of his/her application;

(M) The applicant has not been engaged in the active practice of medicine in the immediately-preceding two (2) year period;

(N) Failure to fully and completely answer one or more questions on the application form or failing to answer one or more questions truthfully; or,

(O) The applicant's post graduate work and/or employment history indicate an unexplained gap.

(v) Licensure interviews shall be conducted in person (unless otherwise specifically permitted by these rules) and shall consist of oral questions by the panel of board members and oral responses by the applicant. By his or her responses to questions posed in the licensure interview, the applicant must demonstrate to the satisfaction of a majority of the board that he or she is qualified to practice medicine in this state, that (1) he or she possesses a minimum fund of general and identified scope of practice medical knowledge appropriate for the applicant's intended practice in this state, (2) he or she possesses sufficient medical training and medical experience appropriate for the applicant's intended practice in this state, (3) he or she possesses personal and professional character and integrity befitting the practice of medicine, and (4) that there are no other factors contained in the application or disclosed in the licensure interview that would demonstrate that the applicant would be unable to practice medicine in a safe and competent manner.

(vi) Following a licensure interview, the board, shall, by a recorded vote of the board members present:

(A) Grant a license;

(B) Deny the application upon stated reasons;

(C) Allow the applicant to withdraw the application;

(D) Agree in writing signed by the applicant, to the issuance of a license subject to restrictions and/or conditions; or

(E) Defer action pending successful completion by the applicant of a medical competence examination such as the special purpose examination (SPEX) and/or such other examination, review, evaluation or course of study designated by the board and/or the board's receipt, review and approval of other information requested during the interview.

(vii) If an applicant does not have a licensure interview, a full unrestricted license may be issued to the applicant only upon a majority vote of the board. The board may conduct this vote by voice vote, and may do so using a consent list showing applicants for approval.

(viii) Failure to appear for a licensure interview, regardless of whether a temporary license was issued to the applicant, may result in denial by the board of the application for licensure pursuant to W.S. 33-26-202(b)(i).

#### Section 6. **Temporary license.**

(a) Temporary license to practice medicine means a license to practice medicine for a limited duration issued pursuant to Ch. 1, Section 5(b) of these rules after application, verification and review for eligibility by the board. A temporary license is effective from the date of issuance until the later of a vote of board members on the application pursuant to these rules, or 8:00 a.m. on the first day of the next regularly-scheduled board meeting. Except as otherwise provided in this chapter, temporary licenses issued less than fifteen (15) business days prior to the next regularly-scheduled board meeting will be valid until the later of a vote of board members on the application pursuant to these rules, or 8:00 a.m. on first day of the second regularly-scheduled board meeting after issuance.

(b) Upon written request received from the holder of a temporary license not less than seven (7) days before expiration of the temporary license the executive director may extend a temporary license for an additional term no longer than the later of a vote of board members on the application pursuant to these rules, or the date of the next regularly-scheduled board meeting after extension of the temporary license. The holder of a temporary license may request no more than one (1) extension of the temporary license under this subsection.

(c) If upon review of the application of a person who is granted a temporary license under Section 5(b)(i) or 5(b)(ii)(A)(1) of this chapter one or more board members request that the holder of the temporary license appear for a licensure interview, the executive director may extend the temporary license held by that person until 8:00 a.m.



on the first day of the second regularly-scheduled board meeting after issuance of the temporary license. In no event, however, shall a temporary license issued under Section 5(b)(i) of this chapter be valid more than 180 days from the original date of issuance.

(d) All applicants who are granted a temporary license under Section 5(b)(i) of this chapter are required to submit all documentation and materials necessary to ensure that their license application is complete in accordance with Section 4 of this chapter. Failure to have a complete license application within 180 days of issuance of a temporary license may result in denial by the board of the application for licensure pursuant to W.S. 33-26-202(b)(i).

#### Section 7. **Exemption from licensure.**

(a) **Consultants.** Physicians residing in and currently licensed in good standing to practice medicine in another state or country brought into this state for consultation by a physician licensed to practice medicine in this state may practice medicine without first obtaining a Wyoming license for a total of not more than twelve (12) days in any fifty-two (52) week period and, therefore, are exempt from the licensure requirements of these rules and W.S. 33-26-103(a)(iv). Consults of longer duration or greater frequency require written advance approval of a majority of the Board officers. To qualify a consulting physician for the exemption from licensure, the physician licensed to practice medicine in this state shall notify the board, on a form published or approved by the Board, of the consultation in advance of the consulting physician practicing medicine in this state. For purposes of this subsection, the term “brought into this state” means having patient contact and establishing a physician-patient relationship, either by the physician’s physical presence with the patient or through telemedicine.

(b) **Physicians in training.** The term “medical students” in W.S. 33-26-103 (a)(ii) includes physicians trained in an LCME or AOA accredited or board approved school of medicine, or certified by the E.C.F.M.G., who are participating or serving in a program of clinical clerkship, internship, externship, residency or fellowship training under the supervision of a physician licensed by the Board. “Medical students” are exempt from the licensure requirements listed herein. Notwithstanding the foregoing, a medical student who applies for and receives a license issued by the Board shall be subject to the act and the Board’s rules and jurisdiction.

(c) **Physician assistants.** The term “persons” in W.S. 33-26-103(a)(i) specifically includes currently licensed physician assistants who may render aid at the scene of an emergency without physician supervision, such physician assistants are exempt from the licensure requirements listed herein when they are acting under such statutory authorization.

(d) **Emergencies.** Wyoming physicians and physician assistants and those physicians and physician assistants residing in and who hold full and unrestricted licenses to practice medicine or to practice as a physician assistant in another state or country who

come into this state to provide medical care during an emergency or pandemic declared as such by Order of the Governor of this state and/or pursuant to any State Emergency Plan and who comply with all requirements of the board for verification of licensure and identity, may practice medicine or practice as a physician assistant without first obtaining a Wyoming license for the period during which any such emergency or pandemic Declaration or Order remains in effect.

**Section 8. Fees.**

- (a) All fees are non-refundable.
- (b) Requested paperwork shall not be processed until appropriate fees are received by the board.
- (c) Application fees shall be paid to the board in the form of cashier’s check or money order. All other fees shall be paid to the board in the form of a check, cashier’s check or money order; however, on-line applications for licensure or renewal of licenses may be paid by credit card.

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|---|---|
| Application and initial license fee [Includes the cost of 1 NPDB report, 1 criminal record check (if necessary), temporary license (if granted) pending completion and review of licensure application at next board meeting, and initial license (if granted) through the next June 30 <sup>th</sup> ] | \$600.00 (\$500.00 for persons holding a current T-2 license) |
| Paper form license application processing fee   | \$50.00   |
| Annual renewal of license (including administrative license)  | \$250.00  |
| Paper form renewal application-processing fee   | \$25.00   |
| License renewal grace period surcharge  | \$100.00  |
| Reactivation of license [Includes the cost of 1 NPDB report, 1 criminal record check (if necessary), and license (if granted) through the next June 30 <sup>th</sup> ]  | \$400.00  |
| Reinstatement of license [Includes the cost of 1 NPDB report, 1 criminal record check (if necessary), and license (if granted) through the next June 30 <sup>th</sup> ] [Costs may also be imposed under Ch. 4, §3(k)]  | \$400.00  |
| Inactive license, conversion to (one-time fee)  | \$50.00   |
| Inactive license renewal  | No charge   |
| First-year residency training license (“T-1” license)   | \$25.00   |
| Second-year residency training license (“T-2” license)  | \$100.00  |
| Residency training license (“T-2” license) renewal  | \$100.00  |
| Volunteer license   | \$75.00   |
| Verification of license   | \$35.00   |
| Replacement of lost license – pocket size   | \$25.00   |
| License – wall size   | \$50.00   |
| Physician directory to non-licensees – per copy   | \$45.00   |

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| Physician mailing list   | \$500.00                                       |
| Physician assistant mailing list   | \$100.00                                       |
| Physician and physician assistant mailing lists  | \$550.00                                       |
| Certified copies   | First page: \$10.00<br>Additional pages: \$.50 |
| Photocopies (except certified copies), including cost of duplication of transcript(s) and administrative record in appeals from contested case hearings [Ch. 4 §4(i)(xvi)] | First page: \$2.00<br>Additional pages: \$.10  |

Section 9. Repealed.

Section 10. **License Renewal.**

(a) All physician licenses must be renewed annually no later than June 30th of each calendar year:

(b) Licensees who provide, in writing and not more than sixty (60) days after the license renewal deadline, good cause for failure to submit their application for renewal in a timely manner may be granted an extension for submitting their application, and the requisite renewal fee and license renewal grace period surcharge, of not greater than thirty (30) days by the executive director. Any request for an extension of the renewal application deadline received by the board more than sixty (60) days after the deadline may be granted an extension for submitting their application of not greater than thirty (30) days at the discretion of a majority of the board officers. Nothing herein imposes a duty on the Board or the executive director to grant an extension to any licensee.

(c) Licensees shall submit an application for renewal each year in a format or form provided by the board. The board may utilize paper or electronic forms, or a combination of both.

Section 11. **Reactivation of emeritus and inactive licenses.**

(a) A licensee holding an emeritus or inactive license may apply to reactivate it by submitting the following:

(i) An application on a form prescribed by the board;

(ii) Payment of the applicable fees established by the Board by rule;

and,

(iii) Two (2) references as described in section 4(a)(iv) of this Chapter.

(b) The holder of an inactive license must also submit proof of completion of not less than twenty (20) hours of qualified continuing medical education, as defined in

chapter 3, section 7(a) of these rules, within the preceding twelve (12) months. This subsection shall not apply to the holder of an inactive license who is otherwise exempt from the continuing medical education requirement pursuant to chapter 3, section 7(b) of these rules.

(c) Applicants who do not meet the requirements of W.S. 33-26-303 shall not be eligible to reactivate an emeritus or inactive license.

(d) Upon review of the application by the board officers and the approval of a majority thereof, the applicant's emeritus or inactive license shall be returned to active status.

(e) If the applicant possesses one or more of the characteristics enumerated in section 5(b)(iv) of this chapter, the board officers may require the applicant to appear for a licensure interview conducted pursuant to section 5(b) of this chapter. Upon completion of the licensure interview, the board shall act upon the application for reactivation of the emeritus or inactive license pursuant to section 5(b)(vi) of this chapter. If after a licensure interview the board denies reactivation of an emeritus or inactive license, the applicant may appeal that decision pursuant to W.S. 33-26-407(a).

(f) If a majority of the board officers does not approve the reactivation of an emeritus or inactive license, the applicant may file a petition with the board for review of the application in a contested case hearing conducted pursuant to the A.P.A.

#### Section 12. **Reactivation of lapsed licenses.**

(a) A licensee holding a lapsed license may apply to reactivate it by submitting the following:

- (i) An application on a form prescribed by the board;
- (ii) Payment of the applicable fees established by the Board by rule;

and,

- (iii) Two (2) references as described in section 4(a)(iv) of this Chapter.

(b) The holder of a lapsed license must also submit proof of completion of not less than sixty (60) hours of qualified continuing medical education, as defined in chapter 3, section 7(a) of these rules, within the preceding three (3) years. This subsection shall not apply to the holder of an inactive license who is otherwise exempt from the continuing medical education requirement pursuant to chapter 3, section 7(b) of these rules.

(c) Applicants who do not meet the requirements of W.S. 33-26-303 shall not be eligible to reactivate a lapsed license.

(d) Upon review of the application by the board officers and the approval of a majority thereof, the applicant's lapsed license shall be returned to active status.

(e) If the applicant possesses one or more of the characteristics enumerated in section 5(b)(iv) of this chapter, the board officers may require the applicant to appear for a licensure interview conducted pursuant to section 5(b) of this chapter. Upon completion of the licensure interview, the board shall act upon the application for reactivation of the lapsed license pursuant to section 5(b)(vi) of this chapter. If after a licensure interview the board denies reactivation of a lapsed license, the applicant may appeal that decision pursuant to W.S. 33-26-407(a).

(f) If a majority of the board officers does not approve the reactivation of a lapsed license, the applicant may file a petition with the board for review of the application in a contested case hearing conducted pursuant to the A.P.A.

### Section 13. **Applicant criminal history record check.**

(a) The board of medicine may request a criminal history record report on an applicant for licensure if:

(i) The applicant answers in the affirmative to one or more questions on the licensure application related to criminal history;

(ii) Documentation submitted with or in support of an application for licensure indicates the applicant may have a criminal history; or,

(iii) Any information received by the board indicates the applicant may have a criminal history.

(b) Upon a determination by the executive director that a criminal history record check is appropriate, a written request will be sent to the applicant along with the necessary forms for fingerprinting of the applicant. No further processing of the application will occur until the completed forms are received in the board office; however, the board office will continue to accept documentation sent in support of an application pending receipt of the completed forms for the criminal history record check.

Section 14. **Severability.** If one or more parts or sections of these rules are found to be invalid or unenforceable, the remainder shall continue in full force and effect.

# CHAPTER 1

## LICENSE ELIGIBILITY, APPLICATION AND INTERVIEWS

### Section 1. Authority.

These rules are promulgated pursuant to authority granted by ~~W.S. 33-26-20\_2(b)~~ ~~(v) the Act~~ and ~~W.S. 16-3-101 et seq.~~, the Wyoming Administrative Procedure Act (“APA”).

### Section 2. Purpose.

The rules in this chapter are adopted to establish definitions to be used in the Board’s rules, establish procedures to determine eligibility for licensure as a physician, set requirements for physician license applications, establish procedures and requirements for temporary, training and inactive physician licensure and license renewal and establish procedures and criteria for interviews of physician license applicants.

### Section 3. Definitions.

The definitions contained in ~~W.S. 33-26-102~~the Act and ~~those contained in the~~ APA are incorporated herein by this reference. In addition, the following definitions of terms used in all chapters of the rules promulgated under the Act shall apply ~~to this~~ chapter:

~~(a) — “Act” means the Wyoming Medical Practice Act, W.S. 33-26-101 et seq.~~

~~(b) — “A.O.A” means the American Osteopathic Association;~~

~~(c) — “Applicant” means a person who has fully completed and submitted an application to the board.~~

~~(d) — “Application” means a written submission to the board on a form approved by the board, and any accompanying documents.~~

~~(e) — “Attending Physician” means a physician licensed by the Board who has established a physician/patient relationship as described in Chapter 1, Section 3(m) below;~~

~~(f) — “Consults” means an ongoing, documented consultative relationship including at least one Wyoming licensed, attending physician.~~

~~(g) — Deleted.~~

~~(h) — “Health care entity” means any hospital, clinic, training program, professional society or committee of physicians or other licensed health care practitioners that follows a peer review process for the purpose of furthering quality health care;~~

~~(i) — “Impaired” means a person who is unable to practice medicine with reasonable skill and safety to patients by reason of one or more of the following:~~

~~(i) Medical or professional incompetence;~~

~~(ii) Mental illness;~~

~~(iii) Physical illness, including but not limited to deterioration through the aging process or loss of motor skills;~~

~~(iv) Chemical, alcohol or substance impairment.~~

~~(j) — “Licensure interview” means an interview before a panel of not fewer than three (3) members of the board with an applicant who meets one or more of the criteria set forth in Chapter 1, Section 5(b)(iv) of these Rules.~~

~~(k) — “Interview date” means the day designated by the board for the licensure interview.~~

~~(l) — “Lapsed” means the status of a license when the licensee fails to renew the license by the date and time set forth in Chapter 1, Section 10 of these Rules or when the holder of a temporary license fails to appear for an interview at the next board meeting following the date of issuance or fails to submit a written request for extension of a temporary license or when a written request for extension is not approved by the board. A lapsed license may be reactivated pursuant to Chapter 1, Section 12 of these Rules, as applicable. A lapsed license is not subject to reinstatement pursuant to W.S. 33-26-406.~~

~~(m) — “Physician/patient relationship” means a relationship between a physician and any person to whom the physician provides any services or exhibits any conduct that falls within the definition of “practicing medicine” set forth below.~~

~~(n) — “Practicing medicine” means any person who in any manner:~~

~~(i) — Advertises, holds out or represents to the public that he is authorized to practice medicine in this state;~~

~~(ii) — Offers or undertakes to prevent, diagnose, correct or treat, in any manner, by any means, method or device, including, but not limited to, the internet or other electronic or telephonic means any human disease, illness, pain, wound, fracture, infirmity, defect or abnormal physical or mental condition, injury, deformity or ailment, including the management of pregnancy and parturition;~~



~~(iii) — Attaches the title of M.D., D.O., physician, surgeon, osteopathic physician or osteopathic surgeon, doctor, or any other words, letters or abbreviations or any combination thereof when used in the conduct of any occupation or profession pertaining to the prevention, diagnosis or treatment of human disease or condition unless the designation additionally contains the description of another branch of the healing arts for which one holds a valid license in this state;~~

~~(iv) — Practices osteopathy;~~

~~(v) — Offers or undertakes to prescribe, orders, give or administer drugs which can only be obtained by prescription according to law;~~

~~(vi) — Renders a determination of medical necessity or appropriateness of proposed treatment; or~~

~~(vii) — Operates or delegates the responsibility to operate a medical device classified as a Class II or Class III medical device by the U.S. Food and Drug Administration unless operation or authorization for operation occurs in a site under the supervision of a person licensed under this chapter.~~

~~(vii) — “Practicing medicine” does not apply to:~~

~~(A) — Licensed health care providers rendering medical assistance without compensation during an emergency, including, but not limited to, physician assistants who may render aid at the scene of an emergency without physician supervision;~~

~~(B) — Medical students trained in an L.C.M.E. or A.O.A. accredited or board approved school of medicine, or who are E.C.F.M.G. certified, serving as clinical clerks, residents, fellows or interns under the supervision of a physician licensed in this state;~~

~~(C) — Commissioned medical officers of the United States armed services and medical officers of the United States public health services or the veterans’ administration of the United States in the discharge of their official duties or within federally controlled facilities or enclaves, provided that such persons who are licensees of the board shall be subject to the provisions of the act and further provided that all such persons shall be the holder of a full and unrestricted license to practice medicine in one or more jurisdictions in the United States;~~

~~(D) — Any individual residing in and licensed to practice medicine in another state or country called into this state for consultation by a physician licensed to practice medicine in this state;~~

~~(E) — Any individual licensed to practice medicine in another state that comes to this state to remove human organs from brain dead persons;~~

~~(F) — The treatment of disease, injury, deformity or ailments by prayer or spiritual means provided that federal and state health and sanitation laws, rules and regulations are not violated;~~

~~(G) — The gratuitous domestic administration of family remedies;~~

~~(H) — Health care providers licensed under any other chapter of this title engaged in the practice of the profession for which he is licensed;~~

~~(o) — “Reactivation” means the procedures set forth in Chapter 1, Sections 11 and 12 of these Rules to restore an emeritus, inactive or lapsed license to active status;~~

~~(p) — “Sexual misconduct” means:~~

~~(i) — Any behavior by a licensee, which involves offers of exchange of medical services for some form of sexual gratification;~~

~~(ii) — Sexual contact that occurs concurrent with the physician-patient relationship; or,~~

~~(iii) — Any behavior by a licensee toward a patient, former patient, another licensee, an employee of a health care facility, an employee of the licensee or a relative or guardian of a patient that exploits the position of trust, knowledge, emotions or influence of the licensee.~~

~~(q) — “Active practice of medicine” means the practice of medicine and provision of clinical care for an average of not less than twenty (20) hours per week in any consecutive twelve (12) month period.~~

~~(r) — “Board” means the board of medicine of the state of Wyoming and its duly authorized agents, representatives and employees.~~

~~(s) — “Board officers” means the president, vice president and secretary of the board of medicine.~~

~~(t) — “COMLEX” means the comprehensive osteopathic medical licensing examination, or any other licensing examination, administered by the national board of osteopathic medical examiners.~~

~~(u) — “E.C.F.M.G.” means the educational commission for foreign medical graduates.~~

~~(v) — “Clean application” means that the physician applicant has none of the following:~~

~~(i) — Professional liability insurance settlement(s) or payment(s) in excess of \$50,000 individually or \$100,000 in the aggregate;~~

~~(ii) — Criminal record;~~

~~(iii) — Medical condition(s) which could affect the physician’s ability to practice safely;~~

~~(iv) — Licensing or regulatory board complaint(s), investigation(s), or action(s) (including withdrawal of a licensure application);~~

~~(v) — Adverse action taken by a health care entity;~~

~~(vi) — Investigation(s) or action(s) taken by a federal agency, the United States military, medical society or association; or,~~

~~(vii) — Suspension or expulsion from, or disciplinary action in, any academic program, including medical school, residency program or fellowship program.~~

~~(w) — “Core application documents” means the following:~~

~~(i) — The required application form(s) and appropriate fee(s);~~

~~(ii) — Form and supporting document(s) demonstrating proof of legal presence in the U.S. pursuant to 8 U.S.C. § 1601, et seq.;~~

~~(iii) — Federation of State Medical Boards (FSMB) Board Action Databank report; and,~~

~~(iv) — National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB) reports.~~

~~(x) — Reserved.~~

~~(y) — “R.C.P.S.C.” means the Royal College of Physicians and Surgeons of Canada.~~

(a) “A.B.M.S.” means the American Board of Medical Specialties.

(b) “Active practice of medicine” means the practice of medicine and provision of clinical care for an average of not less than twenty (20) hours per week in any consecutive twelve (12) month period.

(c) “Advisory council” means the advisory committee to the board of medicine on matters related to physician assistants created pursuant to W.S. 33-26-503(b)(v).

(d) “Affidavit” means a written, notarized statement of facts made voluntarily under oath.

(e) “A.M.A.” means the American Medical Association.

(f) “A.P.A.” means the Wyoming Administrative Procedure Act, W.S. 16-3-101, et seq.

(g) “Applicant” means any person who has applied to the board for issuance, renewal, or reactivation of a license.

(h) “Application” means a written submission to the board on a form approved by the board, and any accompanying documents.

(i) “Attending Physician” means a physician licensed by the Board who has established a physician/patient relationship;

(j) “B.O.S.B.O.C.” means the Bureau of Osteopathic Specialists and Boards of Certification.

(k) “CLIA waived tests” means those medical tests that are exempt from federal Clinical Laboratory Improvement Amendments requirements.

(l) “C.M.E.” means continuing medical education.

(m) “Complainant” means any identified person, persons, association or entity, including the board or an individual member of the board, or the board staff, who communicates to the board alleging facts, which may constitute a violation of the Act by a licensee.

(n) “Complaint” means a communication received by the board which alleges sufficient to determine the identity of the licensee who allegedly engaged in the conduct, whether the alleged conduct falls within the board’s jurisdiction, and whether the alleged conduct may constitute a violation of the Act.

(o) “Complaint file” means a confidential record of an initial complaint and information received or produced in the screening and investigation of a complaint.

(p) “Consults” means participates in an ongoing, documented consultative relationship including at least one Wyoming licensed, attending physician.

(q) “Costs” means those expenses incurred in a hearing to deny, refuse to renew, reactivate, reinstate, revoke, restrict, place conditions upon, or suspend a license pursuant to W.S. 33-26-405(a)(viii) and includes, but is not limited to, reasonable attorneys’ fees incurred by the board, hearing officer fees, service fees, subpoena fees, reporter fees, lay and expert witness and consultant fees, travel and per diem expenses, deposition costs and other costs and expenses incurred in the investigation, discovery, preparation and hearing of any disciplinary matter.

(r) “Delegate” means transfer authority for the performance of a medical task.

(s) “Delegating physician” means a Wyoming-licensed physician who delegates duties to provide health care services to a medical assistant.

(t) “Docket file” means a confidential record of each board proceeding pertaining to a petition filed before the board or a denial of an application, and the reasons and grounds for each and every step in the disciplinary or appeal process, commencing with the first notice of complaint by any complainant or final order in a denial action. The docket file shall reflect every action in the proceeding.

(u) “Executive director” means a non-board member hired by the board pursuant to W.S. 33-26-203(a) and authorized to coordinate and direct board functions.

(v) “FSMB” means the Federation of State Medical Boards of the United States, Inc.

(w) “He,” “his” and all other male pronouns shall be construed as including the corresponding female pronoun.

(x) “Hearing officer” means an attorney experienced in administrative law appointed by the board to perform those functions set forth in W.S. 16-3-112(b) and these rules in a contested case.

(y) “Hearing panel” means the members of the board who hear and render a decision in a disciplinary case.

(z) “HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

(aa) “HIPAA privacy rule” means the federal regulations related to the privacy of protected health information at 45 C.F.R. 160 and 164.

(bb) In addition to the definition set forth in the Act, “impaired” means a person who is unable to practice medicine with reasonable skill and safety to patients by reason of professional incompetence.

(cc) “Indeterminate scores” means passing level examination scores that cannot be certified as representing a valid measure of an examinee’s competence in the domains assessed by the test. Indeterminate scores may result from irregular behavior, or they may be due to other factors such as examinee illness during part of an examination. Inconsistency of performance within the examination, between administrations with the same step examination, or other aberrations not reasonably and/or satisfactorily explained may result in passing scores being classified as indeterminate. If irregular behavior is determined to affect score validity, resultant passing scores are considered indeterminate.

(dd) “Informal interview” means a confidential meeting with a licensee and interviewers in which the specification of charges, defenses and responses are discussed after initial screening of the complaint and prior to a contested case hearing.

(ee) “Interviewers” are members of the board, and a member of the advisory council if the licensee is a physician assistant, appointed by the board president, or in his or her absence, the vice president, to investigate a complaint against a licensee, conduct an informal interview with the licensee, and make recommendations to the board officers for further board action.

(ff) “Interview date” means the day designated by the board for the licensure interview.

(gg) “Irregular behavior” means all actions on the part of applicants and/or examinees that subvert or attempt to subvert the examination process. Specific examples of irregular behavior include seeking and/or obtaining access to examination materials prior to the examination, falsification of information on application or registration forms, impersonation of an examinee or engaging a proxy to take the examination, copying answers from another examinee, etc. Irregular behavior is generally identified and subsequently reported by proctors or other individuals involved in examination registration or administration or is reported by examinees or others who believe inappropriate behavior has occurred.

(hh) “Ledger” means a continual, permanent, record of all complaints received by the board. A ledger entry shall commence with the initial complaint or final order in a denial action and shall contain the date of the action or complaint, the section(s) of the Act or the board’s rules relied upon by the board as a basis for its action, the disposition of the matter, the disciplinary action taken, if any, and the date of final disposition. No information likely to disclose the identity of the complainant, applicant or respondent shall be included in the ledger.

(ii) “Legal custodian” means the executive director.

(jj) “Licensure interview” means an interview before a panel of not fewer than three (3) members of the board with an applicant who meets one or more of the criteria set forth in Chapter 1, Section 5(b)(iv) of these Rules.

(kk) “LMCC” means the Licentiate Medical Council of Canada.

(ll) “Medical assistant” means a person who does not hold a license to provide health care services issued under title 33 of the Wyoming Statutes, and is authorized and supervised by a Wyoming-licensed physician to provide health care services under limited delegation by the physician.

(mm) “Medical specialty consultant” means a person who consults with board staff, board prosecutor and interviewers or petitioners in a disciplinary action and provides specialized expertise on medical issues.

(nn) “National Boards” means the examination administered by the National Board of Medical Examiners.

(oo) “National certification” means certification of a physician assistant through the NCCPA or such other certification examination recognized by the board through examination and continuing medical education hours.

(pp) “N.B.M.E.” means the National Board of Medical Examiners.

(qq) “NBOME” means the National Board of Osteopathic Medical Examiners or the examination of graduates of the colleges of osteopathic medicine also known as the NBOME and/or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX).

(rr) “N.P.D.B” means the National Practitioner Data Bank.

(ss) “Officers” means the president, vice president and secretary of the board.

(tt) “Petition” means a formal disciplinary action filed with the Board by the Board Prosecutor against one or more licensees on behalf of one or more petitioners.

(uu) “Petitioner” means a board or advisory council member who is appointed by the officers to act as a prosecuting party in a formal disciplinary action against one or more licensees.

(vv) “Physical address” the address of a licensee’s practice or office location, or the licensee’s home.

(ww) “Physician/patient relationship” means a relationship between a licensee and any person to whom the licensee provides any services or exhibits any conduct that constitutes practicing medicine.

(xx) In addition to the definition in the act, “practicing medicine” means any



person who in any manner operates or delegates the responsibility to operate a medical device classified as a Class II or Class III medical device by the U.S. Food and Drug Administration unless operation or authorization for operation occurs in a site under the direct supervision of a person licensed under this chapter.

(yy) “Practicing medicine” does not apply to or include:

(i) Licensed health care providers rendering medical assistance without compensation during an emergency, including, but not limited to, physician assistants who may render aid at the scene of an emergency without physician supervision;

(ii) Medical students trained in an L.C.M.E. or A.O.A. accredited or board approved school of medicine, or who are E.C.F.M.G. certified, serving as clinical clerks, residents, fellows or interns under the supervision of a physician licensed in this state;

(iii) Commissioned medical officers of the United States armed services and medical officers of the United States public health services or the veterans’ administration of the United States in the discharge of their official duties or within federally controlled facilities or enclaves, provided that such persons who are licensees of the board shall be subject to the provisions of the act and further provided that all such persons shall be the holder of a full and unrestricted license to practice medicine in one or more jurisdictions in the United States;

(iv) Any individual residing in and licensed to practice medicine in another state or country called into this state for consultation by a physician licensed to practice medicine in this state;

(v) Any individual licensed to practice medicine in another state that comes to this state to remove human organs from brain dead persons;

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

(vii) The gratuitous domestic administration of family remedies;

(viii) A health care provider licensed under any other chapter of this title engaged in the practice of the profession for which he is licensed;

(zz) “Reactivation” means the procedures set forth in these Rules to restore an emeritus, inactive or lapsed license to active status;

(aaa) “Respondent” means a licensee named in a petition.

(bbb) “Screening” means a review by the officers of complaints received by the board.

(ccc) “Sexual misconduct” means:

(i) Any behavior by a licensee which involves offers of exchange of medical services for some form of sexual gratification;

(ii) Sexual contact that occurs concurrent with the physician-patient relationship; or

(iii) Any behavior by a licensee toward a patient, former patient, another licensee, an employee of a health care facility, an employee of the licensee or a relative or guardian of a patient that exploits the position of trust, knowledge, emotions or influence of the licensee.

(ddd) “SPEX” means the special purpose examination of current medical knowledge administered by the FSMB.

(eee) “These rules” means all rules in all chapters properly adopted by the Board and currently in effect.

(fff) In addition to the definition set forth in the Act, “unprofessional conduct” means:

(i) Improperly terminating a physician-patient relationship.

(ii) Interfering or attempting to interfere with a board investigation, whether of the licensee or another person. This includes, but is not limited to, attempting to intimidate or otherwise influence a complainant or witness to give less than full cooperation and truthful statements to the board in the course of an investigation.

(iii) Practicing as a physician assistant outside the scope of an approved physician assistant supervisory relationship.

#### **Section 4. Eligibility for licensure.**

(a) General requirements.

(i) ~~Form.~~ To be eligible for consideration for licensure, an applicant shall submit an application on the form or forms supplied or approved in advance by the board.

(ii) ~~Payment of fee.~~ Any application, to be eligible for consideration, shall be accompanied by the required fee in immediately negotiable funds.

(iii) ~~Completeness.~~ For an application to be considered complete, all documents, reports and related materials must be received in the board's office and meet all requirements set forth in the Act and the rules adopted by the board.

(iv) ~~References.~~ References shall be submitted on a form approved, and contain information as specified, by the board.

(A) Three (3) original references from physicians are required including at least two (2) from physicians with whom the applicant has practiced medicine within the past three (3) years. In exceptional circumstances the board may waive one (1) or more of the required reference letters. References from physicians with whom the applicant has a current or prospective financial, business or family relationship are not acceptable.

(B) All references shall be on a form prescribed by the board, dated within six (6) months of the application date and signed by the referring physician.

(C) If a submitted reference is incomplete or otherwise fails to provide sufficient information about the applicant, an applicant may be required to submit one or more references in addition to those required in subparagraph (A).

(v) ~~Time of submission.~~ An application, to be considered, shall be complete in all respects no later than fifteen (15) business days prior to the licensure interview date, should a licensure interview be required by these rules.

(vi) ~~Notification of ineligibility.~~ The board shall issue a written notice of ineligibility to any applicant who does not meet the eligibility requirements, or has otherwise failed to submit an application which meets the requirements, of the act or these rules.

(vii) Applications shall remain on active status for six (6) calendar months from the date the application document is received in the board office. The applicant is eligible for a licensure interview with the board, if one is required by these rules, at any time within the six (6) month period following the date the application is complete pursuant to Ch. 1, Section 4(a)(iii) of these rules.

(viii) ~~Proof of legal presence.~~ Pursuant to 8 U.S.C. 1621, any applicant for licensure ~~as a physician or physician assistant~~ shall verify his or her lawful presence in the United States on a form approved or prescribed by the board.

(ix) ~~Social Security number.~~ Any applicant for licensure or renewal of licensure ~~as a physician or physician assistant~~ shall, pursuant to W.S. 33-1-114, provide his or her Social Security number as part of any application for licensure.

(b) ~~Statutory requirements.~~ To be eligible for consideration for licensure, an applicant shall demonstrate in his or her application that he or she meets each and all of the requirements of the act including, but not limited to, those requirements set forth in W.S. 33-26-303, and these rules.

(c) ~~Credentials service required.~~ ~~An applicant who graduated from a school of medicine not accredited by the LCME or AOA shall apply only through the Federation of State Medical Boards Credentials Verification Service (FCVS) and supply additional information as requested by the Board.~~ All applicants ~~for physician licensure~~ whose applications are received by the Board on or after October 1, 2009, shall apply only through the ~~Federation of State Medical Boards Credentials Verification Service~~ F.C.V.S. and supply additional information as requested by the Board.

(d) ~~Repealed.~~ ~~A person who has pled guilty or nolo contendere to or has been convicted of a felony or any crime that is a felony under Wyoming law in any state or federal court or in any court of similar jurisdiction in another country may apply for licensure, however, the board may deny licensure based solely upon such plea or conviction.~~

(e) ~~No exemption from licensure for out of state physicians.~~ Any physician rendering medical diagnosis and/or treatment to a person physically present in this state must have a license issued by the board when such diagnosis/treatment is rendered, regardless of the physician's location and regardless of the means by which such diagnosis/treatment is rendered. This requirement shall not apply to an out-of-state physician who consults by telephone, electronic or any other means with an attending physician licensed by this board or to an out-of-state physician who is specifically exempt from licensure pursuant to W.S. 33-26-103.

(f) ~~Repealed.~~ ~~A person whose medical license has been revoked, suspended, restricted, had conditions placed on it or been voluntarily or involuntarily relinquished or surrendered, by or to another state medical or licensing board, or has a disciplinary action pending before another state medical or licensed board, may apply for licensure provided, however, the board may deny licensure based upon the revocation, suspension, restrictions, conditions, relinquishment, surrender of license or pending disciplinary action alone.~~

(g) ~~Repealed.~~ ~~A person whose clinical privileges at a health care facility have been revoked, suspended, restricted, had conditions placed upon them or been voluntarily or involuntarily resigned, or against whom a clinical privilege action is pending at a health care facility, may apply for licensure provided, however, the board may deny~~

~~licensure based upon the revocation, suspension, restrictions, conditions, resignation of privileges or pending clinical privilege action alone.~~

(h) All applicants for physician licensure ~~whose applications are received on or after July 1, 2009, and who have taken the USMLE or COMLEX,~~ shall have completed all three parts of the examination in a period of not more than seven years (eight years for applicants who have been in a combined D.O. or M.D./Ph.D. program), and shall have taken the three parts of the examination a total of not more than seven times. Persons who have taken the three parts of the examination more than a total of seven times or who have taken more than seven years (eight years for applicants who have been in a combined D.O. or M.D./Ph.D. program) to pass all three parts of the examination shall not be eligible for licensure unless and until they successfully complete either one (1) year of post graduate training in addition to that required in W.S. 33-26-303(a)(iv), or one (1) or more other comprehensive and suitably-rigorous assessment, training and evaluation programs after passage of all parts of the examination.

(i) Reserved.

(j) ~~Postgraduate (Residency) Training.~~ All applicants for licensure other than a training license must demonstrate one (1) or more of the following:

(A) Successful completion of not less than two (2) years of postgraduate training in an A.C.G.M.E., A.O.A. or R.C.P.S.C. accredited program; or,

(B) Successful completion of not less than one (1) year of postgraduate training in an A.C.G.M.E., A.O.A. or R.C.P.S.C. accredited program and:

(1) Current certification by a medical specialty board that is a member of the ~~American Board of Medical Specialties~~ A.B.M.S. or the ~~Bureau of Osteopathic Specialists and Boards of Certification~~ B.O.S.B.O.C.; or

(2) Continuous full and unrestricted medical licensure in good standing in one or more states and/or the District of Columbia for the preceding five (5) years.

## Section 5. **Licensure.**

Pursuant to statute, the board may issue the following:

(a) Licenses to practice medicine.

(i) A license to practice medicine, subject to annual renewal.

(ii) A temporary license to practice medicine pursuant to W.S. 33-26-304(a).

(iii) A restricted or conditional license to practice medicine.

(iv) An inactive license. Inactive licenses are available for physicians currently licensed in Wyoming ~~residents~~ who do not intend to practice medicine, write prescriptions or engage in clinical activity. The Board may grant an inactive license to practice medicine if, in addition to meeting all eligibility requirements of W.S. 33-26-303, the applicant files a verified affidavit with the board attesting that: (1) he/~~she~~ shall not see patients or perform procedures in a clinical or office setting for any type of remuneration, (2) he/~~she~~ shall not in any way hold himself/~~herself~~ out as actively engaged in the active practice of medicine, and (3) he/~~she~~ shall submit written confirmation to the board on an annual basis confirming that such inactive status is ongoing. An inactive license exempts the licensee from continuing medical education requirements described in Chapter 3, Sec. 7 of these rules. A holder of an inactive license may not prescribe medications. Licensees claiming inactive status who receive remuneration for providing clinical services, or who prescribe any medication, may be subject to discipline pursuant to W.S. 33-26-402(a)(xxvii).

(v) An emeritus license. Emeritus licenses are available for retired physicians who hold a current Wyoming license to practice medicine, ~~reside in Wyoming,~~ and wish to provide clinical care in Wyoming without remuneration or for nominal remuneration in a non-profit facility. Such license may issue to an applicant who provides proof that he/~~she~~ is retired from the active practice of medicine, provides proof that he/~~she~~ has maintained a license in good standing in Wyoming or another jurisdiction of the United States or Canada for a period of not less than ten (10) years prior to applying for the emeritus license, and signs a notarized statement he/~~she~~ will not accept any form of remuneration for medical services rendered in Wyoming while in the possession of an emeritus license, or that he is receiving only nominal remunerations for providing medical care in a non-profit facility. As part of the application process, an applicant for an emeritus medical license who does not hold a current Wyoming license shall complete all requirements for issuance of a Wyoming medical license set forth in W.S. 33-26-303. If a licensure interview is required pursuant to subsection (b) of this rule, such interview may be conducted by one (1) board member and, if deemed appropriate by the board officers, may be conducted by telephonic means.

(A) Physicians possessing an emeritus medical license shall:

(I) Annually sign an affidavit affirming that their medical practice continues to be without remuneration or is for nominal remuneration in a non-profit facility; and

(II) Even though physicians holding an emeritus license are not engaged in active clinical practice, the Board expects that they will engage in life-long learning activities to maintain a base of medical knowledge and skills. Therefore, the requirements for continuing medical education noted in Ch. 3, sec. 7 of these rules

apply to emeritus licenses. Continuing medical education may also be satisfied by documented emeritus clinical service in a non-profit health care facility, such clinical service to be credited at one (1) hour of continuing medical education credit for every five (5) hours of clinical service, up to a maximum of ten (10) hours of continuing medical education credit per calendar year.

(B) The board shall require no fees for the application for, or renewal of, an emeritus medical license.

(vi) Training license. A medical training license issued pursuant to W.S. 33-26-304(c) to an applicant who meets all of the requirements of such statute and these rules.

(A) First-year training license (“T-1”). An applicant who is in the first year of enrollment in an A.C.G.M.E. or A.O.A. accredited residency program located in this state may be issued a first-year training license (“T-1” license). The holder of a T-1 license may not practice medicine outside of the duties assigned as part, and under the supervision of the faculty, of the residency program (i.e. “moonlight”). The holder of a T-1 license may not independently prescribe any legend drugs or medications, and may only prescribe legend drugs or medications with the co-signature of a physician holding an active license in good standing in this state. The prohibition on prescribing does not apply to orders written under the supervision of a licensed attending physician for patients receiving inpatient care. The T-1 license expires on June 30th of each year, and may not be renewed.

(B) Second-year training license (“T-2”). An applicant who has successfully completed not less than one (1) year in an A.C.G.M.E. accredited residency program and is enrolled in an A.C.G.M.E. or A.O.A. accredited residency program located in this state as a second- or third-year resident may be issued a second-year training license (“T-2” license). The holder of a T-2 license may not practice medicine outside of the duties assigned as part, and under the supervision of the faculty, of the residency program (i.e., “moonlight”) except as specified in paragraph (H) below. The holder of a T-2 license may independently prescribe legend drugs and medications, subject to all applicable laws and regulations. The T-2 license expires on June 30th of each year, and may be renewed only one (1) time upon applicant’s successful completion of the second year of the residency program. If the applicant meets all requirements for issuance of a regular medical license under W.S. 33-26-301(b)(i) and W.S. 33-26-303, the T-2 license may not be renewed.

(C) To qualify for a training license (T-1 or T-2), an applicant must submit the following:

I. Evidence that the applicant has graduated from a school of medicine accredited by the L.C.M.E., a school of osteopathy accredited by the

A.O.A., or a Canadian-accredited school of medicine, or that the applicant has been certified by the E.C.F.M.G.;

II. Evidence that the applicant has passed steps one (1) and two (2) of the U.S.M.L.E. or the COMLEX with a two-digit score of not less than 75 on each part;

III. A copy of the applicant's signed contract then in force with an A.C.G.M.E., or A.O.A. accredited residency program located in this state (copy of the contract must be submitted with the application);

IV. A recommendation form, as provided by the Board, signed by the director of the residency program, or his or her designee, stating that the applicant is under the supervision of the faculty of the residency program;

V. A completed application on a form provided or approved by the Board; and,

VI. The requisite fee(s) in accordance with this chapter.

(D) Applicants for a second-year (T-2) training license shall be subject to these additional requirements:

I. The applicant will use the Federation ~~Credentials Verification Service~~ F.C.V.S. and have his ~~or her~~ packet submitted to the board at the applicant's expense;

II. The board shall query the ~~N.P.D.B. National Practitioner Data Bank, Healthcare Integrity and Protection Data Bank, and Federation of State Medical Boards'~~ F.S.M.B.'s board action data bank regarding the applicant; and,

III. The applicant will submit documentation that he or she has successfully completed not less than one (1) year in an A.C.G.M.E. or A.O.A. accredited residency program and is enrolled in an A.C.G.M.E. or A.O.A. accredited residency program located in this state as a second- or third-year resident.

(E) When the application for a training license is complete, the Board's executive director shall review the application, and may take the following action:

I. Issue the training license; or

II. Refer the application to the board officers for review. The board officers may issue the training license, issue the training license subject to conditions and/or restrictions agreed upon in writing by the applicant, or deny



the application for the training license. If the board officers deny the training license, the applicant may appeal that decision to the full board, which shall review the application de novo, and which may require the applicant and/or the director of the residency program to appear for an interview. The board may issue the training license, issue the training license subject to conditions and/or restrictions agreed upon in writing by the applicant, or deny the application for a training license. If the board denies the application, it shall issue an order to that effect, which shall be appealable to the district court pursuant to the Act and these ~~RULES AND REGULATIONS~~Rules.

(F) Renewal of T-2 license. To renew a T-2 license, the applicant must provide documentation of the following:

I. Successful completion of the second year of an A.C.G.M.E. or A.O.A. accredited residency program;

II. A copy of the applicant's signed contract then in force with an A.C.G.M.E. or A.O.A. accredited residency program located in this state (copy of the contract must be submitted with the renewal application);

III. A recommendation form, as provided by the Board, signed by the director of the residency program, or his or her designee, stating that the applicant is under the supervision of the faculty of the residency program;

IV. A completed renewal application on a form provided or approved by the Board; and,

V. The requisite fee(s) in accordance with this chapter.

(G) Automatic termination of training license. Issuance of a training license is subject to the applicant's current enrollment in an A.C.G.M.E. or A.O.A. accredited residency program located in this state. If for any reason the holder of a training license resigns or is dismissed from, or otherwise is no longer currently enrolled in, an A.C.G.M.E. or A.O.A. accredited residency program located in this state, the training license shall immediately expire and be deemed automatically terminated without additional action by the Board.

(H) A holder of a T-2 license may practice medicine outside of the duties assigned as part of the residency program in which he or she is enrolled (i.e., "moonlight") only if these following conditions are met:

I. The holder of the T-2 license has passed Step 3 of the USMLE or COMLEX with a two-digit score of not less than 75;

II. The holder of the T-2 license receives advance written approval from the residency program director for his or her proposed “moonlighting”; and,

III. The residency program director notifies the Board in advance and in writing of the approved “moonlighting” arrangement.

(vi) Volunteer license. The board may issue a license to a physician who is in good standing in at least one (1) jurisdiction other than the state of Wyoming for the purpose of providing medical treatment as a volunteer, without compensation. An applicant for a volunteer license must complete and submit a form and documentation prescribed by the board, meet the requirements of W.S. 33-26-303, agree to comply with the Act and these rules, agree to be subject to the jurisdiction of the board, provide proof of licensure in good standing in at least one (1) jurisdiction other than the state of Wyoming, and pay the fee set by the board. A licensure interview is not required for issuance of a volunteer license. A volunteer license shall be valid for not more than twenty-one (21) consecutive days in any calendar year, and may not be renewed.

(vii) Administrative medicine license. The board may issue an administrative medicine license to a physician who meets all qualifications for licensure in the state, including payment of a fee set by the board, but who does not intend to provide medical or clinical services to or for patients while in possession of an administrative medicine license and signs a notarized statement to that effect. An administrative medicine license is subject to annual renewal.

(b) Licensure Application Processing, Review and Interviews.

(i) When an applicant’s core application documents have been received by the Board and are deemed to be satisfactory, the executive director or his designee will review the application and supporting materials to determine whether a licensure interview of the applicant will be required pursuant to this rule. If the executive director or his designee determines that ~~the applicant will not, in all likelihood, be required to have a licensure interview pursuant to this chapter,~~ the applicant has been continually licensed in good standing (not including training licenses) for the preceding three (3) years in one or more states and/or the District of Columbia; and the applicant has a clean application as defined in this chapter, the executive director may, acting on behalf of the Board, issue a temporary license to the applicant pursuant and subject to Chapter 1, Section 6 of these rules, including the requirement for a complete application set forth therein. In no event shall a temporary license issued under this paragraph be valid for more than 180 days from the original date of issuance.

(ii) If an applicant is not issued a temporary license pursuant to paragraph (b)(i) of this rule, when the application is deemed complete pursuant to Section 4 of this chapter, the executive director or his designee shall review the application and supporting materials ~~to determine whether a licensure interview of the applicant will be~~

~~required pursuant to this rule. If the executive director or his designee determines that the applicant will not, in all likelihood, be required to have a licensure interview, the executive director~~ and may, acting on behalf of the Board, issue a temporary license to the applicant pursuant and subject to Chapter 1, Section 6 of these rules. If the executive director or his designee declines to issue a temporary license to the applicant, ~~is unable to make the determination, pursuant to paragraph (b)(i) of this section, that an applicant will not, in all likelihood, be required to have a licensure interview,~~ the applicant's file shall be presented to the board officers for their review. The board officers may take one (1) of the following actions:

(A) If a majority of the board officers agree, they may:

(1) Issue a temporary license to the applicant, pursuant to Chapter 1, Section 6 of these rules;

(2) Issue a temporary license to the applicant, pursuant to Chapter 1, Section 6 of these rules, subject to the requirement that the applicant appear for a licensure interview;

(3) Defer action on the application until the applicant appears for a licensure interview.

(B) If a majority of the board officers are unable to agree on one of the options in subparagraph (A), above, then action on the application will be deferred until the applicant appears for a licensure interview.

(iii) A summary of each applicant's licensure file and application will be sent to all members of the Board prior to the next regularly-scheduled board meeting, and any board member may request that the applicant appear for a licensure interview.

(iv) Licensure interviews. If an application or any information received by the Board demonstrates that an applicant is of a status or possesses one or more of the following characteristics, or if any Board member believes a licensure interview is necessary given the information contained on the application, the applicant may be required to submit to a licensure interview before a panel of not less than three (3) board members:

(A) Is seventy (70) years old or older;

(B) Has been licensed as a physician for more than thirty-five (35) years;

(C) Repealed. ~~Has been named as a responsible party in a professional liability suit;~~

(D) Has answered “Yes” to one or more questions on the application form regarding physical or mental impairment, substance or alcohol abuse, criminal convictions, liability claims, prior disciplinary actions, restrictions or conditions on medical licensure, including relinquishment or surrender of a medical license, or restriction, suspension, or resignation while under investigation, of hospital privileges;

(E) ~~The application or other i~~Information acquired or received by the board ~~appears to~~ indicates ~~that~~ the applicant may not possess sufficient medical training, skill or ~~and~~ experience appropriate for the applicant’s intended practice in this state;

(F) The applicant’s education and/or training verification documents indicate an unexplained delay in completion of his ~~or her~~ medical education ~~and~~/or postgraduate training;

(G) The applicant’s verification documents indicate more than one attempt at passage of any examination necessary to obtain initial licensure or to maintain ongoing licensure;

(H) The applicant’s verification documents indicate failure to pass board specialty recertification examinations;

(I) One or more board member(s) determine that there are issues raised by the application and/or any supporting or verification documents that should be addressed and ruled on by a panel of board members;

(J) Whose temporary license was deferred by the board officers;

(K) The applicant has not previously engaged in the active practice of medicine for a period of at least twelve (12) continuous months;

(L) The applicant has been convicted of or pled guilty or nolo contendere to a charge of driving while under the influence of an intoxicant within five (5) years of the date of his/her application;

(M) The applicant has not been engaged in the active practice of medicine in the immediately-preceding two (2) year period;

(N) Failure to fully and completely answer one or more questions on the application form or failing to answer one or more questions truthfully; or,

(O) The applicant’s post graduate work and/or employment history indicate an unexplained gap.

(v) Licensure interviews shall be conducted in person (unless otherwise specifically permitted by these rules) and shall consist of oral questions by the panel of board members and oral responses by the applicant. By his or her responses to questions posed in the licensure interview, the applicant must demonstrate to the satisfaction of a majority of the board that he or she is qualified to practice medicine in this state, that (1) he or she possesses a minimum fund of general and identified scope of practice medical knowledge appropriate for the applicant's intended practice in this state, (2) he or she possesses sufficient medical training and medical experience appropriate for the applicant's intended practice in this state, (3) he or she possesses personal and professional character and integrity befitting the practice of medicine, and (4) that there are no other factors contained in the application or disclosed in the licensure interview that would demonstrate that the applicant would be unable to practice medicine in a safe and competent manner.

(vi) Following a licensure interview, the board, shall, by a recorded vote of the board members present:

(A) Grant a license;

(B) Deny the application upon stated reasons;

(C) Allow the applicant to withdraw the application;

(D) Agree in writing signed by the applicant, to the issuance of a license subject to restrictions and/or conditions; or

(E) Defer action pending successful completion by the applicant of a medical competence examination such as the special purpose examination (SPEX) and/or such other examination, review, evaluation or course of study designated by the board and/or the board's receipt, review and approval of other information requested during the interview.

(vii) If an applicant does not have a licensure interview, a full unrestricted license may be issued to the applicant only upon a majority vote of the board. The board may conduct this vote by voice vote, and may do so using a consent list showing applicants for approval.

(viii) Failure to appear for a licensure interview, regardless of whether a temporary license was issued to the applicant, may result in denial by the board of the application for licensure pursuant to W.S. 33-26-202(b)(i).

#### Section 6. **Temporary license.**

(a) Temporary license to practice medicine means a license to practice medicine for a limited duration issued pursuant to Ch. 1, Section 5(b) of these rules after application, verification and review for eligibility by the board. A temporary license is effective from the date of issuance until the later of a vote of board members on the application pursuant to these rules, or 8:00 a.m. on the first day of the next regularly-scheduled board meeting. Except as otherwise provided in this chapter, Temporary licenses issued less than fifteen (15) business days prior to the next regularly-scheduled board meeting will be valid until the later of a vote of board members on the application pursuant to these rules, or 8:00 a.m. on first day of the second regularly-scheduled board meeting after issuance.

(b) Upon written request received from the holder of a temporary license not less than seven (7) days before expiration of the temporary license the executive director may extend a temporary license for an additional term no longer than the later of a vote of board members on the application pursuant to these rules, or the date of the next regularly-scheduled board meeting after extension of the temporary license. The holder of a temporary license may request no more than one (1) extension of the temporary license under this subsection.

(c) If upon review of the application of a person who is granted a temporary license under Section 5(b)(i) or 5(b)(ii)(A)(1) of this chapter one or more board members request that the holder of the temporary license appear for a licensure interview, the executive director may extend the temporary license held by that person until 8:00 a.m. on the first day of the second regularly-scheduled board meeting after issuance of the temporary license. In no event, however, shall a temporary license issued under Section 5(b)(i) of this chapter be valid more than 180 days from the original date of issuance.

(d) All applicants who are granted a temporary license under Section 5(b)(i) of this chapter are required to submit all documentation and materials necessary to ensure that their license application is complete in accordance with Section 4 of this chapter. Failure to have a complete license application within 180 days of issuance of a temporary license may result in denial by the board of the application for licensure pursuant to W.S. 33-26-202(b)(i).

#### Section 7. **Exemption from licensure.**

(a) Consultants. Physicians residing in and currently licensed in good standing to practice medicine in another state or country brought into this state for consultation by a physician licensed to practice medicine in this state may practice medicine without first obtaining a Wyoming license for a total of not more than twelve (12) days in any fifty-two (52) week period and, therefore, are exempt from the licensure requirements of these rules and W.S. 33-26-103(a)(iv). Consults of longer duration or greater frequency require written advance approval of a majority of the Board officers. To qualify a consulting physician for the exemption from licensure, the physician licensed to practice medicine in this state shall notify the board, on a form published or approved by the Board, of the

consultation in advance of the consulting physician practicing medicine in this state. For purposes of this subsection, the term “brought into this state” means having patient contact and establishing a physician-patient relationship, either by the physician’s physical presence with the patient or through telemedicine.

(b) Physicians in training. The term “medical students” in W.S. 33-26-103 (a)(ii) includes physicians trained in an LCME or AOA accredited or board approved school of medicine, or certified by the E.C.F.M.G., who are participating or serving in a program of clinical clerkship, internship, externship, residency or fellowship training under the supervision of a physician licensed by the Board. “Medical students” are exempt from the licensure requirements listed herein. Notwithstanding the foregoing, a medical student who applies for and receives a license issued by the Board shall be subject to the act and the Board’s rules and jurisdiction.

(c) Physician assistants. The term “persons” in W.S. 33-26-103(a)(i) specifically includes currently licensed physician assistants who may render aid at the scene of an emergency without physician supervision, such physician assistants are exempt from the licensure requirements listed herein when they are acting under such statutory authorization.

(d) Emergencies. Wyoming physicians and physician assistants and those physicians and physician assistants residing in and who hold full and unrestricted licenses to practice medicine or to practice as a physician assistant in another state or country who come into this state to provide medical care during an emergency or pandemic declared as such by Order of the Governor of this state and/or pursuant to any State Emergency Plan and who comply with all requirements of the board for verification of licensure and identity, may practice medicine or practice as a physician assistant without first obtaining a Wyoming license for the period during which any such emergency or pandemic Declaration or Order remains in effect.

**Section 8. Fees.**

(a) All fees are non-refundable.

(b) Requested paperwork shall not be processed until appropriate fees are received by the board.

(c) Application fees shall be paid to the board in the form of cashier’s check or money order. All other fees shall be paid to the board in the form of a check, cashier’s check or money order; ~~provided, however, if the board establishes a system for on-line applications for licensure or renewal of licenses~~ ~~payment of fees, licensure fees~~ may be paid by credit card.

|  |  |
|--|--|
| Application and initial license fee [Includes the cost of 1 NPDB report, <del>+HIPDB report,</del> 1 criminal record check | \$600.00 (\$500.00 for persons holding a current |
|--|--|

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|---|--|
| (if necessary), temporary license (if granted) pending completion and review of licensure application at next board meeting, and initial license (if granted) through the next June 30 <sup>th</sup> ]  | T-2 license)                                   |
| Paper form license application processing fee <del>(Effective for paper license application forms received more than 30 days after on-line application becomes available for applicant use.)</del>  | \$50.00  |
| Annual renewal of license (including administrative license)  | \$250.00                                       |
| Paper form renewal application-processing fee   | \$25.00  |
| License renewal grace period surcharge  | \$100.00                                       |
| Reactivation of license [Includes the cost of 1 NPDB report, <del>1 HIPDB report,</del> 1 criminal record check (if necessary), and license (if granted) through the next June 30 <sup>th</sup> ]   | \$400.00                                       |
| Reinstatement of license [Includes the cost of 1 NPDB report, <del>1 HIPDB report,</del> 1 criminal record check (if necessary), and license (if granted) through the next June 30 <sup>th</sup> ] [Costs may also be imposed under Ch. 4, §3(k)] | \$400.00                                       |
| Inactive license, conversion to (one-time fee)  | \$50.00  |
| Inactive license renewal  | No charge                                      |
| First-year residency training license (“T-1” license)   | \$25.00  |
| Second-year residency training license (“T-2” license)  | \$100.00                                       |
| Residency training license (“T-2” license) renewal  | \$100.00                                       |
| Volunteer license   | \$75.00  |
| Verification of license   | \$35.00  |
| Replacement of lost license – pocket size   | \$25.00  |
| License – wall size   | \$50.00  |
| Physician directory to non-licensees – per copy   | \$45.00  |
| Physician mailing list  | \$500.00                                       |
| Physician assistant mailing list  | \$100.00                                       |
| Physician and physician assistant mailing lists   | \$550.00                                       |
| Certified copies  | First page: \$10.00<br>Additional pages: \$.50 |
| Photocopies (except certified copies), including cost of duplication of transcript(s) and administrative record in appeals from contested case hearings [Ch. 4 §4(i)(xvi)]  | First page: \$2.00<br>Additional pages: \$.10  |

Section 9. ~~Repealed. Reinstatement of licenses.~~

~~Whenever the board receives a petition for the reinstatement from a person whose license has been revoked, restricted or suspended by, or surrendered or relinquished to, the board:~~



~~(a) — The executive director shall examine the petition to determine whether it meets the requirements and contains the information required by W.S. 33-26-406(a-b) including submission of the appropriate fee, passage of a minimum of six (6) months from the effective date of the board order or, if the matter has been appealed, six (6) months following the date of final judicial review, and contains specific information regarding the petitioner's fulfillment of any and all conditions and/or compliance with all restrictions imposed upon petitioner by any prior order of the board and/or has corrected the conduct that formed the basis for revocation, restriction, suspension, surrender, or relinquishment of petitioner's license.~~

~~(b) — If the petition does not meet the requirements, the petition shall be returned to the petitioner with a letter stating that it does not meet such requirements and will not be considered unless and until an acceptable petition is submitted.~~

~~(c) — Upon receipt of the petition, the board shall set the matter for hearing in accordance with the provisions of the Wyoming Administrative Procedure Act. The burden of proof upon the petitioner at such hearing shall be to demonstrate, by a preponderance of evidence, that:~~

~~(i) — Petitioner has corrected the conduct that formed the basis for the revocation, restriction, suspension, surrender, or relinquishment of petitioner's license and that petitioner is able to safely, skillfully and competently resume the practice of medicine; or~~

~~(ii) — Petitioner has fulfilled all conditions or complied with all restrictions imposed upon petitioner by an 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 is able to safely, skillfully and competently practice medicine in this state.~~

~~(d) — After a hearing before the board conducted pursuant to subsection (c) of this chapter, the board shall issue specific findings of fact, conclusions of law and a final order:~~

~~(i) — Reinstating the license without conditions or restrictions;~~

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

~~(iii) — Removing or modifying the restrictions or conditions on the license;~~

~~(iv) — Denying reinstatement of the license or removal of the restrictions or conditions on the license; or,~~

~~(v) — Taking such other action as the board deems appropriate and just in the circumstances.~~

~~(e) — Any final order issued by the board under this section shall be subject to judicial review as provided in W.S. 33-26-407.~~

~~(f) — 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.~~

~~(g) — Notwithstanding subsections (a) through (d) of this section, if a license is suspended pursuant to W.S. 33-26-404(d), the license may be reinstated or license restrictions removed without a hearing upon receipt of a certified copy of a court order modifying or removing any restrictions, withholding, or suspension of a party's license which had been previously imposed by court order.~~

#### Section 10. **License Renewal.**

(a) ~~License Renewal Deadline.~~ All physician licenses must be renewed annually no later than June 30th of each calendar year:

(b) ~~License Renewal Grace Period.~~ Licensees who provide, in writing and not more than sixty (60) days after the license renewal deadline, good cause for failure to submit their application for renewal in a timely manner may be granted an extension for submitting their application, and the requisite renewal fee and license renewal grace period surcharge, of not greater than thirty (30) days by the executive director. Any request for an extension of the renewal application deadline received by the board more than sixty (60) days after the deadline may be granted an extension for submitting their application of not greater than thirty (30) days at the discretion of a majority of the board officers. Nothing herein imposes a duty on the Board ~~of Medicine~~ or the executive director to grant an extension to any licensee.

(c) ~~License Renewal Form.~~ Licensees shall submit an application for renewal each year in a format or form provided by the board. The board may utilize paper or electronic forms, or a combination of both.

#### Section 11. **Reactivation of emeritus and inactive licenses.**

(a) A licensee holding an emeritus or inactive license may apply to reactivate it by submitting the following:

(i) An application on a form prescribed by the board;

- (ii) Payment of the applicable fees established by the Board by rule;
- and,
- (iii) Two (2) references as described in section 4(a)(iv) of this Chapter.

(b) The holder of an inactive license must also submit proof of completion of not less than twenty (20) hours of qualified continuing medical education, as defined in chapter 3, section 7(a) of these rules, within the preceding twelve (12) months. This subsection shall not apply to the holder of an inactive license who is otherwise exempt from the continuing medical education requirement pursuant to chapter 3, section 7(b) of these rules.

(c) Applicants who do not meet the requirements of W.S. 33-26-303 shall not be eligible to reactivate an emeritus or inactive license.

(d) Upon review of the application by the board officers and the approval of a majority thereof, the applicant's emeritus or inactive license shall be returned to active status.

(e) If the applicant possesses one or more of the characteristics enumerated in section 5(b)(iv) of this chapter, the board officers may require the applicant to appear for a licensure interview conducted pursuant to section 5(b) of this chapter. Upon completion of the licensure interview, the board shall act upon the application for reactivation of the emeritus or inactive license pursuant to section 5(b)(vi) of this chapter. If after a licensure interview the board denies reactivation of an emeritus or inactive license, the applicant may appeal that decision pursuant to W.S. 33-26-407(a).

(f) If a majority of the board officers does not approve the reactivation of an emeritus or inactive license, the applicant may file a petition with the board for review of the application in a contested case hearing conducted pursuant to the A.P.A.

## Section 12. **Reactivation of lapsed licenses.**

(a) A licensee holding a lapsed license may apply to reactivate it by submitting the following:

- (i) An application on a form prescribed by the board;
  - (ii) Payment of the applicable fees established by the Board by rule;
- and,
- (iii) Two (2) references as described in section 4(a)(iv) of this Chapter.

(b) The holder of a lapsed license must also submit proof of completion of not less than sixty (60) hours of qualified continuing medical education, as defined in chapter

3, section 7(a) of these rules, within the preceding three (3) years. This subsection shall not apply to the holder of an inactive license who is otherwise exempt from the continuing medical education requirement pursuant to chapter 3, section 7(b) of these rules.

(c) Applicants who do not meet the requirements of W.S. 33-26-303 shall not be eligible to reactivate a lapsed license.

(d) Upon review of the application by the board officers and the approval of a majority thereof, the applicant's lapsed license shall be returned to active status.

(e) If the applicant possesses one or more of the characteristics enumerated in section 5(b)(iv) of this chapter, the board officers may require the applicant to appear for a licensure interview conducted pursuant to section 5(b) of this chapter. Upon completion of the licensure interview, the board shall act upon the application for reactivation of the lapsed license pursuant to section 5(b)(vi) of this chapter. If after a licensure interview the board denies reactivation of a lapsed license, the applicant may appeal that decision pursuant to W.S. 33-26-407(a).

(f) If a majority of the board officers does not approve the reactivation of a lapsed license, the applicant may file a petition with the board for review of the application in a contested case hearing conducted pursuant to the A.P.A.

### Section 13. **Applicant criminal history record check.**

(a) The board of medicine may request a criminal history record report on an applicant for licensure if:

(i) The applicant answers in the affirmative to one or more questions on the licensure application related to criminal history;

(ii) Documentation submitted with or in support of an application for licensure indicates the applicant may have a criminal history; or,

(iii) Any information received by the board indicates the applicant may have a criminal history.

(b) Upon a determination by the executive director that a criminal history record check is appropriate, a written request will be sent to the applicant along with the necessary forms for fingerprinting of the applicant. No further processing of the application will occur until the completed forms are received in the board office; however, the board office will continue to accept documentation sent in support of an application pending receipt of the completed forms for the criminal history record check.

Section 14. **Severability.** If one or more parts or sections of these rules are found to be invalid or unenforceable, the remainder shall continue in full force and effect.

CHAPTER 2  
EXAMINATION FOR LICENSURE

Section 1.     **Definitions.** The definitions contained in the Act, the APA, and Chapter 1 of these rules are incorporated herein by this reference.

Section 2.     **Eligibility for examination.**

An examination applicant is eligible to sit for USMLE Step 3 provided the applicant:

(a)     Has completed or will complete by June 30 of the calendar year in which the applicant sits for Step 3 at least one year of postgraduate training in an ACGME or AOA accredited residency program;

(b)     Provides verification to the board, or its duly appointed agent, of having successfully completed USMLE Steps 1 and 2; and

(c)     Completes the USMLE Step 3 application form including requisite fees.

Section 3.     **Composite testing.**

(a)     The following combinations of licensure examination are acceptable to the board for purposes of licensure eligibility only if completed before June 30, 2000:

(i)     National Boards Part I or USMLE Step 1 and National Boards Part II or USMLE Step 2 and National Boards Part III or USMLE Step 3;

(ii)    FLEX Component 1 and FLEX Component 2;

(iii)   NBME parts 1, 2 and 3;

(iv)    FLEX Component 1 and USMLE Step 3 or National Boards Part I or USMLE Step 1 and National Boards Part II or USMLE Step 2 and FLEX Component 2;

(v)     Successful completion of a board approved state constructed examination administered before July 1, 1968.

(b)     The board will not accept completion of any part of the examination administered by the LMCC as part of a combination requisite for USMLE Step 3 eligibility. The board will, however, accept successful completion of the LMCC examination as a component of licensure eligibility.

(c)     As of July 1, 2000, the Board will not accept any of the combinations of licensure examinations described in Ch. 2, sec. 3(a)(i-iv) as prerequisites to eligibility for USMLE Step 3.

(d) As of July 1, 2000, the Board will accept only successful completion of USMLE Steps 1 and 2 as prerequisites for eligibility to sit for USMLE Step 3.

**Section 4. Miscellaneous provisions.**

(a) The board, or its duly appointed agent, will administer all aspects of USMLE Step 3 including, but not limited to, application and registration for the examination, selection of the site on which the exam will be administered, monitoring of the examination process and reporting of scores.

(b) “USMLE Policies and Procedures for Handling Indeterminate Scores and Irregular Behavior” developed by the FSMB are adopted by the board and incorporated by reference herein.

(c) “USMLE Test Administration Standards” developed by the FSMB are adopted by the board and incorporated by reference herein.

(d) “Policies and Procedures Regarding USMLE Test Administration for Examinees with Disabilities” developed by the FSMB are adopted by the board and incorporated by reference herein.

(e) A passing score on any step or part of the USMLE, COMLEX, FLEX, National Boards, SPEX, or a state constructed examination is a minimum of 75. Composite scores of less than 75 are not accepted.

(f) Scores will be available for reporting to the examinees from the board at such time as they are made available to the board from the FSMB. Scores shall be reported to the examinee in writing.

(g) Application and fees for USMLE Step 3 shall be obtained from and paid directly to the FSMB.

(h) Applications must be sent directly to the FSMB no later than the deadline dates established in the USMLE annual bulletin examination administered before July 1, 1968.

CHAPTER 2  
EXAMINATION FOR LICENSURE

Section 1. **Definitions.** The definitions contained in the Act, the APA, and Chapter 1 of these rules are incorporated herein by this reference.

- (a) ~~“AOA” means the American Osteopathic Association.~~
- (b) ~~“ACGME” means the Accreditation Council on Graduate Medical Education.~~
- (c) ~~“Board” means the Wyoming Board of Medicine as defined in the Wyoming Medical Practice Act, W.S. 33-26-101 et. seq.~~
- (d) ~~“Fifth pathway” means an academic year of supervised clinical education provided by an LCME or AOA accredited medical school to students who (i) have completed, in an accredited college or university in the U.S., undergraduate premedical education of the quality acceptable for matriculation in an LCME or AOA accredited U.S. medical school; (ii) have studied at a foreign medical school not accredited by the LCME or AOA; (iii) have completed all requirements of the foreign medical school except internship and/or social service; (iv) have attained a score satisfactory to the sponsoring medical school on a screening examination and (v) have passed the Foreign Medical Graduate Examination in the Medical Sciences, Parts I & II of the examination of the National Board of Medical Examiners, or Steps 1 and 2 of the USMLE examination. Those who have completed the internship and/or social service requirement of their foreign medical school are not eligible for a fifth pathway program.~~
- (e) ~~“FLEX” means the Federation Licensing Examination.~~
- (f) ~~“FSMB” means the Federation of State Medical Boards.~~
- (g) ~~“Indeterminate scores” means passing level examination scores that cannot be certified as representing a valid measure of an examinee’s competence in the domains assessed by the test. Indeterminate scores may result from irregular behavior, or they may be due to other factors such as examinee illness during part of an examination. Inconsistency of performance within the examination, between administrations with the same step examination, or other aberrations not reasonably and/or satisfactorily explained may result in passing scores being classified as indeterminate. If irregular behavior is determined to affect score validity, resultant passing scores are considered indeterminate.~~
- (h) ~~“Irregular behavior” means all actions on the part of applicants and/or examinees that subvert or attempt to subvert the examination process. Specific examples of irregular behavior include seeking and/or obtaining access to examination materials prior to the examination, falsification of information on application or registration forms, impersonation of an examinee or engaging a proxy to take the examination, copying answers from another examinee, etc. Irregular behavior is generally identified and subsequently reported by proctors or other individuals involved in examination registration or administration or is reported by examinees or others who believe inappropriate behavior has occurred.~~



~~(i) “LCME” means the Liaison Committee on Medical Education.~~

~~(j) “LMCC” means the Licentiate Medical Council of Canada.~~

~~(k) “National Boards” means the examination administered by the National Board of Medical Examiners.~~

~~(l) “NBOME” means the National Board of Osteopathic Medical Examiners or the examination of graduates of the colleges of osteopathic medicine also known as the NBOME and/or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX).~~

~~(m) “USMLE” means the three part examination for medical licensure in the United States. The examination replaces the FLEX and National Boards.~~

## Section 2. **Eligibility for examination.**

An examination applicant is eligible to sit for USMLE Step 3 provided the applicant:

~~(i)(a)~~ Has completed or will complete by June 30 of the calendar year in which the applicant sits for Step 3 at least one year of postgraduate training in an ACGME or AOA accredited residency program;

~~(ii)(b)~~ Provides verification to the board, or its duly appointed agent, of having successfully completed USMLE Steps 1 and 2; and

~~(iii)(c)~~ Completes the USMLE Step 3 application form including requisite fees.

## Section 3. **Composite testing.**

(a) The following combinations of licensure examination are acceptable to the board for purposes of licensure eligibility only if completed before June 30, 2000:

(i) National Boards Part I or USMLE Step 1 and National Boards Part II or USMLE Step 2 and National Boards Part III or USMLE Step 3;

(ii) FLEX Component 1 and FLEX Component 2;

(iii) NBME parts 1, 2 and 3;

(iv) FLEX Component 1 and USMLE Step 3 or National Boards Part I or USMLE Step 1 and National Boards Part II or USMLE Step 2 and FLEX Component 2;

(v) Successful completion of a board approved state constructed examination administered before July 1, 1968.

(b) The board will not accept completion of any part of the examination administered by the LMCC as part of a combination requisite for USMLE Step 3 eligibility. The board will, however, accept successful completion of the LMCC examination as a component of licensure eligibility.

(c) As of July 1, 2000, the Board will not accept any of the combinations of licensure examinations described in Ch. 2, sec. 3(a)(i-iv) as prerequisites to eligibility for USMLE Step 3.

(d) As of July 1, 2000, the Board will accept only successful completion of USMLE Steps 1 and 2 as prerequisites for eligibility to sit for USMLE Step 3.

#### Section 4. **Miscellaneous provisions.**

(a) The board, or its duly appointed agent, will administer all aspects of USMLE Step 3 including, but not limited to, application and registration for the examination, selection of the site on which the exam will be administered, monitoring of the examination process and reporting of scores.

(b) “USMLE Policies and Procedures for Handling Indeterminate Scores and Irregular Behavior” developed by the FSMB are adopted by the board and incorporated by reference herein.

(c) “USMLE Test Administration Standards” developed by the FSMB are adopted by the board and incorporated by reference herein.

(d) “Policies and Procedures Regarding USMLE Test Administration for Examinees with Disabilities” developed by the FSMB are adopted by the board and incorporated by reference herein.

(e) A passing score on any step or part of the USMLE, COMLEX, FLEX, National Boards, SPEX, or a state constructed examination is a minimum of 75. Composite scores of less than 75 are not accepted.

(f) Scores will be available for reporting to the examinees from the board at such time as they are made available to the board from the FSMB. Scores shall be reported to the examinee in writing.

(g) Application and fees for USMLE Step 3 shall be obtained from and paid directly to the FSMB.

(h) Applications must be sent directly to the FSMB no later than the deadline dates established in the USMLE annual bulletin examination administered before July 1, 1968.

## **CHAPTER 3 PRACTICE OF MEDICINE**

### **Section 1. Pronouncement of death.**

The determination of the cause of death constitutes medical diagnosis and is the practice of medicine. The pronouncement of death is not a medical diagnosis and does not require prior licensure by the board.

### **Section 2. Board ordered testing.**

(a) Applicants/licenseses who have been or are now in recovery from chemical and/or alcohol impairment or for other conditions deemed appropriate for ongoing monitoring may, at the board's or its designated agent's discretion, be required to comply with board mandated testing to monitor recovery. All such applicants/licenseses shall execute and deliver to the board such releases and consents as may be required to enable the board to receive reports and communicate with any such testing facility.

(b) When ordered or as agreed to by consent decree, testing shall be done at a licensed medical facility convenient to the applicant's/licensee's residence and/or place of business at intervals determined by the board or its designated agent.

(c) A certified copy of the order/consent decree ordering the testing shall be sent to the facility where the testing is to be done. Execution of the consent decree or acceptance of a license to practice medicine will constitute waiver of applicant's/licensee's objection to release of the order/consent decree to the testing facility.

(d) Test results shall be mailed directly to the board of medicine or its designated agent for inclusion in the licensee's/applicant's file. Results and documentation thereof shall be confidential board records disclosed only if included in a final order pursuant to the terms of W.S. 33-26-408(c). Results may be disseminated to other licensing agencies, credentialing authorities, etc., if specifically requested, in writing, by the applicant/licensee.

(e) All expenses for testing shall be borne by the applicant/licensee and payable directly to the lab/facility where the testing is to be done.

### **Section 3. Physical or mental infirmity and/or communicable diseases.**

(a) A physician infected with any communicable disease shall take appropriate steps to guard against the spread of contagious, infectious or communicable diseases, take appropriate steps to assure competent patient care if the disease may lead to or cause incapacity or inability to practice medicine safely and skillfully, appropriately adapt medical practice if possessing any physical or mental disability caused by such

infectious disease and/or take appropriate steps to insure patient safety if the disease causes physical impairment.

(b) A physician infected with, or who has reasonable cause to believe he is infected with a communicable disease shall be aware of and adhere to current scientific knowledge concerning the communicable disease. If the disease is progressive and leads to any disability, the physician shall promptly notify the board.

(c) A physician who affirmatively answers any question relating to physical or mental infirmity, alcohol or substance abuse, or communicable disease on the application for licensure or annual renewal questionnaire may be requested to supply additional information designated by the board, and/or may be called to interview before the board or a board designated committee. Following the interview and based on the information submitted, the board may require the physician to submit to appropriate medical and/or mental testing including, but not limited to, blood, urine and hair testing, at his/her own expense.

(d) All information received by the board of medicine during the application and/or renewal process, including but not limited to information concerning physical or mental deterioration, alcohol or substance abuse, and communicable disease shall remain confidential and shall not be disclosed to any other party or entity without the express written release of the applicant/licensee or where required by law.

(e) Failure to comply with and adhere to the provisions set out above may lead to review and appropriate disciplinary action pursuant to W.S. 33-26-402(a).

#### Section 4. **Patient access to physician medical records.**

(a) The information contained in a patient's medical records should be made readily available upon receipt by the physician of an appropriate, signed, written request for release of such information. The paper, microfilm or data storage unit upon which the patient's information is maintained belongs to the physician and/or health care facility in which he/she practices. Patients do not have a right to possess the physical means by which the information is stored. Upon a patient's signed, written request, physicians shall make pertinent information in the medical record available to the patient. Physicians shall comply with the patient's written request within a reasonable period or no more than thirty days, whichever is shorter. Physicians shall honor a request for a patient's medical record when such request is made in writing and signed by the patient or an individual who is authorized to consent to health care for the patient pursuant to W.S. § 35-22-401 et. seq.

(b) Physicians may provide the medical record or any portion in an accurate, detailed, comprehensive summary of the factual information contained in the complete record. If requested, physicians shall provide copies of pertinent x-rays and other diagnostic records in addition to/in lieu of interpretive summaries.

(c) For purposes of this section, ‘medical records’ does not include a physician’s personal office notes or personal communications between referring and consulting physicians relating to the patient. A physician may, however, include such notes and communications if appropriate.

(d) If the physician disclosing the medical record believes, in good faith, that releasing any portion of the record would injure the health or well being of the patient, a physician may refuse disclosure of that portion of the record. In such instances, a physician shall document the factual basis and rationale used in deciding against disclosure. A physician may also deny access to patient records if he/she reasonably concludes that access to the health care information requested is otherwise prohibited by law.

(e) A physician may establish reasonable charges, and charge a patient for the actual costs incurred in responding to a patient’s request for copies of any portion of a patient’s medical record. Such costs may include the cost of copies, clerical staff time and the physician’s time in reviewing and summarizing the records and/or x-rays and diagnostic records, if necessary. The patient requesting medical records is responsible for payment of all such charges; however, a patient shall not be denied a summary or a copy of requested medical records because of inability to pay.

(f) Violation of this rule may be cause for disciplinary action pursuant to W.S. 33-26-402(a)(xxxii).

**Section 5. Termination of physician-patient relationship; Closure of practice.**

(a) Any physician licensed by the board who desires to terminate a physician/patient relationship must notify the patient or the patient’s legally-designated agent in writing at least thirty (30) days prior to the date of the termination that the licensee will no longer treat the patient. The written notice of termination shall be sent via certified mail, return receipt requested, and notify the patient that the licensee’s care of the patient will continue for thirty days or until such date as the patient notifies the licensee of the name and address of the patient’s new physician, whichever occurs first. Such requirements do not apply to physicians treating patients in an emergency room or under other emergent circumstances.

(b) Any physician licensed by the board who desires to relocate or close a medical practice should notify patients of such termination, sale, or relocation and unavailability by causing to be published once during each week for four (4) consecutive weeks, in the newspaper of greatest circulation in each county in which the physician practices or practiced and in a local newspaper that serves the immediate practice area, a notice which shall contain the date of termination, sale, or relocation and an address at which the records may be obtained from the physician or terminating the practice or located or from another licensed physician. A copy of this notice shall also be submitted

to the Board not less than one (1) month prior to the date of termination, sale, or relocation of the practice. The physician may, but is not required to, place a sign in a conspicuous location on the façade of the physician’s office or notify patients by letter, of the termination, sale or relocation of the practice. The sign or notice shall advise the physician’s patients of their opportunity and right to transfer or receive copies of their records.

**Section 6. Practice Coverage.**

The Board recognizes that patients often need help outside of regular office hours. However, since physicians cannot be continuously available to respond to patients and their emergencies, it is recommended that physicians provide their patients with instructions about what to do if they need help with their care and treatment when their physician is unavailable. Coverage arrangements should take into account the general nature, complexity and severity of the illnesses and the care and treatment in the patient population regularly seen and treated by the physician, as well as the availability of other providers qualified and available to respond to their patients’ needs. Physicians should make reasonable efforts to arrange adequate and appropriate coverage for their practices and patients when the physician is unavailable. Physicians who do not have formal call coverage and who instruct patients to use a local emergency room for medical needs should confer with the medical director of the local emergency room to ensure that physicians and staff are able to communicate with the physician, or another provider qualified and available to respond to the patient’s needs, about the care of their patients who may present for care at the facility. Failure to adequately address coverage needs of physician’s patients may be grounds for the imposition of disciplinary action pursuant to W.S. 33-26-402.

**Section 7. Continuing medical education.**

(a) To renew, reinstate or reactivate a license to practice medicine in Wyoming a physician shall verify satisfactory completion of not less than sixty (60) hours of continuing medical education (CME) earned in any combination of the following during the previous three (3) years:

- (i) AMA-approved Category I or II continuing medical education;
- (ii) AOA-approved continuing medical education;
- (iii) A current AMA Physician’s Recognition Award;
- (iv) A current certificate from a specialty board approved by the A.B.M.S. considered by the specialty board to be equivalent to the hours claimed to be attributable to such certificate by the licensee;

(v) Other documented and verifiable self-assessment, quality improvement or other activity that promotes the enhancement of a licensee's medical skills;

(vi) Documented volunteer service rendering clinical care in a nonprofit health care facility in this state to low income uninsured persons while holding an emeritus license in good standing, such CME to be credited at the rate set forth in Chapter 1, Section 5(a)(v)(A)(II) of these rules; and/or

(vii) Documented volunteer service to the board as a medical consultant, such service to be credited as CME at the rate of one (1) hour of continuing medical education credit per two (2) hours of service as a consultant, not to exceed twenty (20) hours' CME credit in a calendar year.

(b) The CME requirement prerequisite to renewal, reactivation or reinstatement of licensure shall not apply to physicians who:

(i) Have held a Wyoming license to practice medicine for less than three years as of the renewal date;

(ii) Have within the past three (3) years been certified or recertified by member board of the A.B.M.S.;

(iii) Have been within the previous three years, or are currently, enrolled in a residency program approved by the A.C.G.M.E. or the R.C.P.S.C.;

(iv) Hold an inactive license to practice medicine in Wyoming as defined in Ch. 1, sec. 5(a)(iv) of these rules and who indicate such status by written notice to the board.

(c) Upon written request specifying the reasons for an exemption, the board may grant an exemption of all or part of the requirements of circumstances beyond the control of the licensee, such as temporary disability, mandatory military service or officially declared disasters.

(d) Upon written request received in the board offices on or before the renewal date and for good cause shown, the board may grant an extension of the deadline requirements for up to one year.

(e) Each year, accompanying the application for renewal of a license to practice medicine or accompanying a petition for reactivation or reinstatement of his/her license, a physician shall sign an affidavit provided by the board requiring the license holder to verify that he/she has met the CME requirements described above or that he/she holds an inactive medical license or is otherwise exempt from these rules.

(f) Licensee shall maintain CME records for no less than four (4) years and such records shall be made available to the board upon request.

(g) Failure to complete CME requirements as described in this rule may cause the physician to be ineligible for annual renewal of his/her license. Failure to produce records reflecting that a physician has completed the required minimum continuing medical education hours upon written request by the board may constitute unprofessional conduct under W.S. 33-26-402(a)(xxviii).

(h) The board shall periodically conduct a random audit of approximately ten (10%) percent of its active licensees to determine compliance with these rules. The practitioners selected for the audit shall provide a signed statement of completion of the required hours and all supporting documentation within forty-five (45) days of the date of the notice of the audit. Failure to comply with the audit may subject the licensee to disciplinary action by the board as set forth above in subsection (g). If found to have not completed the requirement noted above, a licensee shall have not more than six (6) months within which to comply with this rule.

**Section 8. Co-signing of prescriptions.**

- (a) The co-signing of a prescription is the practice of medicine.
- (b) A physician may co-sign a prescription only to the extent that the physician could properly write the prescription as the sole prescriber.
- (c) A physician may co-sign a prescription written by a person enrolled in a residency program in this state only if that person holds a current residency training license issued by the board.



## CHAPTER 3 PRACTICE OF MEDICINE

### Section 1. **Pronouncement of death.**

The determination of the cause of death constitutes medical diagnosis and is the practice of medicine ~~as defined in W.S. 33-26-102(a)(xi) and requires licensure by the board prior to such determination.~~ The pronouncement of death is not a medical diagnosis and does not require prior licensure by the board.

### Section 2. **Board ordered testing.**

(a) Applicants/licensees who have been or are now in recovery from chemical and/or alcohol impairment or for other conditions deemed appropriate for ongoing monitoring may, at the board's or its designated agent's discretion, be required to comply with board mandated testing to monitor recovery. All such applicants/licensees shall execute and deliver to the board such releases and consents as may be required to enable the board to receive reports and communicate with any such testing facility.

(b) When ordered or as agreed to by consent decree, testing shall be done at a licensed medical facility convenient to the applicant's/licensee's residence and/or place of business at intervals determined by the board or its designated agent.

(c) A certified copy of the order/consent decree ordering the testing shall be sent to the facility where the testing is to be done. Execution of the consent decree or acceptance of a license to practice medicine will constitute waiver of applicant's/licensee's objection to release of the order/consent decree to the testing facility.

(d) Test results shall be mailed directly to the board of medicine or its designated agent for inclusion in the licensee's/applicant's file. Results and documentation thereof shall be confidential board records disclosed only if included in a final order pursuant to the terms of W.S. 33-26-408(c). Results may be disseminated to other licensing agencies, credentialing authorities, etc., if specifically requested, in writing, by the applicant/licensee.

(e) All expenses for testing shall be borne by the applicant/licensee and payable directly to the lab/facility where the testing is to be done.

### Section 3. **Physical or mental infirmity and/or communicable diseases.**

(a) A physician infected with any communicable disease ~~including, but not limited to, HIV/AIDS viral hepatitis, and tuberculosis, shall comply with the provisions of the Medical Practice Act~~ and take appropriate steps to guard against the spread of contagious, infectious or communicable diseases ~~(W.S. 33-26-40\_2(a)(xiv))~~, take

appropriate steps to assure competent patient care if the disease may lead to or cause incapacity or inability to practice medicine safely and skillfully (~~W.S. 33-26-402(a)(xix)~~), appropriately adapt medical practice if possessing any physical or mental disability caused by such infectious disease (~~W.S. 33-26-402(a)(xx)~~) and/or take appropriate steps to insure patient safety if the disease causes physical impairment (~~W.S. 33-26-403~~).

(b) A physician infected with, or who has reasonable cause to believe he/she is infected with a communicable disease ~~including, but not limited to, HIV/AIDS, viral hepatitis, and tuberculosis~~, shall be aware of and adhere to current scientific knowledge concerning the communicable disease. If the disease is progressive and leads to any disability, the physician shall promptly notify the board.

(c) A physician who affirmatively answers any question relating to physical or mental infirmity, alcohol or substance abuse, or communicable disease on the application for licensure or annual renewal questionnaire may be requested to supply additional information designated by the board, and/or may be called to interview before the board or a board designated committee. Following the interview and based on the information submitted, the board may require the physician to submit to appropriate medical and/or mental testing including, but not limited to, blood, urine and hair testing, at his/her own expense.

(d) All information received by the board of medicine during the application and/or renewal process, including but not limited to information concerning physical or mental deterioration, alcohol or substance abuse, and communicable disease, ~~including but not limited to HIV/AIDS, viral hepatitis, and tuberculosis~~, shall remain confidential and shall not be disclosed to any other party or entity without the express written release of the applicant/licensee or where required by law.

(e) Failure to comply with and adhere to the provisions set out above may lead to review and appropriate disciplinary action pursuant to W.S. 33-26-402(a).

#### **Section 4. Patient access to physician medical records.**

(a) The information contained in a patient's medical records should be made readily available upon receipt by the physician of an appropriate, signed, written request for release of such information. The paper, microfilm or data storage unit upon which the patient's information is maintained belongs to the physician and/or health care facility in which he/she practices. Patients do not have a right to possess the physical means by which the information is stored. Upon a patient's signed, written request, physicians shall make pertinent information in the medical record available to the patient. Physicians shall comply with the patient's written request within a reasonable period or no more than thirty days, whichever is shorter. Physicians shall honor a request for a patient's medical record when such request is made in writing and signed by the patient or an individual who is authorized to consent to health care for the patient pursuant to W.S. § 35-22-401 et. seq.

(b) Physicians may provide the medical record or any portion in an accurate, detailed, comprehensive summary of the factual information contained in the complete record. If requested, physicians shall provide copies of pertinent x-rays and other diagnostic records in addition to/in lieu of interpretive summaries.

(c) For purposes of ~~these rules~~[this section](#), 'medical records' does not include a physician's personal office notes or personal communications between referring and consulting physicians relating to the patient. A physician may, however, include such notes and communications if appropriate.

(d) If the physician disclosing the medical record believes, in good faith, that releasing any portion of the record would injure the health or well being of the patient, a physician may refuse disclosure of that portion of the record. In such instances, a physician shall document the factual basis and rationale used in deciding against disclosure. A physician may also deny access to patient records if he/she reasonably concludes that access to the health care information requested is otherwise prohibited by law.

(e) A physician may establish reasonable charges, and charge a patient for the actual costs incurred in responding to a patient's request for copies of any portion of a patient's medical record. Such costs may include the cost of copies, clerical staff time and the physician's time in reviewing and summarizing the records and/or x-rays and diagnostic records, if necessary. The patient requesting medical records is responsible for payment of all such charges; however, a patient shall not be denied a summary or a copy of requested medical records because of inability to pay.

(f) Violation of this rule may be cause for disciplinary action pursuant to W.S. 33-26-402(a)(xxxii).

**Section 5. Termination of physician-patient relationship; Closure of practice.**

(a) Any physician licensed by the board who desires to terminate a physician/patient relationship must notify the patient or the patient's legally-designated agent in writing at least thirty (30) days prior to the date of the termination that the licensee will no longer treat the patient. The written notice of termination shall be sent via certified mail, return receipt requested, and notify the patient that the licensee's care of the patient will continue for thirty days or until such date as the patient notifies the licensee of the name and address of the patient's new physician, whichever occurs first. Such requirements do not apply to physicians treating patients in an emergency room or under other emergent circumstances.

(b) Any physician licensed by the board who desires to relocate or close a medical practice should notify patients of such termination, sale, or relocation and unavailability by causing to be published once during each week for four (4) consecutive

weeks, in the newspaper of greatest circulation in each county in which the physician practices or practiced and in a local newspaper that serves the immediate practice area, a notice which shall contain the date of termination, sale, or relocation and an address at which the records may be obtained from the physician or terminating the practice or located or from another licensed physician. A copy of this notice shall also be submitted to the Board not less than one (1) month prior to the date of termination, sale, or relocation of the practice. The physician may, but is not required to, place a sign in a conspicuous location on the façade of the physician's office or notify patients by letter, of the termination, sale or relocation of the practice. The sign or notice shall advise the physician's patients of their opportunity and right to transfer or receive copies of their records.

**Section 6. Practice Coverage.**

The Board recognizes that patients often need help outside of regular office hours. However, since physicians cannot be continuously available to respond to patients and their emergencies, it is recommended that physicians provide their patients with instructions about what to do if they need help with their care and treatment when their physician is unavailable. Coverage arrangements should take into account the general nature, complexity and severity of the illnesses and the care and treatment in the patient population regularly seen and treated by the physician, as well as the availability of other providers qualified and available to respond to their patients' needs. Physicians should make reasonable efforts to arrange adequate and appropriate coverage for their practices and patients when the physician is unavailable. Physicians who do not have formal call coverage and who instruct patients to use a local emergency room for medical needs should confer with the medical director of the local emergency room to ensure that physicians and staff are able to communicate with the physician, or another provider qualified and available to respond to the patient's needs, about the care of their patients who may present for care at the facility. Failure to adequately address coverage needs of physician's patients may be grounds for the imposition of disciplinary action pursuant to W.S. 33-26-402.

**Section 7. Continuing medical education.**

(a) ~~Beginning January 1, 2007, in order t~~**I**o renew, reinstate or reactivate a license to practice medicine in Wyoming a physician shall verify satisfactory completion of not less than sixty (60) hours of continuing medical education (CME) earned in any combination of the following during the previous three (3) years:

- (i) AMA-approved Category I or II continuing medical education;
- (ii) AOA-approved continuing medical education;
- (iii) A current AMA Physician's Recognition Award;

(iv) A current certificate from a specialty board approved by the ~~American Board of Medical Specialties (A.B.M.S.)~~ considered by the specialty board to be equivalent to the hours claimed to be attributable to such certificate by the licensee;

(v) Other documented and verifiable self-assessment, quality improvement or other activity that promotes the enhancement of a licensee's medical skills;

(vi) Documented volunteer service rendering clinical care in a nonprofit health care facility in this state to low income uninsured persons while holding an emeritus license in good standing, such CME to be credited at the rate set forth in Chapter 1, Section 5(a)(v)(A)(II) of these rules; and/or

(vii) Documented volunteer service to the board as a medical consultant, such service to be credited as CME at the rate of one (1) hour of continuing medical education credit per two (2) hours of service as a consultant, not to exceed twenty (20) hours' CME credit in a calendar year.

(b) The CME requirement prerequisite to renewal, reactivation or reinstatement of licensure shall not apply to physicians who:

(i) Have held a Wyoming license to practice medicine for less than three years as of the renewal date;

(ii) Have within the past three (3) years been certified or recertified by member board of the ~~American Board of Medical Specialties~~ A.B.M.S.;

(iii) Have been within the previous three years, or are currently, enrolled in a residency program approved by the ~~Accreditation Council on Graduate Medical Education~~ A.C.G.M.E. or the ~~Royal College of Physicians Surgeons of Canada~~ R.C.P.S.C.;

(iv) Hold an inactive license to practice medicine in Wyoming as defined in Ch. 1, sec. 5(a)(iv) of these rules and who indicate such status by written notice to the board.

(c) Upon written request specifying the reasons for an exemption, the board may grant an exemption of all or part of the requirements of circumstances beyond the control of the licensee, such as temporary disability, mandatory military service or officially declared disasters.

(d) Upon written request received in the board offices on or before the renewal date and for good cause shown, the board may grant an extension of the deadline requirements for up to one year.

(e) Each year, accompanying the application for renewal of a license to practice medicine or accompanying a petition for reactivation or reinstatement of his/her license, a physician shall sign an affidavit provided by the board requiring the license holder to verify that he/she has met the CME requirements described above or that he/she holds an inactive medical license or is otherwise exempt from these rules.

(f) Licensee shall maintain CME records for no less than four (4) years and such records shall be made available to the board upon request.

(g) Failure to complete CME requirements as described in this rule may cause the physician to be ineligible for annual renewal of his/her license. Failure to produce records reflecting that a physician has completed the required minimum continuing medical education hours upon written request by the board may constitute unprofessional conduct under W.S. 33-26-402(a)(xxviii).

(h) The board shall periodically conduct a random audit of approximately ten (10%) percent of its active licensees to determine compliance with these rules. The practitioners selected for the audit shall provide a signed statement of completion of the required hours and all supporting documentation within forty-five (45) days of the date of the notice of the audit. Failure to comply with the audit may subject the licensee to disciplinary action by the board as set forth above in subsection (g). If found to have not completed the requirement noted above, a licensee shall have not more than six (6) months within which to comply with this rule.

**Section 8. Co-signing of prescriptions.**

(a) The co-signing of a prescription is the practice of medicine.

(b) A physician may co-sign a prescription only to the extent that the physician could properly write the prescription as the sole prescriber.

(c) A physician may co-sign a prescription written by a person enrolled in a residency program in this state only if that person holds a current residency training license issued by the board.

## CHAPTER 4

Repealed.

**CHAPTER 4**  
**RULES OF PRACTICE AND PROCEDURE FOR DISCIPLINARY**  
**COMPLAINTS AGAINST PHYSICIANS**

Repealed.

~~Section 1.—**Authority.**~~

~~These rules are promulgated pursuant to authority granted by W.S. 33-26-202(b)(v), and the Wyoming Administrative Procedure Act (W.S. 16-3-101 through 16-3-115). Section 2. Purpose. These rules have been adopted to describe and clarify procedures for the filing of complaints against licensed physicians; for the conduct of investigations and disciplinary proceedings by the board of medicine of and against licensed physicians and to describe the procedure for license denial appeals. Section 3. Definitions. The definitions contained in the Wyoming Administrative Procedure Act and chapter 26 of title 33, W.S. 33-26-101, et. seq., are incorporated herein by this reference. In addition, the following definitions of terms used in this chapter shall apply:~~

~~(a) —“Act” means W.S. 33-26-101 through 33-26-601.~~

~~(b) —“Affidavit” means a written, notarized statement of facts made voluntarily under oath.~~

~~(c) —“Applicant” means any person who has applied to the board for issuance, renewal, reactivation or reinstatement of a Wyoming physician’s license.~~

~~(d) —“Board” means the board of medicine of the state of Wyoming and its duly authorized agents, representatives and employees.~~

~~(e) —“Board records” means all information acquired by the board by any means as defined in Ch. 6. Section 3 of these rules.~~

~~(f) —“Board secretary” means a duly qualified member of the board elected to the position of secretary.~~

~~(g) —“Complainant” means any identified person, persons, association or entity, including the board of medicine or an individual member of the board, who communicates to the board in writing, alleging facts, which, if proven, would constitute a violation of W.S. 33-26-402 by a licensee.~~

~~(h) —“Complaint” means a written communication received by the board which alleges sufficient facts by which the board can determine the identity of the licensee, whether the alleged conduct falls within the board’s jurisdiction and whether the alleged conduct, if proven, would constitute a violation of W.S. 33-26-402 or these rules. The~~



~~complaint must be signed by a complainant and provide information adequate for the board to conduct investigation of the complaint if necessary.~~

~~(i) — “Condition” means a specific requirement or prohibition imposed by any medical licensing board of any jurisdiction that must be fulfilled by an applicant or licensee in order to obtain or continue to hold a license in that jurisdiction.~~

~~(j) — “Contested case” means a formal evidentiary proceeding conducted pursuant to W.S. 16-3-107 to 16-3-114.~~

~~(k) — “Costs” mean those expenses incurred in a hearing to deny, refuse to renew, reinstate, reactivate, revoke, restrict, place conditions upon, or suspend a license pursuant to W.S. 33-26-405(a)(viii) and includes, but is not limited to, reasonable attorneys’ fees incurred by the board, hearing officer fees, service fees, subpoena fees, reporter fees, lay and expert witness fees, travel and per diem expenses, deposition costs and other costs and expenses incurred in the investigation, discovery, preparation and hearing of any disciplinary matter.~~

~~(l) — “Docket” means a continuous, permanent, confidential record of each and every board action pertaining to a complaint or a denial, and the reasons and grounds for each and every step in the disciplinary or appeal process, commencing with the first notice of complaint by any complainant or final order in a denial action. The docket shall reflect each and every incident in any complaint or denial proceeding against any respondent or applicant, including initial, oral, anonymous inquiries and complaints, whether or not such complaints or inquiries are rendered in writing and whether the board takes further action on such complaints.~~

~~(m) — “Errant conduct” means conduct which may constitute grounds for denial, revocation, suspension or restriction of a license to practice medicine as set forth in W.S. 33-26-402(a)(i-xxxiv).~~

~~(n) — Repealed.~~

~~(o) — “Executive director” means a non board member hired by the board pursuant to W.S. 33-26-203(a) and authorized to coordinate and direct board functions.~~

~~(p) — “Hearing officer” means an attorney experienced in administrative law who may be appointed by the board to perform those functions set forth in W.S. 16-3-112(b) in a contested case.~~

~~(q) — “Informal interview” means a confidential meeting with the respondent and two or more interviewers pursuant to W.S. 33-26-202(b)(iii) and 33-26-401(b) in which the specification of charges, defenses and responses are discussed after initial screening of the complaint and prior to a contested case hearing.~~

(r) ——— “Interviewers” are two or more members of the board, appointed by the president of the board, or in his or her absence, the vice president, and the secretary, to investigate the complaint against the respondent, conduct an informal interview with the respondent and make recommendations to the president for further board action.

(s) ——— “Ledger” means a continual, permanent, public record maintained by the board. The ledger shall commence with the entry of the initial complaint or final order in a denial action and shall contain the date of the action or complaint, the section(s) of W.S. 33-26-402 or W.S. 33-26-303 relied upon by the board as a basis for its action, the disposition of the matter, the disciplinary action taken, if any, and the date of final disposition. Notwithstanding the foregoing requirements, no information reasonably likely to disclose the identity of the complainant, applicant or respondent shall be included in the ledger.

(t) ——— “Legal custodian” means the executive director.

(u) ——— “License” means a license to practice medicine in this state.

(v) ——— “Licensee” means a physician licensed by the board to practice medicine in this state.

(w) ——— “Medical Specialty Consultants” means persons who consult with the board or members of the board serving as interviewers in a disciplinary action who provide specialized expertise on medical issues.

(x) ——— “Party” means the board, the applicant or the respondent.

(y) ——— “Respondent” means the licensee named in a complaint.

(z) ——— “Restriction” means a limitation placed by any medical licensing board of any jurisdiction on an applicant’s or licensee’s scope of practice in that jurisdiction.

(aa) ——— “Screening” means a preliminary review by a majority of the board officers as soon as practicable, but no later than thirty (30) days, after a written complaint is received by the board to determine whether the alleged conduct falls within the board’s jurisdiction and whether the allegations, if proven, would constitute a violation of W.S. 33-26-402 of these rules. If the majority of the board officers can determine such questions from the information provided in the complaint, they shall appoint interviewers and direct the executive director to docket the complaint. If a majority of the board officers cannot determine such questions from the information provided in the complaint, they may authorize and direct the board’s employees and/or agents to investigate the complaint to provide sufficient information for them to complete the screening process.

(bb) ——— “Unprofessional conduct” means:

- ~~(i) — Failure to conform to the applicable standards of care;~~
- ~~(ii) — Willful or careless disregard for the health, welfare or safety of a patient;~~
- ~~(iii) — Engaging in any conduct or practice that is harmful or dangerous to the health of a patient or the public;~~
- ~~(iv) — Using any false, fraudulent or deceptive statements in any document connected with the practice of medicine including the intentional falsification or fraudulent, alteration of a patient or health care facility record;~~
- ~~(v) — Failing to prepare and maintain legible and complete written medical records that accurately describe the medical services rendered to the patient, including the patient's history, pertinent findings, examination, results, test results and all treatment provided;~~
- ~~(vi) — Practicing outside the scope of the licensee's expertise and training;~~
- ~~(vii) — Repeatedly engaging in harassing, disruptive or abusive behavior directed at staff, co-workers, a patient or a patient's relative or guardian or that interferes with the provisions of health care;~~
- ~~(viii) — Engaging in conduct that constitutes moral turpitude, including but not limited to conviction of or pleading guilty or nolo contendere to domestic abuse, stalking, sexual assault, sexual abuse or unlawful exploitation of a minor, indecent exposure, incest or distribution of pornography;~~
- ~~(ix) — Failing or neglecting to attempt to inform a patient within a reasonable time, not to exceed thirty (30) days from the receipt, of the results of a laboratory test indicating the need for further clinical review;~~
- ~~(x) — Improperly terminating a physician-patient relationship;~~
- ~~(xi) — Representing that a manifestly incurable disease or condition can be permanently cured or that any disease or condition can be cured by a secret method, procedure, treatment, medicine or device if the representation is untrue;~~
- ~~(xii) — Intentionally or negligently releasing or disclosing confidential patient information. This restriction shall not apply to disclosures required by state or federal law or when disclosure is necessary to prevent imminent risk of harm to the patient or others;~~

~~(xiii) Failing or refusing to transfer a copy of patient records to the patient or the patient's legally designated representative with thirty (30) days after receipt of a written request;~~

~~(xiv) Utilization of experimental forms of therapy without proper informed consent from the patient, without conforming to generally accepted criteria or standard protocols, without keeping detailed, legible records or without having periodic analysis of the study and results reviewed by a committee of peers;~~

~~(xv) Except in emergency situations where the consent of the patient or the patient's legally designated representative cannot be reasonably obtained, assisting in the care of treatment of a patient without the consent of the patient, the attending physician or the patient's legal representative;~~

~~(xvi) Using or engaging in fraud or deceit to obtain third party reimbursement;~~

~~(xvii) Upon proper request by the board, failure or refusal to produce documents or other information relevant to any investigation conducted by the board, whether the complaint is filed against the licensee or any other licensee;~~

~~(xviii) Violation of any board rule or regulation;~~

~~(xix) Acquiring or attempting or conspiring to acquire any drug classified as a narcotic, addicting or scheduled drug by fraud or deception;~~

~~(xx) Initially prescribing any controlled substance for any person through the Internet, the World Wide Web or a similar proprietary or common carrier electronic system absent a documented physician-patient relationship or~~

~~(xxi) Violating any final order, consent decree or stipulation between the board and the licensee.~~

~~(cc) "Board officers" means the president, vice president and secretary of the board.~~

~~(dd) "Petition" means a formal disciplinary action filed with the Executive Director by the Board Prosecutor against one or more licensees on behalf of one or more petitioners.~~

~~(ee) "Petitioner" means a board member who is appointed by the board officers to act as a prosecuting party in a formal disciplinary action against one or more licensees.~~

#### **Section 4. — Disciplinary proceedings.**

~~(a) Commencement of disciplinary proceedings.~~

~~(i) — Proceedings under these rules shall commence when a complainant, who may be a member of the board, notifies the board in writing of conduct which falls within the board's jurisdiction and which, if proven, would constitute a violation of W.S. 33-26-402. Said complaint shall clearly identify the complainant by name, address and telephone number (if any).~~

~~(ii) — On receipt of a complaint, the executive director shall file stamp the complaint and enter the date of the complaint on the docket and ledger.~~

~~(iii) — All complaints shall be deemed received on the date of actual receipt by the executive director.~~

~~(iv) — A copy of every written complaint and every writing in the general nature of a complaint as well as a report of every oral communication in the nature of a complaint received by the board shall be filed and maintained in the board's permanent files and docket.~~

~~(v) — A copy of every written complaint and every writing in the nature of a complaint as well as a report of every oral communication in the nature of a complaint received by the board shall, upon receipt, be sent to the board's attorney.~~

~~(vi) — Within thirty (30) days after receipt of a complaint, a majority of the board officers shall screen the complaint and, if they determine that the complaint alleges conduct by a licensee which falls within the board's jurisdiction and which, if proven, would constitute a violation of W.S. 33-26-402, shall appoint two members of the board as interviewers or take other appropriate action as necessary. Nothing herein precludes the appointment of the president, vice president or secretary as a petitioner in any case that they have screened. Whenever reasonably possible the interviewers shall include at least one (1) lay board member. If such inclusion is not reasonably possible, the executive director shall note that finding in the docket together with the grounds and reasons for said finding. If the majority of the board officers cannot determine whether the complaint alleges conduct by a licensee which falls within the board's jurisdiction and/or which, if proven, would constitute a violation of W.S. 33-26-402, they may authorize and direct the board's agents and/or employees to investigate the complaint to provide sufficient information for them to complete the screening process.~~

~~(b) — Notice to the complainant.~~

~~(i) — Immediately upon receipt of a complaint, the executive director shall notify the complainant in writing of said receipt.~~

~~(ii) — The notification of the complainant required by this section shall clearly advise the complainant as follows:~~

~~(A) — Pursuant to W.S. 33-26-408(a)(ii), the complainant and the complainant's witnesses incur no civil liability for information provided to the board in good faith, without malice, and in reasonable belief that the information is accurate.~~

~~(B) — Any effort by the licensee named in the complaint to discourage, intimidate, or otherwise impede a full and vigorous pursuit of the complaint constitutes, under board rules, a separate and distinct reportable instance of unprofessional conduct.~~

~~(c) — Notice to the respondent.~~

~~(i) — Within fifteen (15) working days after the board officers have appointed interviewers, notice shall be sent to the respondent~~

~~(ii) — The notification of respondent required by this section shall clearly advise the respondent as follows:~~

~~(A) — The nature and particular subject matter of the complaint, when it was filed, the board's appointment of interviewers;~~

~~(B) — A date by which the respondent is requested to submit a written response to the allegations in the complaint.~~

~~(C) — Notice to the respondent shall advise that counsel may be present at the informal interview, describe the interview process, and enumerate a range of potential sanctions that may be available to the board as a result of the interviewers' recommendations.~~

~~(D) — That any effort by the licensee named in the complaint to discourage, intimidate or otherwise impede a full and vigorous pursuit of the complaint constitutes, under board rules, a separate and reportable instance of unprofessional conduct.~~

~~(E) — If the majority of the board officers determine that the name of the complainant should not be disclosed to the respondent or if the complainant requests that his or her identity not be revealed to the respondent, the notice provided for in this subsection shall not identify the complainant. In such case the board officers may, however, approve disclosure of the particular patient care in question, including the name of the patient, to the respondent.~~

~~(F) — The notice described herein shall also be sent to the complainant.~~

~~(d) — Emergency suspension. In cases where the board determines that emergency action is required for the protection of the public health, safety or welfare, the~~

~~president may call a special meeting of the board which shall occur as soon as possible after receipt of the complaint and appropriate supporting evidence. Prior to convening such special meeting, the majority of the board officers shall review the complaint and/or any additional information to determine whether such special meeting is appropriate. If deemed appropriate for emergency suspension, a copy of the complaint and any additional evidence shall be made available to each member of the board prior to the special meeting. Such meeting may occur via telephone conference call, when necessary. If temporary emergency suspension pursuant to W.S. 33-26-404(c) is indicated, the board may so order, pursuant to the requirements of W.S. 16-3-113(e).~~

~~(e) — Interviews.~~

~~(i) — The interviewers shall investigate the allegations of errant conduct against the respondent and if circumstances warrant, conduct an informal interview.~~

~~(ii) — The informal interviewers may, at their discretion, conduct the interview without assistance of board counsel and/or by telephone. If the interviewee notifies the board of representation by counsel, board counsel shall participate in the interview. Notice by the interviewee of intent to be represented by counsel shall be sent to the board, in writing, not later than fourteen (14) days prior to the interview.~~

~~(iii) — The interviewers are the duly appointed agents and representatives of the board. After the informal interview and at other appropriate points in the proceedings their recommendation shall be considered by the board officers.~~

~~(iv) — No part or aspect of the interviewers' investigation or recommendation shall be divulged to another member of the board prior to a contested case hearing, except as may be otherwise required by these rules. However, final board orders shall be disseminated to board members and board counsel by the executive director on a routine basis. This shall include private reprimands, censures and other actions that may not be subject to public disclosure.~~

~~(v) — At any time after their appointment by the majority of the board officers, the interviewers may seek to use or employ investigators, the offices of the attorney general, the state division of criminal investigation or any other investigatory or fact finding agency they deem necessary. The interviewers may employ, at their discretion, medical specialty consultants to assist them in the investigation and evaluation of the complaint. Pursuant to W.S. 33-26-408(a), these individuals shall be deemed agents of the board and there shall be no liability on the part of and no action for damages based on their actions and conduct relevant and/or material to the conduct of the investigation undertaken at the direction of the board.~~

~~(f) — The informal interview.~~

~~(i) — Following notification to the complainant and the respondent of the board's appointment of the interviewers, and where circumstances warrant, the interviewers shall conduct the informal interview.~~

~~(ii) — The purpose of the informal interview is to determine whether the allegations, if proven, would constitute a violation of W.S. 33-26-402, whether a mental or physical examination of the respondent is warranted, whether a further investigation is warranted, pursuant to W.S. 33-26-403, whether additional charges should be brought, whether there exists a possibility of resolution of the complaint without further proceedings and whether a contested case disciplinary hearing should be pursued.~~

~~(iii) — Review of the complaint by the interviewers may include, but is not limited to:~~

~~(A) — Determination of the respondent's licensing status;~~

~~(B) — Whether the alleged violation includes a fee dispute;~~

~~(C) — The duration of time in which the acts or omissions occurred;~~

~~(D) — Whether there appears a likelihood that the facts and circumstances alleged, if proven, would constitute a violation of W.S. 33-26-402;~~

~~(E) — The factual basis for the complainant's allegations;~~

~~(F) — Whether the matter is outside the board's jurisdiction and should be referred to another state agency;~~

~~(G) — Notice of the informal interview shall be given to respondent and contain time, date and location of the interview and a statement of the action the interviewers and board are authorized to take following such interview;~~

~~(H) — The interviewers shall make every reasonable attempt to conduct the informal interview within forty five (45) days after their appointment or as soon thereafter as practicable. If special circumstances prevent the conduct of the informal interview by such date, the informal interview may proceed at the earliest possible date;~~

~~(I) — The informal interview may be conducted by conference telephone call if the interviewers determine that the purpose of the interview can be achieved in such manner;~~

~~(J) — The interviewers may request that the respondent submit documents and/or a written narrative response to the allegations of the complaint prior to~~



~~the informal interview if they determine that such information would assist them in their investigation and in their conduct of the informal interview;~~

~~(K) — The interviewers, board counsel, respondent and/or respondent's counsel may discuss stipulation, dismissal, consent decrees, restrictions or any other pertinent procedural or substantive information;~~

~~(L) — An electronic or stenographic record may be made and shall, if made, become part of the permanent confidential files of the board;~~

~~(M) — An informal interview is not subject to strict legal procedural or evidentiary rules. Informal interviews are not open to the public nor is their occurrence a matter of public record;~~

~~(N) — After reviewing their own findings based upon the investigation and the record made of the informal interview, the interviewers shall report, in writing, to the board officers. Such report shall be made within thirty (30) days after completion of the investigation or as soon thereafter as practicable;~~

~~(O) — The interviewers shall recommend dismissal of the case, continuation of the investigation, that a medical, mental or physical examination be ordered for the respondent or the placing of restrictions or conditions on the respondent's license or suspension or voluntary relinquishment or any other combination of acts designed to specifically redress the complaint or to proceed with a contested case;~~

~~(P) — The board officers shall accept the interviewers' recommendations on behalf of the board. This determination shall occur within thirty~~

~~(30) working days of receipt by the board officers of the interviewers' report or as soon thereafter as practicable;~~

~~(Q) — The executive director of the board shall then note the date and disposition on the ledger, and the date, disposition and the written findings and basis therefore in the docket and notify all board members and counsel of the disposition of the matter.~~

~~(R) — The board shall notify the complainant and the respondent of its actions and in a statement in concise and plain language note the reasons and basis therefore.~~

~~(iv) — Investigation and examination of physicians.~~

~~(A) — Following the informal interview and before reporting to the board officers, the interviewers may further investigate the complaint in order to more fully inform themselves about the allegations contained in the complaint;~~

~~(B) — The investigation may include the taking of depositions as authorized in W.S. 33-26-401(c), interviews with witnesses, and such other investigation as the interviewers deem necessary.~~

~~(C) — As a part of their investigation, or at any time after their appointment, the interviewers with the prior approval of a majority of the board officers may order a mental, physical or medical competency exam of the respondent pursuant to W.S. 33-26-403.~~

~~(D) — Notice of the interviewers' order requiring respondent to submit to a medical, mental or physical examination shall include notice of a respondent's right to designate another physician to be present at the examination and make an independent report to the board.~~

~~(E) — The interviewers shall also notify the respondent that he may request a mental, physical or medical examination for himself, pursuant to the terms of W.S. 33-26-403(a-d).~~

~~(F) — The interviewers shall consider the recommendation of the examination committee and shall consider the substantive findings of the committee.~~

~~(G) — The results of any board ordered mental, physical competency or medical competency examination shall be provided to the respondent and the interviewers prior to any further board action.~~

~~(g) — Waiver of informal interview.~~

~~(i) — Following notice by the board of its intent to conduct an informal interview pursuant to section 4(e), respondent may, at any time, waive the right to an informal interview and proceed directly to a contested case proceeding pursuant to section 4(i).~~

~~(ii) — Waiver of the informal interview process must be made in writing, signed by the respondent and sent to the board of medicine.~~

~~(iii) — Respondent's waiver of the informal interview process shall not, in and of itself, constitute grounds for additional charges of unprofessional conduct pursuant to W.S. 33-26-402(a)(xxvii).~~

~~(h) — Settlement or stipulation.~~

~~(i) — Nothing in these rules shall preclude the respondent and the board from entering into a consent decree, nor shall these rules preclude a voluntary request by the respondent for the suspension, relinquishment or restriction of respondent's license,~~

~~provided, however, that the board may, but is not required to accept or reject such a request.~~

~~(ii) — The reasons, grounds, conditions and other provisions of any such consent decree, voluntary relinquishment, suspension or restriction or other board action taken in lieu of a contested case hearing shall be recorded on the docket and become a permanent part of the board's confidential files.~~

~~(iii) — Such consent decree or other action may occur at any time prior to the announcement of a final decision after a contested case hearing.~~

~~(iv) — In the case of a stipulation, relinquishment or consent decree, the public ledger shall note only the disciplinary action taken and the date.~~

~~(v) — The complainant and respondent shall not enter into settlement negotiations or exchange of offers of settlement or compromise without the express written permission of the board.~~

~~(i) — Contested case.~~

~~(i) — Any contested case before the board in a disciplinary action or denial appeal shall be conducted pursuant to these rules and the Wyoming Administrative Procedure Act (W.S. 16-3-101, et. seq.).~~

~~(ii) — Disciplinary actions shall be initiated by a petition by the board related by the complainant or by the interviewers, as petitioners, against the licensee, as respondent.~~

~~(A) — At least ten (10) days prior to service of petition, written communication shall be sent to respondent requiring indication whether respondent will accept service of the petition by United States certified mail, return receipt requested, or if respondent desires personal service at his place of business. Failure to return written election of choice of service to the board within ten (10) days of receipt shall mandate personal service.~~

~~(B) — The petition shall contain the following information:~~

~~(I) — The respondent's name and address;~~

~~(II) — The time, manner and place of the hearing. The board shall notify the respondent at least forty five (45) days before holding a contested case hearing. The board and respondent may waive this requirement by written agreement entered into the record.~~

~~(III) — The docket number assigned to the case;~~

~~(IV) — The legal authority and jurisdiction under which the hearing is to be held;~~

~~(V) — The particular sections of the statutes and rules involved; and,~~

~~(VI) — A statement in ordinary and concise language setting forth the grounds for the petition. If the board is unable to state the matters in detail at the time the petition is served, the petition may be limited to a statement of issues involved. Within thirty (30) days after a respondent's request, the board shall amend the petition to provide a more definite and detailed statement. The hearing officer shall allow amendment of the petition upon a showing of good cause and lack of prejudice to the respondent.~~

~~(iii) — Answer. The respondent may file an answer within twenty (20) days after receiving the petition.~~

~~(iv) — Informal disposition. Subject to board approval, a disciplinary proceeding may be resolved by mutual agreement at any time prior to the hearing. In addition, the board may, on its own motion, dismiss a disciplinary proceeding or petition. All settlements, agreements, or stipulations, dismissals, and consent decrees shall be in writing and entered into record. Following such a resolution, the board shall issue findings and a final order dismissing the case unless the board, by specific action, finds that a final order should not be issued in the case. Any such finding shall be reduced to writing and set forth the specific reasons for not issuing a final order. A copy of such writing shall be placed and retained in the respondent's file maintained by the board.~~

~~(v) — Hearing officer.~~

~~(A) — The board shall appoint a hearing officer to preside over each contested case. The appointed hearing officer shall not have participated in the preliminary investigation or case preparation.~~

~~(B) — The hearing officer shall withdraw from the case if he or she deems himself or herself to be disqualified. The hearing officer shall provide a written explanation of such withdrawal to the board before withdrawing.~~

~~(C) — A party may make a written request for the removal of a hearing officer. The request shall be made as soon as possible after the party has reasonable grounds to believe that the hearing officer is subject to disqualification. The written request shall explain the reasons for the requested disqualification and shall be accompanied by affidavits. If the hearing officer denies the request, he or she shall issue a written explanation of such denial and enter the explanation into the record. If the hearing~~

~~officer grants the request, the board shall appoint a new hearing officer as soon as possible.~~

~~(vi) — Duties and powers of hearing officer. The hearing officer shall have those powers set forth in W.S. 16-3-112(b) and all such other powers as may be necessary to conduct a fair and impartial contested case hearing, including, but not limited to, the power to provide for and determine the scope of discovery and assist the board in the development of proposed findings of fact and conclusions of law.~~

~~(vii) — Discovery. Discovery in a board disciplinary proceeding shall be governed by W.S. 16-3-107. All records of discovery shall be filed with the board or its hearing officer.~~

~~(viii) — Subpoenas. Pursuant to W.S. 16-3-107, the board or its hearing officer, at the request of a party, may order by subpoena the attendance of witnesses or require the production of books, papers or other evidence. A respondent may apply for a subpoena; however, pursuant to W.S. 33-26-408 (f), a respondent may not discover board records other than final orders nor may a respondent seek discovery from any member, employee or agent of the board.~~

~~(ix) — Pre-hearing conference.~~

~~(A) — Upon request of either respondent or board, and at any time before the hearing date, the hearing officer may hold a pre-hearing conference to consider simplifying the issues, amending the pleadings, clarifying or limiting the evidence, formulating procedures to govern the hearing and any other matters which will aid in the disposition of the case.~~

~~(B) — An order reflecting the action taken at the pre-hearing conference shall be written and entered into the record. The pre-hearing order shall control the course of the hearing unless modified to prevent manifest injustice. A party may request a modified order if the order is ambiguous or does not fully cover the issues presented at the pre-hearing conference.~~

~~(x) — Evidence and testimony.~~

~~(A) — Admissibility of evidence. Admissibility is governed by W.S. 16-3-108. Parties shall have the right to present evidence, submit rebuttal evidence, and conduct cross examinations. Irrelevant, immaterial, and unduly repetitious information shall be excluded. All documentary or physical evidence shall be marked as exhibits. The board's exhibits shall be marked by letters of the alphabet beginning with "A". The respondent's exhibits shall be marked with numbers beginning with "1".~~

~~(B) — Objections. The grounds for objections to evidentiary rulings shall be briefly stated. All objections and rulings shall be entered into the record.~~

~~(C) — Witnesses. A testifying witness shall identify himself by stating his name and address. All witnesses shall stand and be administered the following oath: “Do you swear (or affirm) to tell the truth, the whole truth, and nothing but the truth.”~~

~~(D) — Privileged and confidential information. The hearing officer shall recognize any privilege at law.~~

~~(E) — Official notice. Official notice may be taken of any information in the nature of traditional matters of judicial notice or within the board’s special technical knowledge or files.~~

~~(xi) — Representation. All parties have a right to represent themselves or be represented by counsel at every stage of any disciplinary proceeding including the informal interview.~~

~~(xii) — Order of procedure.~~

~~(A) — To the extent practicable, contested case hearings shall be conducted in accordance with the following procedure:~~

~~(I) — The hearing officer shall conduct the hearing in closed session pursuant to W.S. 16-4-405(a)(ii) and (a)(ix), unless the respondent requests a public hearing. The hearing officer may sequester witnesses upon appropriate request by any party.~~

~~(II) — The hearing officer shall commence the hearing by calling the docket number and title of the case to be heard. The hearing officer shall ask if the parties are ready to proceed. The hearing officer may also allow the parties to dispose of preliminary matters. The hearing officer shall allow the parties a reasonable time to voir dire the hearing panel on the grounds that a hearing panel member has a conflict of interest or is biased.~~

~~(III) — If the respondent or his or her representative fails to appear, the hearing panel may:~~

~~(1.) — Grant a continuance;~~

~~(2.) — Conduct the proceeding in the absence of the respondent or his or her representative; or,~~

~~(3.) — Declare the respondent in default and accept all matters in the complaint as true. In such event, the hearing officer shall conduct the proceeding with the presentation of evidence by the Petitioners only. Following the close~~

~~of such evidence, the hearing panel shall issue its recommended findings of fact, conclusions of law and order for submission to the board for approval.~~

~~(IV) — The hearing officer shall administer the oath to all witnesses at the beginning of the hearing or before each witness testifies.~~

~~(V) — The hearing officer may allow all parties to give an opening statement to briefly explain their position and outline the evidence they propose to offer.~~

~~(VI) — The hearing officer may recess the proceedings as appropriate.~~

~~(VII) — The board shall present its evidence first, followed by the respondent. The board may submit rebuttal evidence. Witnesses may be cross-examined by an opposing party or by the board.~~

~~(VIII) — No testimony shall be received unless given under oath or affirmation.~~

~~(IX) — Closing statements shall be made after all evidence has been received with the board going first followed by the respondent.~~

~~(X) — Following the closing statements, the hearing officer may dismiss and excuse all witnesses and declare the hearing closed.~~

~~(XI) — No evidence shall be taken after the hearing is closed unless requested and upon a showing of good cause.~~

~~(XII) — All parties may submit legal briefs and proposed findings of fact and conclusions of law within thirty (30) days after the transcript is made available. The time limit may be extended upon agreement between the parties and with the approval of the hearing officer.~~

~~(B) — All hearings shall be recorded verbatim, stenographically, or by other appropriate means. Within ten (10) days after the transcript is available, the hearing officer may allow all parties to submit written proposed corrections of the transcript pointing out errors that have been made in transcribing the testimony.~~

~~(xiii) — Decision.~~

~~(A) — After consulting with the hearing panel, Board counsel shall assist the hearing panel in drafting findings of fact and conclusions of law within thirty (30) days after receiving proposed findings from the petitioners and the respondent.~~

~~Such findings of fact, conclusions of law and proposed order shall be submitted to the board for approval and adoption.~~

~~(B)——The board shall serve a copy of the decision upon all parties. The decision shall include:~~

~~(I)——A statement of the findings of fact and conclusions of law, separately stated and supported by concise and explicit statements.~~

~~(II)——An order setting forth the action taken, including costs, if any, assessed against respondent.~~

~~(xiv)——Record. The record in contested cases shall consist of those items set forth in W.S. 16-3-107(o) and the transcript of all recorded proceedings if one is prepared.~~

~~(xv)——Appeal. Pursuant to W.S. 16-3-114 the board's final decision may be appealed to the district court.~~

~~(xvi)——Transcript in case of appeal. If the board's decision is appealed to the district court, the appealing party shall pay the costs of copying the transcripts and duplicating the record for submission to the court and the parties to the appeal.~~

#### ~~Section 5.——Reinstatement.~~

~~Any person whose license has been relinquished or revoked may petition for reinstatement pursuant to W.S. 33-26-406. The petitioner shall be given the opportunity to prove that he is of good moral character and able to safely and skillfully practice as a physician.~~

#### ~~Section 6.——Board review of initial license, Temporary License, Reactivation and Reinstatement Applications.~~

~~(a)——The board shall evaluate every application for initial licensure, temporary licensure, renewal and reactivation to determine whether such application meets the requirements of W.S. 33-26-303 and these rules.~~

~~(b)——In addition to the requirements of W.S. 33-26-303 and pursuant to W.S. 33-26-303(a)(ix) and Chapter 1, Section 5(b) of these rules, the board may require any applicant to appear before a panel of members the board and to establish in a licensure interview, his or her qualification to practice medicine as shown through knowledge of and ability in the general practice of medicine and answers to questions regarding past or pending disciplinary actions in this or any other state and personal and professional history.~~



~~(c) — After the licensure interview and before granting a license, the board may require the applicant to furnish additional documentation and/or explanations to the board's questions or may investigate the applicant on its own.~~

~~(d) — Following the licensure interview and/or subsequent investigation, the board may shall take action as set forth in Chapter 1, Section 5(b)(vi) of these rules.~~

~~(e) — If the board denies the license or grants the license with restrictions, it shall issue a final order reflecting such action supported by findings of fact and conclusions of law. Such order shall be issued by the board within twenty (20) days after the final action has been taken by the board.~~

~~(f) — On the date of issuance of such final order, the executive director shall send a copy of such order to the applicant by certified mail at the address shown on the application. Section 7. Appeal following denial of initial application, reinstatement or reactivation. An applicant who is denied a license, denied reactivation or reinstatement of a license or who is issued a license with restrictions may appeal such final order to the district court pursuant to W.S. 16-3-114.~~

~~Section 8. — **Public inspection.**~~

~~(a) — The executive director, as the legal custodian shall, under the direction of the board, segregate all documentation pertaining to any complaint or petition and place it into the docket of confidential information or the ledger of public information. The executive director shall provide proper identification of all the records in the docket and ledger.~~

~~(b) — The ledger shall be open for public inspection in the board offices.~~

~~(c) — The docket shall be a confidential, segregated file not available for public inspection, maintained in the board offices.~~

~~(d) — If the legal custodian or alternate custodian denies a request to inspect or copy records, written reasons shall be given if requested and the requestor shall be advised of the right to appeal and state why inspection should be granted including the purpose for which the record is needed by the requestor.~~

~~(e) — All ledger records shall be kept at the office of the board or in a governmental record storage site and shall be available for public inspection and copying during office hours when such inspection or copying does not unduly interfere with the work of board staff.~~

~~(f) — Original ledger records shall be examined under the supervision of the staff of the board and shall not be removed from the office.~~

~~(g) — A request to inspect ledger records shall be deemed sufficient if it reasonably describes the requested records and contains the person's name and address.~~

~~(h) — Phone requests to review ledger records will not be honored.~~

~~(i) — The charge for duplication will be set by the executive director of the board. Section 9. Notification. Every disciplinary action, except dismissal of the complaint or a petition, taken by the board as a result of a complaint against a licensee, shall be reported to the Federation of State Medical Boards of the United States, Inc., the National Practitioners' Data Bank, the Health Integrity and Protection Data Bank, and the chief of the medical staff and administrator of each hospital in which the licensee has medical staff privileges, within thirty (30) days of the final disposition of the case. Section 10. Severability. If one or more parts of these rules are found to be invalid or unenforceable, the remainder shall continue in full force and effect.~~

**CHAPTER 5**  
**RULES OF PRACTICE AND PROCEDURE FOR THE LICENSURE OF**  
**PHYSICIAN ASSISTANTS**

Section 1.     **Authority.**

These rules are promulgated pursuant to authority granted by the Act and A.P.A.

Section 2.     **Purpose.**

These rules have been adopted to set forth the procedures of the board in the licensure and regulation of the practice of physician assistants in the state of Wyoming.

Section 3.     **Definitions.**

The definitions contained in the Act, the A.P.A., and Chapter 1 of these rules are incorporated herein by this reference.

Section 4.     **Scope of practice.**

(a)     A physician assistant assists in the practice of medicine under the supervision of a licensed physician. Within the physician/physician assistant relationship, physician assistants exercise autonomy in medical decision making and provide a broad range of diagnostic, therapeutic and health promotion and disease prevention services. The physician assistant may perform those duties and responsibilities delegated to him by the supervising physician when the duties and responsibilities are provided under the supervision of a licensed physician approved by the board, are within the scope of the physician's practice and expertise and within the skills of the physician assistant.

(b)     The physician assistant may work in the office of the supervising physician where primary practice is maintained and at sites outside that office as directed by the physician.

(c)     The physical presence of the supervising physician is not required if the supervising physician and the physician assistant are or can easily be in contact with each other by telephone, radio, or other telecommunications. A physician assistant shall not practice in any capacity if, for any reason, there is not a supervising physician available to properly supervise the physician assistant in his or her professional duties, or is outside a reasonable geographic proximity to the physician assistant's practice location.

(d)     The board does not recognize or bestow any level of competency upon a physician assistant to carry out a specific task. Such recognition of skill is the responsibility of the supervising physician. However, a physician assistant is expected to perform with similar skill and competency and to be evaluated by the same standards as the physician in the performance of assigned duties.

(e) Nothing in the act shall be construed to prohibit the employment of a physician assistant by a medical care facility, institution or corporation where such physician assistant functions under the supervision and direction of a physician or group of physicians.

(f) Neither the board nor the advisory council shall deny an application due to the number of physician assistants supervised up to three (3), except for good cause specific to the circumstances of the individual physician supervisor. The board and the advisory council may allow a physician to supervise more than three (3) physician assistants, subject to a showing by the supervising physician that it is appropriate in the circumstances, that all physician assistants under his supervision will have adequate, documented supervision, and that patient care and safety will be protected.

**Section 5. Advisory council.**

(a) Pursuant to W.S. 33-26-503(b)(v), the board of medicine shall appoint an advisory council to the board. This council shall consist of at least two (2) members who shall be physician assistants holding an active license to practice in this state and two (2) members who shall be physicians holding an active license to practice in this state. Additional members may be appointed at the discretion of the board. The advisory council is responsible to and will serve at the pleasure of the board.

(i) A chairman and vice-chairman shall be elected annually by a vote of the advisory council members.

(ii) Advisory council members shall serve one four (4) year term, with the ability to request reappointment by the board, not to exceed two (2) reappointments.

(b) The advisory council shall review and make recommendations to the board on matters relating to physician assistants that come before the council, including:

(i) Applications for licensure

(ii) Physician assistant education

(iii) Requirements for licensure

(iv) Professional conduct;

(v) Scope of practice; and,

(vi) Other matters related to the licensure, practice, and discipline of physician assistants.

(c) The advisory council shall meet in conjunction with the board for the purpose of interviewing candidates for recommendation to the board for licensure and other matters as directed by the board.

(d) The advisory council may recommend conditions, denial, suspension or revocation of licensure when it finds that the medical practice act and/or these rules are not being followed.

**Section 6. License required, application, and supervision agreement.**

(a) No person may practice as a physician assistant or represent that he or she is a physician assistant without a license granted by the board.

(b) An application form, provided or approved in advance by the board, must be submitted to the advisory council and board. The application form must be complete in every detail. For an application to be deemed complete and be considered, the following items must be received in the board office not less than 15 business days prior to the licensure interview date, should an interview be required of the applicant or the supervising physician:

(i) The application form, complete in every detail and properly executed by the applicant;

(ii) The required fee, as set forth in Section 12 of this chapter;

(iii) Three (3) original references, submitted on a form approved by the board. A minimum of two (2) references must be from physicians with whom the applicant has practiced; the third reference may be from a physician or PA-C with whom the applicant has practiced. References from physicians or physicians assistants with whom the applicant has a current or prospective financial, business or family relationship are not acceptable;

(iv) Proof of legal presence in the United States, pursuant to 8 U.S.C. 1621, on a form approved or prescribed by the Board;

(c) A supervising agreement form, provided by the Board, must be submitted to the advisory council and the board by the supervising physician. This form shall include, at a minimum:

(i) The supervising physician's name, degree, license number, medical specialty, and medical practice address and telephone number;

(ii) A detailed description of the medical practice and the duties of the physician assistant under the supervising physician's scope of practice, as well as the method(s) of supervision (e.g., over-the-shoulder, same office suite, radio, telephone,

video, etc.) the supervising physician will utilize.

**Section 7. Eligibility for Licensure.**

The board may grant a physician assistant license to an applicant who:

- (a) Is not less than 21 years of age;
- (b) Has graduated from a physician assistant training program accredited by the CAAHEP or its predecessor or successor organization;
- (c) Has satisfactorily completed a certification examination administered by the NCCPA or other national certifying agency established for such purposes which has been reviewed and approved by the board and is currently certified;
- (d) Physician assistants licensed by the board prior to July 1, 1995 are not required to be currently certified by the NCCPA and are not required to provide proof of current NCCPA certification with any of the applications submitted to the board described in Section 8 below.
- (e) The board may recognize specialty classifications of training of physician assistants. These classifications shall reflect the training and experience of the physician assistant.
- (f) The board may grant an emeritus license to practice as a physician assistant under the supervision of a physician holding an active medical license in this state, which may be used for the provision of uncompensated physician assistant services. Such license may be issued to an applicant who provides an application by a supervising physician, proof that the applicant is currently certified by the NCCPA and has maintained a physician assistant license in good standing in another jurisdiction of the United States or Canada for a period of not less than ten (10) years prior to applying for the emeritus physician assistant license and signs a notarized statement he/she will not accept any form of remuneration for physician assistant services rendered while in the possession of an emeritus license . As part of the application process, an applicant for an emeritus physician assistant license who does not hold a current Wyoming physician assistant license shall complete to the satisfaction of a majority of the board members a personal interview consisting of inquiry and oral response to medical knowledge, personal and professional history and intentions for practicing as a physician assistant in this state. Such interview may be conducted by one (1) or more advisory council members and, if deemed appropriate by a majority of the advisory council, may be conducted by telephonic means.
- (i) Physician assistants possessing an emeritus license shall:

(A) Annually sign an affidavit affirming that their physician assistant practice continues to be without remuneration; and

(B) Maintain current certification, in good standing, through the NCCPA including, but not limited to, the continuing education requirements thereof.

(ii) Repealed.

(g) The board may issue a volunteer/camp physician assistant license to a physician assistant who is in good standing in at least one (1) jurisdiction other than the state of Wyoming for the purpose of assisting in the practice of medicine as a volunteer, without compensation. An applicant for a volunteer/camp physician assistant license must complete and submit a form and documentation prescribed by the board, meet the requirements of W.S. 33-26-504, agree to comply with the Act and these rules, agree to be subject to the jurisdiction of the board, provide proof of licensure in good standing in at least one (1) jurisdiction other than the state of Wyoming, and pay the fee set by the board. A licensure interview is not required for issuance of a volunteer/camp physician assistant license. A volunteer/camp physician assistant license shall be valid for not more than twenty-one (21) consecutive days in any calendar year, and may not be renewed.

(h) A person who has pled guilty or nolo contendere to, or has been convicted of, a felony or any crime that is a felony under Wyoming law in any state or federal court or any court of similar jurisdiction in another country may apply for licensure; however, the board may deny licensure based solely upon such plea or conviction.

#### Section 8. **Consideration of applications.**

(a) The applicant for physician assistant licensure is required to appear before the advisory council for initial licensure.

(b) The supervising physician shall complete and submit a supervision agreement form describing his willingness to undertake full responsibility for the physician assistant's professional actions and such other actions as may affect patients, and setting forth the conditions of his supervision of the physician assistant;

(c) Physicians who have conditions or restrictions upon their license or privileges issued by the board or other state medical licensing board or health care facility may apply to supervise a physician assistant. All applications submitted by physicians with restrictions or conditions on their license or clinical privileges shall be reviewed by the board. The board may, in its discretion, require an interview with an applicant under this subsection.

(d) The advisory council may require a supervising physician to interview in person before the advisory council to determine the supervising physician's ability to

properly supervise the physician assistant and his willingness to accept the responsibility of supervision of a physician assistant.

(e) If a physician assistant changes supervising physician, but remains in the same practice situation and location, the physician assistant shall submit an application on a form approved by the board explaining the change and providing proof of current NCCPA certification. The supervising physician shall also complete and submit an application describing his willingness to undertake full responsibility for the physician assistant's professional actions and such other actions as may affect patients. Under these circumstances, an interview may be required if deemed appropriate by the advisory council or the board. If initial licensure fees have been paid, no further fees will be assessed.

(f) If a physician assistant changes job situations or locations within the state under a new supervising physician, the physician assistant shall submit an application on a form approved by the board explaining the change, provide proof of current NCCPA certification and pay a fee in the same amount as the initial application fee. The supervising physician shall also complete and submit a supervising agreement form describing his willingness to undertake full responsibility for the physician assistant's professional actions and such other actions as may affect patients. A subsequent interview may be required by the advisory council.

(g) If a physician assistant leaves the state for employment and returns, a new supervising physician application and fees must be submitted to the advisory council and board for approval. An interview may be required.

(h) Following review of the application documents and, where appropriate an interview, the advisory council shall make its recommendations to the board regarding licensure of a physician assistant to practice in Wyoming. The final decision remains with the board.

(i) If a licensed physician requires the assistance of a licensed physician assistant in an emergency, the physician and physician assistant shall, within two (2) business days of the emergent situation, submit to the board on form prescribed by the board a statement detailing the circumstance of the emergency and the need for the assistance of the physician assistant without the board's prior approval. If it is determined that the situation was not an emergency or if it was not appropriate to involve the physician assistant, both the physician and the physician assistant may be subject to disciplinary action.

(j) Applications submitted to the board for initial licensure as a physician assistant expire six (6) calendar months after the date the application document is received in the board office.



Section 9. **Temporary license, expedited temporary license, initial licensure.**

(a) For purposes of this section, the following definitions apply:

(i) “Clean application” means that the physician assistant applicant has none of the following:

(A) Professional liability insurance settlement(s) or payment(s) in excess of \$50,000 individually or \$100,000 in the aggregate;

(B) Criminal record;

(C) Medical condition(s) which could affect the physician assistant’s ability to practice safely;

(D) Licensing or regulatory board complaint(s), investigation(s), or action(s) (including withdrawal of a licensure application);

(E) Adverse action taken by a health care entity;

(F) Investigation(s) or action(s) taken by a federal agency, the United States military, medical society or association; or,

(G) Suspension or expulsion from, or disciplinary action in, any academic program, including physician assistant school and any post-graduate training program.

(ii) “Core application documents” means the following:

(A) The required application form(s), including the supervising agreement form and appropriate fee(s);

(B) Form and supporting document(s) demonstrating proof of legal presence in the U.S. pursuant to 8 U.S.C. § 1601, et seq.;

(C) Verification of current certification by, and good standing with, the NCCPA;

(D) FSMB Board Action Databank report; and,

(E) NPDB report.

(b) License Application Processing, Review and Interviews. When an

applicant's core application documents have been received by the board and are deemed to be satisfactory, the executive director or his designee will review the application and supporting materials to determine whether a licensure interview of the applicant will be required pursuant to this rule. If the executive director or his designee determines that the applicant will not, in all likelihood, be required to have a licensure interview pursuant to this chapter, the applicant has been continually licensed in good standing (not including training licenses) for the preceding three (3) years in one or more states and/or the District of Columbia, and the applicant has a clean application, the executive director may, acting on behalf of the advisory council and the board, issue a temporary license to the applicant pursuant and subject to these rules, including the requirement for a complete application set forth therein.

(c) If an applicant is not issued a temporary license pursuant to paragraph (b) of this rule, when the application is deemed complete pursuant to Section 6(b) of this chapter, the physician assistant's application for licensure shall be sent to the advisory council for review. Upon the recommendation of at least three (3) members of the advisory council, the application shall be sent to the board officers for review and final determination. If a majority of board officers approves, the physician assistant shall be issued a temporary license to be valid until 8:00 a.m. of the first day of the next regularly-scheduled board meeting.

(d) A temporary license may be issued under paragraph (b) to a physician assistant who meets all requirements for licensure except completion of the NCCPA certification examination. A temporary license may be issued to allow the physician assistant an opportunity to sit for the next available examination, such time period not to exceed one (1) year from the date of issuance of the temporary license.

(e) A physician assistant who receives a temporary license under this section remains subject to the requirement for a personal interview with the advisory council and/or the board in this chapter.

(f) Temporary licenses issued less than fifteen (15) business days prior to the next regularly-scheduled board meeting will be valid until the later of a vote of board members on the application pursuant to these rules, or 8:00 a.m. on first day of the second regularly-scheduled board meeting after issuance.

(g) Upon written request received from the holder of a temporary license not less than seven (7) days before expiration of the temporary license, the executive director may extend a temporary license for an additional term no longer than the later of a vote of board members on the application pursuant to these rules, or the date of the next regularly-scheduled board meeting after extension of the temporary license. The holder of a temporary license may request no more than one (1) extension of the temporary license under this subsection.

(h) If, upon review of the application of a person who is granted a temporary

license under paragraph (b) or (c) of this section, one or more advisory council or board members request that the holder of the temporary license appear for a licensure interview, the executive director may extend the temporary license held by that person until 8:00 a.m. on the first day of the second regularly-scheduled board meeting after issuance of the temporary license.

(i) If the advisory council does not meet in conjunction with a regularly-scheduled board meeting, the executive director may, in his discretion, extend temporary licenses due to expire at that board meeting until the next regularly-scheduled board meeting.

(j) All applicants who are granted a temporary license under paragraph (b) of this chapter are required to submit all documentation and materials necessary to ensure that their license application is complete in accordance with this chapter. Failure to have a complete license application within 180 days of issuance of a temporary license may result in denial by the board of the application for licensure pursuant to W.S. 33-26-202(b)(i).

Section 10. Deleted.

Section 11. **Term of license, renewal, duplicate and voluntary relinquishment.**

(a) License Renewal and Deadline. All physician assistant licenses, other than temporary licenses, expire annually at 11:59 p.m., Mountain Time, December 31. A physician assistant may renew his/her license by sending a signed renewal questionnaire and renewal fee to the board, or completing an on-line renewal form and submitting a renewal fee prior to expiration of current license.

(i) License Renewal Form. A physician assistant may renew a license by submitting an application for renewal each year in a format or form provided by the board. The board may utilize paper or electronic forms, or a combination of both.

(ii) License Renewal Grace Period. Licensees who provide, in writing and not more than sixty (60) days after the license renewal deadline, good cause for failure to submit their application for renewal in a timely manner may be granted an extension for submitting their application, and the requisite renewal fee and license renewal grace period surcharge, of not greater than thirty (30) days by the executive director. Any request for an extension of the renewal application deadline received by the board more than sixty (60) days after the deadline may be granted an extension for submitting their application of not greater than thirty (30) days at the discretion of a majority of the board officers. Nothing herein imposes a duty on the Board of Medicine or the executive director to grant an extension to any licensee.

(b) The board may reactivate a lapsed license if the applicant pays reactivation fee and meets the requirements for granting of an initial license.

(c) A physician assistant may apply for a duplicate license if his/her license is lost, stolen, or destroyed.

(d) A physician assistant may offer to voluntarily relinquish his/her license at any time, however the board may, at its discretion, refuse to accept such offer.

**Section 12. Fees.**

(a) Pursuant to W.S. 33-26-507(a) the board shall collect the following fees:

|   |   |
|---|---|
| Application and license [Includes the cost of 1 NPDB report, 1 criminal record check (if necessary), temporary license (if granted) pending completion and review of licensure application at next board meeting, and initial license (if granted) through the next December 31 <sup>st</sup> ] | \$250.00  |
| Paper form license application processing fee   | \$25.00   |
| Annual renewal of license   | \$100.00  |
| Paper form license renewal processing fee   | \$10.00   |
| License renewal grace period surcharge  | \$50.00   |
| Replacement of lost license   | \$ 25.00  |
| Reactivation of license   | \$100.00  |
| Reinstatement of license  | \$200.00  |
| Extension of temporary license  | \$50.00   |
| Volunteer license   | \$50.00   |
| Emeritus license  | No charge                                       |
| Certified copies  | First page: \$10.00;<br>Additional pages: \$.50 |
| Photocopies (except certified copies), including cost of duplication of transcript(s) and administrative record in appeals from contested case hearings [Ch. 5 §15(i)(xvi)]   | First page: \$2.00;                             |

(b) Application fees shall be paid to the board in the form of cashier's check or money order. All other fees shall be paid to the board in the form of a check, cashier's check or money order; however, on-line applications for licenses or renewal of licenses and license applications may be paid by credit card.

(c) Fees are not refundable.

**Section 13. Denial and revocation of license.**

(a) The board shall have the authority to refuse, revoke or suspend the license of a physician assistant for, but not limited to, those grounds set forth in W.S. 33-26-508 and any of the following reasons if the physician assistant:

(i) Has held himself or herself out or permitted another to represent him or her as a licensed physician;

(ii) Is a habitual user of intoxicants or drugs to the extent he or she is unable to safely and skillfully perform as a physician assistant;

(iii) Has been adjudicated mentally incompetent or whose mental condition, in the opinion of the board, renders him or her unable to safely and skillfully perform as a physician assistant;

(iv) The supervising physician's right to employ a physician assistant has been withdrawn; or

(v) Has failed to comply with any portion of the Act and/or these rules.

(b) If the board denies the license or grants the license with restrictions, it shall issue a final order reflecting such action supported by findings of fact and conclusions of law.

(c) On the date of issuance of such final order, the executive director shall send a copy of such order to the applicant by certified mail at the address shown on the application or at the most recent address provided by the licensee.

**Section 14. Appeal following denial of initial license application, reinstatement or reactivation.**

An applicant who is denied a license, reinstatement or reactivation of a physician assistant license may appeal such final order to the district court pursuant to W.S. 16-3-114.

Section 15. Deleted.

Section 16. Repealed.

Section 17. **Prescription of drugs.**

(a) As the agent of the supervising physician, a physician assistant may prescribe, administer and dispense medications, including schedule II-V as defined in W.S. 35-7-1015 through 35-7-1022. Dispensing by physician assistants shall be limited to rural clinics in which pharmacy services are not physically available.

(b) A physician assistant shall not prescribe schedule I and schedule drugs as defined by W.S. 35-7-1013 through 35-7-1016.

(c) Use of pre-signed prescription pads is prohibited.

Section 18. **General provisions.**

(a) The supervising physician shall notify the board of any change of practice location or supervisory status of a physician assistant licensed in the state of Wyoming, and working under the physician's supervision, within thirty (30) days of the effective date of such change.

(b) A physician assistant shall clearly identify himself or herself by a name tag or other means to differentiate himself/herself from a physician.

(c) Except as otherwise provided in these rules and regulations, a physician may be a supervising physician for three (3) physician assistants on duty at any given time. Physicians whose specific practice circumstances indicate the need to supervise more than a total of three (3) physician assistants may submit a written request for approval of the supervisory arrangement, along with supporting documentation, for review by the Board of Medicine, as provided in these rules and regulations

(d) Deleted.

(e) Medical supervision of a physician assistant by other than a licensed physician is prohibited.

Section 19. Deleted.

Section 20. **Supervision and protocol requirements.**

All physician assistant supervision arrangements formed or submitted to the Board shall comply with the following requirements:

(a) A supervising physician and any physician assistant under his supervision shall maintain on file with the Board a current supervision plan approved pursuant to section 8(h) of this chapter.

(b) The supervision plan shall be submitted as part of any application by a supervising physician or group of supervising physicians.

(c) Before a supervising physician or physician assistant may change a supervision plan previously approved by the Board, they shall submit a revised supervision plan on an application form published by the Board. The revised supervision plan application shall be reviewed by the advisory council and the Board pursuant to section 8(h) of this chapter.

(d) Supervising physicians and physician assistants shall maintain documentation to demonstrate compliance with the elements of the supervision plan.

(e) A supervising physician or physician assistant shall, upon written request from the Board, produce within twenty (20) days of receipt of the Board's request any documentation maintained pursuant to subsection (d).

(f) In addition to the ability to request documentation pursuant to subsection (e) the Board may, from time to time, conduct an audit of approximately ten (10) percent of then-active supervisory relationships, selected by random means, by requesting from the selected supervising physician and the physician assistant any documentation from the past three (3) years maintained pursuant to subsection (d).

**CHAPTER 5**  
**RULES OF PRACTICE AND PROCEDURE FOR THE LICENSURE OF ~~AND~~**  
**~~FOR THE CONDUCT OF DISCIPLINARY PROCEEDINGS AGAINST~~**  
**PHYSICIAN ASSISTANTS**

Section 1.     **Authority.**

These rules are promulgated pursuant to authority granted ~~W.S. 33-26-503(b)(iv)~~ **by the Act** and ~~by the Wyoming Administrative Procedure Act, W.S. 16-3-101 through 16-3-115 (A.P.A.).~~

Section 2.     **Purpose.**

These rules have been adopted to set forth the procedures of the ~~Wyoming~~ board ~~of medicine~~ in the licensure and regulation of the practice of physician assistants in the state of Wyoming.

Section 3.     **Definitions.**

The definitions contained in the ~~Act, the A.P.A., and Chapter 1 of these rules~~ **Wyoming Administrative Procedure Act and W.S. 33-26-501** are incorporated herein by this reference. ~~In addition, the following definitions of terms used in these rules shall apply:~~

(a) ~~—“Act” means the Medical Practice Act, W.S. 33-26-101, et seq.~~

(b) ~~—“Advisory council” means advisory committee to the board of medicine on matters related to physician assistants.~~

(c) ~~—“Affidavit” means a written, notarized statement of facts made voluntarily under oath.~~

(d) ~~—“Applicant” means any person who has applied to the board for issuance, renewal or reinstatement of a Wyoming physician assistant’s license.~~

(e) ~~—“Application” means a written submission to the board on a form approved by the board.~~

(f) ~~—“Board” means the board of medicine of the state of Wyoming, and its duly authorized agents, representatives and employees.~~

(g) ~~—“Board records” means all documentation received by the board including licensure documentation received from sources other than the applicant and any documentation received in the course of any disciplinary proceeding, including, but not~~



~~limited to, patient records requested and obtained by the board, its members, designated agents or board personnel.~~

~~(h) —“Board secretary” means a duly qualified member of the board elected to the position of secretary.~~

~~(i) —“Complainant” means any identified person, persons, association, or entity including the Board of Medicine or an individual member of the board, who communicates to the board in writing, alleging facts which, if proven, would constitute a violation of W.S. 33-26-508 by a physician assistant.~~

~~(j) —“Complaint” means a written communication received by the board which alleges sufficient facts by which the board can determine the identity of the physician assistant, whether the alleged conduct falls within the board’s jurisdiction and whether the alleged conduct, if proven, would constitute a violation of W.S. 33-26-508 or these rules.~~

~~(k) —“Condition” means a specific requirement or prohibition imposed by any medical licensing board of any jurisdiction that must be fulfilled by an applicant or licensee in order to obtain or continue to hold a license in that jurisdiction.~~

~~(l) —“Contested case” means a formal evidentiary proceeding conducted pursuant to W.S. 16-3-107 to 16-3-114.~~

~~(m) —“Costs” means those expenses incurred in a hearing to deny, refuse to renew, reactivate, reinstate, revoke, restrict, place conditions upon, or suspend a license pursuant to W.S. 33-26-405(a)(viii) and includes, but is not limited to, reasonable attorneys’ fees incurred by the board, hearing officer fees, service fees, subpoena fees, reporter fees, lay and expert witness fees, travel and per diem expenses, deposition costs and other costs and expenses incurred in the investigation, discovery, preparation and hearing of any disciplinary matter.~~

~~(n) —“Docket” means a continuous, permanent, confidential record of each and every board action pertaining to a complaint or a denial, and the reasons and grounds for each and every step in the disciplinary or appeal process, commencing with the first notice of complaint by any complainant or final order in a denial action. The docket shall reflect each and every incident in any complaint or denial proceeding against any respondent or applicant, including initial, oral, anonymous inquiries and complaints, whether or not such complaints or inquiries are rendered in writing and whether the board takes further action on such complaint.~~

~~(o) —“Errant conduct” means conduct which may constitute grounds for denial, revocation, suspension or restriction of a license to practice as a physician assistant as set forth in W.S. 33-26-508.~~

~~(p) — Deleted.~~

~~(q) — “Executive director” means a non-board member hired by the board pursuant to W.S. 33-26-203(a) and authorized to coordinate and direct board functions.~~

~~(r) — “Hearing officer” means an attorney experienced in administrative law who may be appointed by the board to perform those functions set forth in W.S. 16-3-112(b) in a contested case.~~

~~(s) — “Informal interview” means a confidential meeting with the respondent and the interviewers, one of whom shall be a member of the advisory council, pursuant to W.S. 33-26-202(b)(iii) and 33-26-401(b) in which the specification of charges, defenses and responses are discussed after initial screening of the complaint and prior to a contested case hearing.~~

~~(t) — “Interviewers” are members of the board and/or a member of the advisory council appointed by a majority of the board officers to investigate the complaint against the respondent and where circumstances warrant, conduct an informal interview with the respondent and make recommendation to the board officers for further board action.~~

~~(u) — “Ledger” means a continual, permanent, public record maintained by the board. The ledger shall commence with the entry of the initial complaint or final order in a denial action and shall contain the date of the action or complaint, the section(s) of W.S. 33-26-508 relied upon the board as a basis for its action, the disposition of the matter, the disciplinary action taken, if any, and the date of final disposition. Notwithstanding the foregoing requirements, no information reasonably likely to disclose the identity of the complainant, applicant, or respondent shall be included in the ledger.~~

~~(v) — “Legal custodian” means the executive director.~~

~~(w) — “Licensee” means a physician assistant licensed by the board in this state.~~

~~(x) — “Medical Specialty Consultants” means persons who consult with the board or members of the board and advisory council serving as interviewers in a disciplinary action who provide specialized expertise on medical issues.~~

~~(y) — “National certification” means certification through the NCCPA or such other certification examination recognized by the board through examination and continuing medical education hours.~~

~~(z) — “Party” means the board, the applicant or the respondent.~~

~~(aa) — “Respondent” means the physician assistant named in a complaint.~~

~~(bb) — “Restriction” means a limitation placed by any medical licensing board of any jurisdiction on an applicant’s or licensee’s scope of practice in that jurisdiction.~~

~~(cc) — “Screening” means a preliminary review by the board officers as soon as practicable, but not later than thirty (30) days, after a written complaint is received by the board to determine whether the alleged conduct falls within the board’s jurisdiction and whether the allegations, if proven, would constitute a violation of W.S. 33-26-508 or these rules. If the majority of the board officers can determine such questions from the information provided in the complaint, they shall appoint interviewers and direct the executive director to docket the complaint. If a majority of the board officers cannot determine such questions from the information provided in the complaint, they may authorize and direct the board’s employees and/or agents to investigate the complaint to provide sufficient information for them to complete the screening process.~~

~~(dd) — “Unprofessional conduct” means:~~

~~(i) — Failure to conform to the applicable standards of care;~~

~~(ii) — Willful or careless disregard for the health, welfare or safety of a patient;~~

~~(iii) — Engaging in any conduct or practice that is harmful or dangerous to the health of a patient or the public;~~

~~(iv) — Using any false, fraudulent or deceptive statement in any document connected with the practice of medicine as a physician assistant including the intentional falsification or fraudulent alteration of a patient or health care facility record;~~

~~(v) — Failing to prepare and maintain legible and complete written medical records that accurately describe the medical services rendered to the patient, including the patient’s history, pertinent findings, examination, results, test results and all treatment provided;~~

~~(vi) — Practicing outside the scope of the licensee’s expertise and training;~~

~~(vii) — Repeatedly engaging in harassing, disruptive or abusive behavior directed at staff, co-workers a patient or a patient’s relative or guardian or that interferes with the provision of health care;~~

~~(viii) — Engaging in conduct that constitutes moral turpitude, including but not limited to conviction of or pleading guilty or nolo contendere to domestic abuse, stalking, sexual assault, sexual abuse or unlawful exploitation of a minor, indent exposure, incest or distribution of pornography;~~

~~(ix) — Failing or neglecting to attempt to inform a patient within a reasonable time, not to exceed thirty (30) days from the receipt, of the result of a laboratory test indicating the need for further clinical review;~~

~~(x) — Improperly terminating a physician assistant patient relationship;~~

~~(xi) — Representing that a manifestly incurable disease or condition can be permanently cured or that any disease or condition can be cured by a secret method, procedure, treatment, medicine or device if the representation is untrue;~~

~~(xii) — Intentionally or negligently releasing or disclosing confidential patient information. This restriction shall not apply to disclosures required by state or federal law or when disclosure is necessary to prevent imminent risk of harm to the patient or others;~~

~~(xiii) — Failing or refusing to transfer a copy of patient records to the patient or to the patient's legally designated representative within thirty (30) days after receipt of a written request;~~

~~(xiv) — Utilization of experimental forms of therapy without proper informed consent from the patient, without conforming to generally accepted criteria or standard protocols, without keeping detailed, eligible records or without having periodic analysis of the study and results reviewed by a committee of peers;~~

~~(xv) — Except in emergency situations where the consent of the patient or the patient's legally designated representative cannot be reasonably obtained, assisting the care or treatment of a patient without the consent of the patient, the attending physician or the patient's legal representative;~~

~~(xvi) — Using or engaging fraud or deceit to obtain third party reimbursement;~~

~~(xvii) — Upon proper request by the board, failure or refusal to produce documents or other information relevant to any investigation conducted by the board, whether the complaint is filed against the licensee or another licensee;~~

~~(xviii) — Violation of any board rule or regulation;~~

~~(xix) — Acquiring or attempting or conspiring to acquire any drug classified as a narcotic, addicting or scheduled drug by fraud or deception;~~

~~(xx) — Initially prescribing any controlled substance for any person through the Internet, the World Wide Web or a similar proprietary or common carrier electronic system absent a documented physician assistant patient relationship or~~

~~(xxi) —Violating any final order, consent decree or stipulation between the board and the licensee.~~

~~(ee) —“Petition” means a formal disciplinary action filed with the Executive Director by the Board Prosecutor against one or more licensees on behalf of one or more petitioners.~~

~~(ff) —“Petitioner” means a board member or advisory council member who is appointed by the board officers to act as a prosecuting party in a formal disciplinary action against one or more licensees.~~

~~(gg) —“Board officers” means the president, vice president and secretary of the board.~~

#### Section 4. **Scope of practice.**

(a) A physician assistant assists in the practice of medicine under the supervision of a licensed physician. Within the physician/physician assistant relationship, physician assistants exercise autonomy in medical decision making and provide a broad range of diagnostic, therapeutic and health promotion and disease prevention services. The physician assistant may perform those duties and responsibilities delegated to him by the supervising physician when the duties and responsibilities are provided under the supervision of a licensed physician approved by the board, are within the scope of the physician’s practice and expertise and within the skills of the physician assistant.

(b) The physician assistant may work in the office of the supervising physician where primary practice is maintained and at sites outside that office as directed by the physician.

(c) The physical presence of the supervising physician is not required if the supervising physician and the physician assistant are or can easily be in contact with each other by telephone, radio, or other telecommunications. ~~A back-up physician shall be utilized when the supervising physician is, for any reason, not fully able~~ A physician assistant shall not practice in any capacity if, for any reason, there is not a supervising physician available to properly supervise the physician assistant in his or her professional duties, or is outside a reasonable geographic proximity to the physician assistant’s practice location.

(d) The board does not recognize or bestow any level of competency upon a physician assistant to carry out a specific task. Such recognition of skill is the responsibility of the supervising physician. However, a physician assistant is expected to perform with similar skill and competency and to be evaluated by the same standards as the physician in the performance of assigned duties.

(e) Nothing in the act shall be construed to prohibit the employment of a physician assistant by a medical care facility, institution or corporation where such physician assistant functions under the supervision and direction of a physician or group of physicians.

(f) Neither the board nor the advisory council shall deny an application due to the number of physician assistants supervised up to three (3), except for good cause specific to the circumstances of the individual physician supervisor. The board and the advisory council may allow a physician to supervise more than three (3) physician assistants, subject to a showing by the supervising physician that it is appropriate in the circumstances, that all physician assistants under his supervision will have adequate, documented supervision, and that patient care and safety will be protected.

#### Section 5. **Advisory council.**

(a) Pursuant to W.S. 33-26-503(b)(v), the board of medicine shall appoint an advisory council to the board. This council shall consist of at least two (2) members who shall be ~~licensed~~ physician assistants holding an active license to practice in this state and two (2) members who shall be physicians holding an active license to practice in this state. Additional members may be appointed at the discretion of the board. The advisory council is responsible to and will serve at the pleasure of the board.

(i) A chairman and vice-chairman shall be elected annually by a vote of the advisory council members.

(ii) Advisory council members shall serve one four (4) year term, with the ability to request reappointment by the board, not to exceed two (2) reappointments.

(b) The advisory council shall review and make recommendations to the board on matters relating to physician assistants that come before the council, including:

- (i) Applications for licensure
- (ii) Physician assistant education
- (iii) Requirements for licensure
- (iv) Professional conduct; ~~and~~
- (v) Scope of practice; and,

(vi) Other matters related to the licensure, practice, and discipline of physician assistants.

(c) The advisory council shall meet in conjunction with the board for the purpose of interviewing candidates for recommendation to the board for licensure and other matters as directed by the board.

(d) The advisory council may recommend conditions, denial, suspension or revocation of licensure when it finds that the medical practice act and/or these rules are not being followed.

**Section 6. License required, application, ~~qualifications, consideration of applications and temporary licenses for physician assistants~~ and supervision agreement.**

(a) No person may practice as a physician assistant or represent that he or she is a physician assistant without a license granted by the board.

(b) An application forms, provided or approved in advance by the board, must be submitted to the advisory council and board. They application form must be complete in every detail, ~~including all supporting documents and required fees.~~ Applications shall include For an application to be deemed complete and be considered, the following items must be received in the board office not less than 15 business days prior to the licensure interview date, should an interview be required of the applicant or the supervising physician:

~~(i) — A statement of qualifications and related experience of the physician assistant;~~

~~(ii) — A statement of the professional background of the supervising physician, including specialty;~~

~~(iii) — Identification by name, business address, and telephone number of the back-up supervising physician;~~

~~(iv) — A description of the practice and the way in which the physician assistant will be utilized; and~~

~~(v) — A proposed method of supervision of the physician assistant by the supervising physician.~~

(i) The application form, complete in every detail and properly executed by the applicant;

(ii) The required fee, as set forth in Section 12 of this chapter;

(iii) Three (3) original references, submitted on a form approved by the board. A minimum of two (2) references must be from physicians with whom the

applicant has practiced; the third reference may be from a physician or PA-C with whom the applicant has practiced. References from physicians or physicians assistants with whom the applicant has a current or prospective financial, business or family relationship are not acceptable;

(iv) Proof of legal presence in the United States, pursuant to 8 U.S.C. 1621, on a form approved or prescribed by the Board;

(c) A supervising agreement form, provided by the Board, must be submitted to the advisory council and the board by the supervising physician. This form shall include, at a minimum:

(i) The supervising physician's name, degree, license number, medical specialty, and medical practice address and telephone number;

(ii) A detailed description of the medical practice and the duties of the physician assistant under the supervising physician's scope of practice, as well as the method(s) of supervision (e.g., over-the-shoulder, same office suite, radio, telephone, video, etc.) the supervising physician will utilize.

#### Section 7. ~~Qualifications~~Eligibility for Licensure.

The board may grant a physician assistant license to an applicant who:

- (a) Is not less than 21 years of age ~~or older~~;
- (b) Has graduated from a physician assistant training program accredited by the ~~Commission on Accreditation of Allied Health Education Programs (CAAHEP)~~ or its predecessor or successor organization;
- (c) Has satisfactorily completed a certification examination administered by the ~~National Commission on the Certification of Physician Assistants (NCCPA)~~ or other national certifying agency established for such purposes which has been reviewed and approved by the board and is currently certified;
- (d) Physician assistants ~~approved~~licensed by the board prior to July 1, 1995 are not required to be currently certified by the NCCPA and are not required to provide proof of current NCCPA certification with any of the applications submitted to the board described in Section 8 below.
- (e) The board may recognize specialty classifications of training of physician assistants. These classifications shall reflect the training and experience of the physician assistant.
- (f) The board may grant an emeritus license to practice as a physician assistant under the supervision of a physician holding an active medical license in this



state, which may be used for the provision of uncompensated physician assistant services. Such license may be issued to an applicant who provides an application by a supervising physician, ~~proof that the applicant is retired from the active practice as a physician assistant,~~ proof that the applicant is currently certified by the NCCPA and has maintained a physician assistant license in good standing in another jurisdiction of the United States or Canada for a period of not less than ten (10) years prior to applying for the emeritus physician assistant license and signs a notarized statement he/she will not accept any form of remuneration for physician assistant services rendered while in the possession of an emeritus license . As part of the application process, an applicant for an emeritus physician assistant license who does not hold a current Wyoming physician assistant license shall complete to the satisfaction of a majority of the board members a personal interview consisting of inquiry and oral response to medical knowledge, personal and professional history and intentions for practicing as a physician assistant in this state. Such interview may be conducted by one (1) or more board advisory council members and, if deemed appropriate by a majority of the ~~board officers~~advisory council, may be conducted by telephonic means.

(i) Physician assistants possessing an emeritus ~~medical~~ license shall:

(A) Annually sign an affidavit affirming that their physician assistant practice continues to be without remuneration; and

(B) ~~Obtain and certify continuing medical education as required by these rules~~Maintain current certification, in good standing, through the NCCPA including, but not limited to, the continuing education requirements thereof.

(ii) ~~The board shall set no fees for the application of renewal of an emeritus physician assistant license.~~Repealed.

(g) The board may issue a volunteer/camp physician assistant license to a physician assistant who is in good standing in at least one (1) jurisdiction other than the state of Wyoming for the purpose of assisting in the practice of medicine as a volunteer, without compensation. An applicant for a volunteer/camp physician assistant license must complete and submit a form and documentation prescribed by the board, meet the requirements of W.S. 33-26-504, agree to comply with the Act and these rules, agree to be subject to the jurisdiction of the board, provide proof of licensure in good standing in at least one (1) jurisdiction other than the state of Wyoming, and pay the fee set by the board. A licensure interview is not required for issuance of a volunteer/camp physician assistant license. A volunteer/camp physician assistant license shall be valid for not more than twenty-one (21) consecutive days in any calendar year, and may not be renewed.

(h) A person who has pled guilty or nolo contendere to, or has been convicted of, a felony or any crime that is a felony under Wyoming law in any state or federal court or any court of similar jurisdiction in another country may apply for licensure; however, the board may deny licensure based solely upon such plea or conviction.

Section 8. **Consideration of applications.**

(a) The applicant for physician assistant licensure is required to appear before the advisory council for initial licensure.

(b) The supervising physician shall complete and submit ~~an application~~ supervision agreement form describing his/~~her~~ willingness to undertake full responsibility for the physician assistant's professional actions and such other actions as may ~~effect~~ affect patients, and setting forth the conditions of his supervision of the physician assistant;

(c) Physicians who have conditions or restrictions upon their license or privileges issued by the board or other state medical licensing board or health care facility may apply to supervise a physician assistant. All applications submitted by physicians with restrictions or conditions on their license or clinical privileges shall be reviewed by the board. The board may, in its discretion, require an interview with an applicant under this subsection.

(d) The advisory council may, ~~in its discretion~~, require a supervising physician ~~supervisor~~ to interview in person before the advisory council ~~if they have cause to believe that the physician does not understand or accept the ramifications of to~~ determine the supervising physician's ability to properly supervise the physician assistant and his willingness to accept the responsibility of supervision of a physician assistant.

(e) If a physician assistant changes ~~primary-supervising~~ primary-supervising physician ~~sponsorship~~, but remains in the same practice situation and location, the ~~PA-physician assistant~~ PA-physician assistant shall submit an application on a form approved by the board explaining the change and, ~~provide~~ providing proof of current NCCPA certification. The supervising physician ~~supervisor~~ shall also complete and submit an application describing his/~~her~~ willingness to undertake full responsibility for the physician assistant's professional actions and such other actions as may ~~effect~~ affect patients. Under these circumstances, an interview may be required if deemed appropriate by the advisory council ~~and-or~~ the board. If initial licensure fees have been paid, no further fees will be assessed.

(f) If a physician assistant changes job situations or locations within the state under ~~a~~ a new supervising physician ~~sponsorship~~, the physician assistant shall submit an application on a form approved by the board explaining the change, provide proof of current NCCPA certification and pay a fee in the same amount as the initial application fee. The supervising physician ~~supervisor~~ shall also complete and submit ~~an application~~ supervising agreement form describing his/~~her~~ willingness to undertake full responsibility for the physician assistant's professional actions and such other actions as may ~~effect~~ affect patients. A subsequent interview may be required. ~~This may be at the discretion of~~ by the advisory council.

(g) If a physician assistant leaves the state for employment and returns, a new supervising physician application; and fees must be submitted to the advisory council and board for approval. and An interviews shall may be required.

(h) Following review of the application documents and, where appropriate an interview, the advisory council shall make its recommendations to the board regarding licensure of a physician assistant to practice in Wyoming. The final decision remains with the board.

(i) If a licensed physician requires the assistance of a licensed physician assistant in an emergency, the physician and physician assistant shall, within two (2) business days of the emergent situation, submit to the board on form prescribe by the board a statement detailing the circumstance of the emergency and the need for the assistance of the physician assistant without the board's prior approval. If it is determined that the situation was not an emergency or if it was not appropriate to involve the physician assistant, both the physician and the physician assistant may be subject to disciplinary action.

(j) Applications submitted to the board for initial licensure as a physician assistant expire six (6) calendar months after the date the application document is received in the board office.

Section 9. **Temporary license, expedited temporary license, initial licensure.**

~~(a) A physician assistant may be issued a temporary license until the next meeting of the advisory council and board provided:~~

~~(i) The application is complete in every detail;~~

~~(ii) All fees are paid;~~

~~(iii) The physician supervisor shall also complete and submit an application describing his/her willingness to undertake full responsibility for the physician assistant's professional actions and for such other actions as may effect patients and~~

~~(iv) The application is approved by the advisory council and the board.~~

~~(b) The board may extend the temporary license at its discretion upon a showing of good cause.~~

~~(c) A temporary license may be issued to a physician assistant who meets all requirements for licensure except the certification examination. A temporary license may~~

~~be issued to allow the physician assistant an opportunity to sit for the next available examination, such time period not to exceed one (1) year.~~

~~(d) — When completed, a physician assistant’s application for licensure shall be sent to the advisory council for review. Upon the recommendation of the council, the application shall be sent to the board for review and final determination.~~

~~(e) — All applications for physician assistants licensure shall be recommended by at least three (3) members of the advisory council and approved by a majority of the board officers.~~

(a) For purposes of this section, the following definitions apply:

(i) “Clean application” means that the physician assistant applicant has none of the following:

(A) Professional liability insurance settlement(s) or payment(s) in excess of \$50,000 individually or \$100,000 in the aggregate;

(B) Criminal record;

(C) Medical condition(s) which could affect the physician assistant’s ability to practice safely;

(D) Licensing or regulatory board complaint(s), investigation(s), or action(s) (including withdrawal of a licensure application);

(E) Adverse action taken by a health care entity;

(F) Investigation(s) or action(s) taken by a federal agency, the United States military, medical society or association; or,

(G) Suspension or expulsion from, or disciplinary action in, any academic program, including physician assistant school and any post-graduate training program.

(ii) “Core application documents” means the following:

(A) The required application form(s), including the supervising agreement form and appropriate fee(s);

(B) Form and supporting document(s) demonstrating proof of legal presence in the U.S. pursuant to 8 U.S.C. § 1601, et seq.;

(C) Verification of current certification by, and good standing

with, the NCCPA;

(D) FSMB Board Action Databank report; and,

(E) NPDB report.

(b) License Application Processing, Review and Interviews. When an applicant's core application documents have been received by the board and are deemed to be satisfactory, the executive director or his designee will review the application and supporting materials to determine whether a licensure interview of the applicant will be required pursuant to this rule. If the executive director or his designee determines that the applicant will not, in all likelihood, be required to have a licensure interview pursuant to this chapter, the applicant has been continually licensed in good standing (not including training licenses) for the preceding three (3) years in one or more states and/or the District of Columbia, and the applicant has a clean application, the executive director may, acting on behalf of the advisory council and the board, issue a temporary license to the applicant pursuant and subject to these rules, including the requirement for a complete application set forth therein.

(c) If an applicant is not issued a temporary license pursuant to paragraph (b) of this rule, when the application is deemed complete pursuant to Section 6(b) of this chapter, the physician assistant's application for licensure shall be sent to the advisory council for review. Upon the recommendation of at least three (3) members of the advisory council, the application shall be sent to the board officers for review and final determination. If a majority of board officers approves, the physician assistant shall be issued a temporary license to be valid until 8:00 a.m. of the first day of the next regularly-scheduled board meeting.

(d) A temporary license may be issued under paragraph (b) to a physician assistant who meets all requirements for licensure except completion of the NCCPA certification examination. A temporary license may be issued to allow the physician assistant an opportunity to sit for the next available examination, such time period not to exceed one (1) year from the date of issuance of the temporary license.

(e) A physician assistant who receives a temporary license under this section remains subject to the requirement for a personal interview with the advisory council and/or the board in this chapter.

(f) Temporary licenses issued less than fifteen (15) business days prior to the next regularly-scheduled board meeting will be valid until the later of a vote of board members on the application pursuant to these rules, or 8:00 a.m. on first day of the second regularly-scheduled board meeting after issuance.

(g) Upon written request received from the holder of a temporary license not less than seven (7) days before expiration of the temporary license, the executive director

may extend a temporary license for an additional term no longer than the later of a vote of board members on the application pursuant to these rules, or the date of the next regularly-scheduled board meeting after extension of the temporary license. The holder of a temporary license may request no more than one (1) extension of the temporary license under this subsection.

(h) If, upon review of the application of a person who is granted a temporary license under paragraph (b) or (c) of this section, one or more advisory council or board members request that the holder of the temporary license appear for a licensure interview, the executive director may extend the temporary license held by that person until 8:00 a.m. on the first day of the second regularly-scheduled board meeting after issuance of the temporary license.

(i) If the advisory council does not meet in conjunction with a regularly-scheduled board meeting, the executive director may, in his discretion, extend temporary licenses due to expire at that board meeting until the next regularly-scheduled board meeting.

(j) All applicants who are granted a temporary license under paragraph (b) of this chapter are required to submit all documentation and materials necessary to ensure that their license application is complete in accordance with this chapter. Failure to have a complete license application within 180 days of issuance of a temporary license may result in denial by the board of the application for licensure pursuant to W.S. 33-26-202(b)(i).

Section 10. Deleted.

Section 11. **Term of license, renewal, duplicate and voluntary relinquishment.**

(a) License Renewal and Deadline. All physician assistant licenses, other than temporary licenses, expire annually at ~~the close of business~~ 11:59 p.m., Mountain Time, December 31. A physician assistant may renew his/her license by sending a signed renewal questionnaire and renewal fee to the board, or completing an on-line renewal form and submitting a renewal fee prior to expiration of current license.

(i) License Renewal Form. A physician assistant may renew a license by submitting an application for renewal each year in a format or form provided by the board. The board may utilize paper or electronic forms, or a combination of both.

(ii) License Renewal Grace Period. Licensees who provide, in writing and not more than sixty (60) days after the license renewal deadline, good cause for failure to submit their application for renewal in a timely manner may be granted an extension for submitting their application, and the requisite renewal fee and license renewal grace period surcharge, of not greater than thirty (30) days by the executive

director. Any request for an extension of the renewal application deadline received by the board more than sixty (60) days after the deadline may be granted an extension for submitting their application of not greater than thirty (30) days at the discretion of a majority of the board officers. Nothing herein imposes a duty on the Board of Medicine or the executive director to grant an extension to any licensee.

(b) The board may reactivate a lapsed license if the applicant pays reactivation fee and meets the requirements for granting of an initial license.

(c) A physician assistant may apply for a duplicate license if his/her license is lost, stolen, or destroyed.

(d) A physician assistant may offer to voluntarily relinquish his/her license at any time, however the board may, at its discretion, refuse to accept such offer.

**Section 12. Fees.**

(a) Pursuant to W.S. 33-26-507(a) the board shall collect the following fees:

Application ~~for and~~ license [Includes the cost of 1 NPDB report, 1 criminal record check (if necessary), temporary license (if granted) pending completion and review of licensure application at next board meeting, and initial license (if granted) through the next December 31<sup>st</sup>] ~~\$200.00~~250.00

~~On-line application convenience fee~~Paper form license application processing fee ~~\$20.00~~25.00

Annual renewal of license \$100.00

~~On-line~~Paper form license renewal ~~convenience~~processing fee \$10.00

License renewal grace period surcharge \$50.00

Replacement of lost license \$ 25.00

Reactivation of license \$100.00

Reinstatement of license \$200.00

~~Temporary license~~ \$100.00

Extension of temporary license \$50.00

Volunteer license \$50.00

Emeritus license No charge

Certified copies

First page: \$10.00;  
Additional pages: \$.50

Photocopies (except certified copies), including cost of duplication of transcript(s) and administrative record in appeals from contested case hearings [Ch. 5 §15(i)(xvi)]

First page: \$2.00;  
Additional pages: \$.10

(b) Application fees shall be paid to the board in the form of cashier's check or money order. All other fees shall be paid to the board in the form of a check, cashier's check or money order; ~~provided, however, if the board establishes a system for~~ on-line applications for licenses or renewal of licenses and license applications, ~~the fee for renewal~~ may be paid by credit card.

(c) Fees are not refundable.

### Section 13. **Denial and revocation of license.**

(a) The board shall have the authority to refuse, revoke or suspend the license of a physician assistant for, but not limited to, those grounds set forth in W.S. 33-26-508 and any of the following reasons if the physician assistant:

(i) Has held himself or herself out or permitted another to represent him or her as a licensed physician;

(ii) Is a habitual user of intoxicants or drugs to the extent he or she is unable to safely and skillfully perform as a physician assistant;

(iii) Has been adjudicated mentally incompetent or whose mental condition, in the opinion of the board, renders him or her unable to safely and skillfully perform as a physician assistant;

(iv) The supervising physician's right to employ a physician assistant has been withdrawn; or

(v) Has failed to comply with any portion of the Act and/or these rules.

(b) If the board denies the license or grants the license with restrictions, it shall issue a final order reflecting such action supported by findings of fact and conclusions of law.



(c) On the date of issuance of such final order, the executive director shall send a copy of such order to the applicant by certified mail at the address shown on the application or at the most recent address provided by the licensee.

**Section 14. Appeal following denial of initial license application, reinstatement or reactivation.**

An applicant who is denied a license, reinstatement or reactivation of a physician assistant license may appeal such final order to the district court pursuant to W.S. 16-3-114.

**Section 15. Deleted. Disciplinary proceedings.**

~~(a) Commencement of disciplinary proceedings.~~

~~(i) Proceedings under these rules shall commence when a complainant, who may be a member of the board, notifies the board in writing of conduct which falls within the board's jurisdiction and which, if proven, would constitute a violation of W.S. 33-26-508. Such complaint shall clearly identify the complainant by name, address and telephone number (if any).~~

~~(ii) All complaints shall be deemed received on the date of actual receipt by the executive director.~~

~~(iii) A copy of every written complaint, and every writing in the general nature of a complaint, as well as a report of every oral communication in the nature of a complaint received by the board shall be filed and maintained in the board's permanent files and docket.~~

~~(iv) A copy of every written complaint and every writing in the nature of a complaint, as well as a report of every oral communication in the nature of a complaint received by the board shall, upon receipt, be sent to the board's attorney.~~

~~(v) Within thirty (30) days after the receipt of a complaint, the board officers shall screen the complaint and, if they determine that the complaint alleges conduct by a licensee which falls within the board's jurisdiction and which, if proven, would constitute a violation of W.S. 33-26-508, shall appoint two members of the board and one member of the advisory council as interviewers. Whenever reasonably possible, the interviewers shall include at least one (1) lay board member. If such inclusion is not reasonably possible, the executive director shall note that finding in the docket together with the grounds and reasons for said finding. If a majority of the board officers cannot determine whether the complaint alleges conduct by a licensee which falls within the board's jurisdiction and/or which, if proven, would constitute a violation of W.S. 33-26-508, they may authorize and direct the board's agents and/or employees to investigate the complaint to provide sufficient information for them to complete the screening process.~~

~~(b) — Notice to the complainant.~~

~~(i) — Immediately upon receipt of a complaint, the executive director of the board shall notify the complainant in writing of said receipt.~~

~~(ii) — The notification of the complainant required by this section shall clearly advise the complainant as follows:~~

~~(A) — Pursuant to W.S. 33-26-408(a)(ii), the complainant and the complainant's witnesses incur no civil liability for information provided to the board in good faith, without malice, and in reasonable belief that the information is accurate.~~

~~(B) — Any effort by the licensee named in the complaint to discourage, intimidate, or otherwise impede a full and vigorous pursuit of the complaint constitutes, under board rules, a separate and distinct reportable instance of unprofessional conduct.~~

~~(c) — Notice to the respondent.~~

~~(i) — Within fifteen (15) working days after a majority of the board officers have appointed interviewers and the board's prosecutor has completed a petition, notice shall be sent to the respondent.~~

~~(ii) — When the board prosecutor has completed the petition and delivered it to the board executive director, record of such petition shall be entered in the board's docket and ledger.~~

~~(iii) — The notification of respondent required by this section shall clearly advise the respondent as follows:~~

~~(A) — The nature and particular subject matter of the petition, when it was filed, the board's appointment of interviewers;~~

~~(B) — A date by which the respondent is requested to submit a written response to the allegations in the petition;~~

~~(C) — Notice to the respondent shall advise that counsel may be present at the informal interview, describe the interview process, and enumerate a range of potential sanctions that may be available to the board as a result of the interviewers' recommendations.~~

~~(D) — That any effort by the licensee named in the complaint to discourage, intimidate or otherwise impede a full and vigorous pursuit of the complaint~~

~~constitutes, under board rules, a separate and reportable instance of unprofessional conduct.~~

~~(E)——If a majority of the president, the vice president, and board secretary determine that the name of the complainant should not be disclosed to the respondent or if the complainant requests that his or her identity not be revealed to the respondent, the notice provided for in this subsection shall not identify the complainant. The board may, however, disclose the particular patient care in question, including the name of the patient.~~

~~(F)——The notice described herein shall also be sent to the complainant.~~

~~(d)——Emergency suspension. In cases where the board determines that emergency action is required for the protection of the public health, safety or welfare, the president may call a special meeting of the board which shall occur as soon as possible after receipt of the complaint and appropriate supporting evidence. Prior to convening such special meeting, the board officers shall screen the complaint and any additional information to determine whether such special meeting is appropriate. If deemed appropriate for emergency suspension, a copy of the complaint and any additional evidence may be made available to each member of the board prior to the special meeting. Such meeting may occur via telephone conference call, when necessary. If temporary emergency suspension pursuant to W.S. 33-26-404(c) is indicated, the board may so order, pursuant to the requirements of W.S. 16-3-113(c).~~

~~(e)——Interviews.~~

~~(i)——The interviewers shall investigate the allegations of errant conduct against the respondent and where circumstances warrant, conduct an informal interview.~~

~~(ii)——The informal interviewers may, at their discretion, conduct the interview where circumstances warrant without assistance of board counsel and/or by telephone. If the interviewee notifies the board of representation by counsel, the board counsel shall participate in the interview. Notice by the interviewee of intent to be represented by counsel shall be sent to the board, in writing, not later than fourteen (14) days prior to the interview.~~

~~(iii)——The interviewers are the duly appointed agents and representatives of the board. After the informal interview and at other appropriate points in the proceedings, their recommendations shall be considered by the president and board secretary.~~

~~(iv)——No part or aspect of the interviewers' investigation or recommendation shall be divulged to another member of the board prior to a contested case hearing, except as may be otherwise required by these rules. However, final board~~

~~orders, general information and procedural updates concerning disciplinary matters pertaining to physician assistants shall be disseminated to board and council members and board counsel by the executive director on a routine basis. This shall include private reprimands, censures and other actions that may not be subject to public disclosure.~~

~~(v) — At any time after appointment by a majority of the board officers, the interviewers may seek to use or employ investigators, the offices of the attorney general, the state department of criminal investigation or any other investigatory or fact finding agency they deem necessary. The interviewers may employ, at their discretion, medical specialty consultants to assist them in the investigation and evaluation of the complaint. Pursuant to W.S. 33-26-408(a), these individuals shall be deemed agents of the board and there shall be no liability on the part of and no action for damages based on their actions and conduct relevant and/or material to the conduct of the investigation undertaken at the direction of the board.~~

~~(f) — The informal interview.~~

~~(i) — Following notification to the complainant and the respondent of the board's appointment of the interviewers, and where circumstances warrant, the interviewers shall conduct the informal interview.~~

~~(ii) — The purpose of the informal interview is to determine whether the allegations, if proven, would constitute a violation of W.S. 33-26-508, whether a mental or physical examination of the respondent is warranted, whether a further investigation is warranted, whether additional charges should be brought, whether there exists a possibility of resolution of the complaint without further proceedings and whether a contested case disciplinary hearing should be pursued.~~

~~(iii) — Review of the complaint by the interviewers may include, but are not limited to:~~

~~(A) — Determination of the respondent's licensing status;~~

~~(B) — Whether the alleged violation includes a fee dispute;~~

~~(C) — The duration of time in which the acts or omissions occurred;~~

~~(D) — Whether there appears a likelihood that the facts and circumstances alleged, if proven, would constitute a violation of W.S. 33-26-508;~~

~~(E) — The factual basis for the complainant's allegations;~~

~~(F) — Whether the matter is outside the board's jurisdiction and should be referred to another state agency;~~

~~(G) — Where appropriate notice of the informal interview shall be given to respondent and shall contain time, date and location of the interview and a statement of the action the interviewers are authorized to take following such interview.~~

~~(H) — The interviewers shall make every reasonable attempt to conduct the informal interview within forty five (45) days after their appointment. If special circumstances prevent the conduct of the informal interview by such date, the informal interview may proceed at the earliest possible date.~~

~~(I) — The informal interview may be conducted by conference telephone call if the interviewers determine that the purpose of the interview can be achieved in such manner.~~

~~(J) — The interviewers may request that the respondent submit documents and/or a written narrative response to the allegations of the complaint prior to the informal interview if they determine that such information would assist them in their investigation and in their conduct of the informal interview.~~

~~(K) — The interviewers, board counsel, respondent and/or respondent's counsel may discuss stipulation, dismissal, the consent decrees, restrictions or any other pertinent procedural or substantive information.~~

~~(L) — An electronic or stenographic record may be made and shall, if made, become part of the permanent confidential files of the board.~~

~~(M) — An informal interview is not subject to strict legal procedural or evidentiary rules. Informal interviews are not open to the public nor is their occurrence a matter of public record.~~

~~(N) — After reviewing their own findings based upon the investigation and the record made of the informal interview, the interviewers shall report, in writing, to the president and board secretary. Such report shall be made within thirty (30) days after completion of the investigation unless circumstances beyond the control of the interviewers shall prevent the report from being submitted within such time period.~~

~~(O) — The interviewers shall recommend dismissal of the case, continuation of the investigation, that a medical, mental or physical examination be ordered for the respondent or the placing of restrictions or conditions on the respondent's license or suspension or voluntary relinquishment or any other combination of actions designed to specifically redress the complaint, or to proceed with a contested case.~~

~~(P) — The board officers shall accept the interviewers' recommendations on behalf of the board. This determination shall occur within fifteen~~

~~(15) working days of receipt by the board officers of the interviewers' report or as soon thereafter as practicable.~~

~~(Q) — The executive director of the board shall then note the date and disposition on the ledger, and the date, disposition and the written findings and basis therefor in the docket and notify all board and council members and counsel of the disposition of the matter.~~

~~(R) — The board shall notify the complainant and the respondent of its actions and in a statement in concise and plain language note the reasons and basis therefor.~~

~~(iv) — Investigation and examination of physician assistants.~~

~~(A) — Following the informal interview and before report to the president and board secretary, the interviewers may further investigate the complaint in order to more fully inform themselves about the allegations contained in the complaint.~~

~~(B) — The investigation may include the taking of depositions as authorized in W.S. 33-26-401(c), interviews with the complainant, interviews with witnesses, and such other investigation as the interviewers deem necessary.~~

~~(C) — As a part of their investigation, or any time after their appointment, the interviewers, with the prior approval of a majority of the board officers, may order a mental, physical or medical competency exam of the respondent pursuant to W.S. 33-26-403.~~

~~(D) — Notice of the interviewers' order requiring respondent to submit to a medical, mental or physical examination shall include notice of a respondent's right to designate another physician to be present at the examination and make an independent report to the board.~~

~~(E) — The interviewers shall also notify the respondent that he may request a mental, physical or medical examination for himself, pursuant to the terms of W.S. 33-26-403(a-d).~~

~~(F) — The interviewers shall consider the recommendation of the examination committee and shall consider the substantive findings of the committee.~~

~~(G) — The results of any board ordered mental, physical competency or medical competency examination shall be provided to the respondent and the interviewers prior to any further board action.~~

~~(g) — Waiver of informal interview.~~

~~(i) — Following notice by the board of its intent to conduct an informal interview pursuant to section 15(e), respondent may, at any time, waive the right to an informal interview and proceed directly to a contested case proceeding pursuant to section 15(i).~~

~~(ii) — Waiver of the informal interview process must be made in writing, signed by the respondent and sent to the board of Medicine.~~

~~(iii) — Respondent's waiver of the informal interview process shall not, in and of itself, constitute grounds for additional charges of unprofessional conduct pursuant to W.S. 33-26-402(a)(xxvii).~~

~~(h) — Settlement or stipulation.~~

~~(i) — Nothing in these rules shall preclude the respondent and the board from entering into a consent decree, nor shall these rules preclude a voluntary request by the respondent for the suspension, relinquishment or restriction of respondent's license, provided, however that the board may, but is not required, to accept or reject such a request.~~

~~(ii) — The reasons, grounds, conditions and other provisions of any such consent decree, voluntary relinquishment, suspension or restriction or other board action taken in lieu of a contested case hearing shall be recorded on the docket and become a permanent part of the board's confidential files.~~

~~(iii) — Such consent decree or other action may occur at any time prior to the announcement of a final decision after a contested case hearing.~~

~~(iv) — In the case of stipulation, relinquishment or consent decree, the ledger shall note only the disciplinary action taken and the date.~~

~~(v) — The complainant and respondent shall not enter into settlement negotiations nor exchange of offers of settlement or compromise without the express written permission of the board.~~

~~(i) — Contested case.~~

~~(i) — Any contested case before the board in a disciplinary action or denial appeal shall be conducted pursuant to these rules and the Wyoming Administrative Procedure Act (W.S. 16-3-101 et. seq.).~~

~~(ii) — Disciplinary actions shall be initiated by a petition by the board on relation by the complainant or by the interviewers, as petitioners, against the licensee, as respondent.~~

~~(A) — At least ten (10) days prior to service of the petition, written communication shall be sent to respondent requiring indication whether respondent will accept service of the petition by United States certified mail, return receipt requested, or if respondent desires personal service at his place of business. Failure to return written election of choice of service to the board within ten (10) days of receipt shall mandate personal service.~~

~~(B) — The petition shall contain the following information:~~

~~(I) — The respondent's name and address;~~

~~(II) — The time, manner and place of the hearing. The board shall notify the respondent at least forty five (45) days before holding a contested case hearing. The board and respondent may waive this requirement by written agreement entered into the record.~~

~~(III) — The docket number assigned to the case;~~

~~(IV) — The legal authority and jurisdiction under which the hearing is to be held;~~

~~(V) — The particular sections of the statutes and rules involved;~~

~~(VI) — A statement in ordinary and concise language setting forth the grounds for the petition. If the board is unable to state the matters in detail at the time the petition is served, the petition may be limited to a statement of issues involved. Within thirty (30) days after a respondent's request, the board shall amend the petition to provide a more definite and detailed statement. The hearing officer shall allow amendment of the petition upon a showing of good cause and lack of prejudice to the respondent.~~

~~(iii) — Answer. The respondent may file an answer within twenty (20) days after receiving the petition.~~

~~(iv) — Informal disposition. Subject to board approval, a disciplinary proceeding may be resolved by mutual agreement at any time prior to the hearing. In addition, the board may, on its own motion, dismiss a disciplinary proceeding or petition. All settlements, agreements, or stipulations, dismissals, and consent decrees shall be in writing and entered into record. Following such a resolution, the board shall issue findings and a final order dismissing the case unless the board, by specific action, finds that a final order should not be issued in the case. Any such finding shall be reduced to writing and set forth the specific reasons for not issuing a final order. A copy of such writing shall be placed and retained in the respondent's file maintained by the board.~~



~~(v) — Hearing officer.~~

~~(A) — The board shall appoint a hearing officer to preside over each contested case. The appointed hearing officer shall not have participated in the preliminary investigation or case preparation.~~

~~(B) — The hearing officer shall withdraw from the case if he or she deems himself or herself to be disqualified. The hearing officer shall provide a written explanation of such withdrawal to the board before withdrawing.~~

~~(C) — A party may make a written request for the removal of a hearing officer. The request shall be made as soon as the party has reasonable grounds to believe that the hearing officer is subject to disqualification. The written request shall explain the reasons for the requested disqualification and shall be accompanied by affidavits. If the hearing officer denies the request, he or she shall issue a written explanation of such denial and enter the explanation into the record. If the hearing officer grants the request, the board shall appoint a new hearing officer as soon as possible.~~

~~(vi) — Duties and powers of hearing officer. The hearing officer shall have those powers set forth in W.S. 16-3-112(b) and all such other powers as may be necessary to conduct a fair and impartial contested case hearing, including but not limited to, the power to provide for and determine the scope of discovery and assist the board in the development of proposed findings of fact and conclusions of law.~~

~~(vii) — Discovery. Discovery in a board disciplinary proceeding shall be governed by W.S. 16-3-107. All records of discovery shall be filed with the board or its hearing officer.~~

~~(viii) — Subpoenas. Pursuant to W.S. 16-3-107, the board or its hearing officer may order by subpoena the attendance of witnesses or require the production of books, papers or other evidence. A respondent may apply for a subpoena. However, pursuant to W.S. 33-26-408(c), a respondent may not discover board records other than final orders nor may a respondent seek discovery from any board member, employee or agent.~~

~~(ix) — Pre-hearing conference.~~

~~(A) — Upon request of either respondent or board, and at any time before the hearing date, the hearing officer may hold a pre-hearing conference to consider simplifying the issues, amending the pleadings, clarifying or limiting the evidence, formulating procedures to govern the hearing and any other matters which will aid in the disposition of the case.~~

~~(B) — An order reflecting the action taken at the pre-hearing conference shall be written and entered into the record. The pre-hearing order shall~~

~~control the course of the hearing unless modified to prevent manifest injustice. A party may request a modified order if the order is ambiguous or does not fully cover the issues presented at the pre-hearing conference.~~

~~(x) — Evidence and testimony.~~

~~(A) — Admissibility of evidence. Admissibility is governed by W.S. 16-3-108. Parties shall have the right to present evidence, submit rebuttal evidence, and conduct cross examinations. Irrelevant, immaterial, and unduly repetitious information shall be excluded. All documentary or physical evidence shall be marked as exhibits. The board's exhibits shall be marked by letters of the alphabet beginning with "A". The respondent's exhibits shall be marked with numbers beginning with "1".~~

~~(B) — Objections. The grounds for objections to evidentiary rulings shall be briefly stated. All objections and rulings shall be entered into the record.~~

~~(C) — Witnesses. A testifying witness shall identify himself by stating his name and address. All witnesses shall stand and be administered the following oath: "Do you swear (or affirm) to tell the truth, the whole truth, and nothing but the truth."~~

~~(D) — Privileged and confidential information. The hearing officer shall recognize any privilege at law.~~

~~(E) — Official notice. Official notice may be taken of any information in the nature of traditional matters of judicial notice or within the board's special technical knowledge or files.~~

~~(xi) — Representation. All parties have a right to represent themselves or be represented by counsel at every stage of any disciplinary proceeding including the informal interview.~~

~~(xii) — Order of procedure.~~

~~(A) — To the extent practicable, contested case hearings shall be conducted in accordance with the following procedure:~~

~~(I) — The hearing officer shall conduct the hearing in closed session pursuant to W.S. 16-4-405(a)(ii) and (a)(ix), unless the respondent requests a public hearing. The hearing officer may sequester witnesses upon appropriate request by any party.~~

~~(II) — The hearing officer shall commence the hearing by calling the docket number and title of the case to be heard. The hearing officer shall ask if the parties are ready to proceed. The hearing officer may also allow the parties to dispose~~

~~of preliminary matters. The hearing officer shall allow the parties a reasonable time to voir dire the board on the grounds that a board member has a conflict of interest or is biased.~~

~~(III) — If the respondent or his or her representative fails to appear, the hearing officer may:~~

~~(1.) — Grant a continuance;~~

~~(2.) — Conduct the proceeding in the absence of the respondent or his or her representative; or,~~

~~(3.) — Declare the respondent in default and accept all matters in the complaint as true.~~

~~(IV) — The hearing officer shall administer the oath to all witnesses at the beginning of the hearing or before each witness testifies.~~

~~(V) — The hearing officer may allow all parties to give an opening statement to briefly explain their position and outline the evidence they propose to offer.~~

~~(VI) — The hearing officer may recess the proceedings as appropriate.~~

~~(VII) — The board shall present its evidence first, followed by the respondent. The board may submit rebuttal evidence. Witnesses may be cross-examined by an opposing party or by the board.~~

~~(VIII) — No testimony shall be received unless given under oath or affirmation.~~

~~(IX) — Closing statements shall be made after all evidence has been received with the board going first followed by the respondent.~~

~~(X) — Following the closing statements, the hearing officer may dismiss and excuse all witnesses and declare the hearing closed.~~

~~(XI) — No evidence shall be taken after the hearing unless requested and upon a showing of good cause.~~

~~(XII) — All parties may submit legal briefs and proposed findings of fact and conclusions of law within thirty (30) days after the transcript is made available. The time limit may be extended upon agreement between the parties and with the approval of the hearing officer~~

~~(B) — All hearings shall be recorded verbatim stenographically or by other appropriate means. Within ten (10) days after the transcript is available, the hearing officer may allow all parties to submit written proposed corrections of the transcript pointing out errors that have been made in transcribing the testimony.~~

~~(xiii) — Decision:~~

~~(A) — After consulting with the board, the hearing officer shall assist the board in drafting findings of fact and conclusions of law within thirty (30) days after receiving proposed findings from the board and the respondent.~~

~~(B) — The board shall serve a copy of the decision upon all parties. The decision shall include:~~

~~(I) — A statement of the findings of fact and conclusions of law, separately stated and supported by concise and explicit statements, and~~

~~(II) — An order setting forth the action taken, including costs, if any, assessed against respondent.~~

~~(xiv) — Record. The record in contested cases shall consist of those items set forth in W.S. 16-3-107(o) and the transcript of all recorded proceedings if one is prepared.~~

~~(xv) — Appeal. Pursuant to W.S. 16-3-114 the board's final decision may be appealed to the district court.~~

~~(xvi) — Transcript in case of appeal. If the board's decision is appealed to the district court, the appealing party shall pay the costs of copying the transcripts and duplicating the record for submission to the court and the parties to the appeal.~~

Section 16. ~~Repealed. Reinstatement.~~

~~Any person whose license has been relinquished or revoked may petition for reinstatement pursuant to W.S. 33-26-509. The petitioner shall have the burden to prove, by a preponderance of the evidence, that he is of good moral character and able to safely and skillfully practice as a physician assistant.~~

Section 17. **Prescription of drugs.**

(a) As the agent of the supervising physician, a physician assistant may prescribe, administer and dispense medications, including schedule II-V as defined in W.S. 35-7-1015 through 35-7-1022. Dispensing by physician assistants shall be limited to rural clinics in which pharmacy services are not physically available.

(b) A physician assistant shall not prescribe schedule I and schedule drugs as defined by W.S. 35-7-1013 through 35-7-1016.

(c) Use of pre-signed prescription pads is prohibited.

**Section 18. General provisions.**

(a) The supervising physician shall notify the board of any change of practice location or supervisory status of a physician assistant licensed in the state of Wyoming, and working under the physician's supervision, within thirty (30) days of the effective date of such change.

(b) A physician assistant shall clearly identify himself or herself by a name tag or other means to differentiate himself/herself from a physician.

(c) Except as otherwise provided in these rules and regulations, a physician may be a supervising physician for three (3) physician assistants ~~and act as a back-up physician for an additional three (3) physician assistants~~ on duty at any given time. Physicians whose specific practice circumstances indicate the need to supervise ~~and/or back-up~~ more than a total of ~~six (6)~~ three (3) physician assistants may submit a written request for approval of the supervisory arrangement, along with supporting documentation, for review by the Board of Medicine, as provided in these rules and regulations

(d) ~~Deleted. Provisions for "back-up supervision" shall be in writing and on file with and approved by the board prior to the physician assistant beginning work.~~

(e) Medical supervision of a physician assistant by other than a licensed physician is prohibited.

**Section 19. Deleted. Severability.**

~~If one or more parts of these rules are found to be invalid or unenforceable, the remainder shall continue in full force and effect.~~

**Section 20. Supervision and protocol requirements.**

All physician assistant supervision arrangements formed or submitted to the Board ~~on or after October 1, 2009~~, shall comply with the following requirements:

(a) A supervising physician ~~or back-up supervising physician~~ and any physician assistant under his ~~or her~~ supervision shall maintain on file with the Board a current supervision plan approved pursuant to section 8(h) of this chapter.

(b) The supervision plan shall be submitted as part of any application by a supervising physician, ~~back-up supervising physician,~~ or group of supervising physicians.

(c) Before a supervising physician, ~~back-up supervising physician~~ or physician assistant may change a supervision plan previously approved by the Board, they shall submit a revised supervision plan on an application form published by the Board. The revised supervision plan application shall be reviewed by the advisory council and the Board pursuant to section 8(h) of this chapter.

(d) Supervising physicians, ~~back-up supervising physicians,~~ and physician assistants shall maintain documentation to demonstrate compliance with the elements of the supervision plan.

(e) A supervising physician, ~~back-up supervising physician~~ or physician assistant shall, upon written request from the Board, produce within twenty (20) days of receipt of the Board's request any documentation maintained pursuant to subsection (d).

(f) In addition to the ability to request documentation pursuant to subsection (e) the Board may, from time to time, conduct an audit of approximately ten (10) percent of then-active supervisory relationships, selected by random means, by requesting from the selected supervising physician, ~~back-up supervising physician~~ and the physician assistant any documentation from the past three (3) years maintained pursuant to subsection (d).

(g) Beginning April 1, 2014, all new supervising physician applications will require review of a minimum of ten percent (10%) of the physician assistant's patient charts. The supervising physician may review a greater percentage of charts at his discretion. The percentage of charts to be reviewed must be stated on the supervising physician application, and shall state the frequency of chart review, i.e., daily, weekly, monthly, etc. The advisory council may recommend, and the board may require, more than ten percent (10%) chart review if deemed appropriate.

## **CHAPTER 6 MISCELLANEOUS**

### **Section 1. Malpractice claims.**

(a) When the officers screen complaints, they shall review reports of malpractice claims against licensees reported since the previous complaint screening.

(b) Based on this review, the board officers shall determine if further review and/or investigation is necessary under the terms and provisions of the act. If further review and/or investigation is deemed necessary, the matter shall be handled as a complaint .

(c) The executive director shall compile all reports of malpractice claims from licensees, insurance carriers, attorneys, courts, health care entities, data banks and other reliable sources and maintain statistics for each licensee as to the number, frequency, nature and disposition of such claims.

### **Section 2. Disciplinary actions in other jurisdictions.**

(a) Final disciplinary orders entered in other jurisdictions against Wyoming licensed physicians and physician assistants shall be handled as follows:

(i) Those with current Wyoming licenses who are practicing in Wyoming may be subject to a board initiated complaint and investigation pursuant to chapters 4 and 5 of these rules, as appropriate.

(ii) Those with current licenses but practicing out of state may be served with a consent decree requiring the physician or physician assistant to notify the board in writing at least thirty (30) days prior to returning to the state to practice. The consent decree shall be a final order of the board, subject to reporting as provided in these rules and regulations. If a physician or physician assistant fails or refuses to sign such a consent decree, he or she may be subject to a board initiated complaint and investigation pursuant to chapters 4 and 5 of these rules, as appropriate.

### **Section 3. Board records.**

(a) For all purposes, the term 'board record' as set forth in W.S. 33-26-408(f) includes all information acquired by the board by any means except:

(i) The name of the licensee;

(ii) The licensure status of a licensee, i.e., current and in good standing, current with conditions or restrictions, lapsed, suspended, surrendered or revoked;

- or P.A.-C.;
- (iii) The professional designation of a licensee, i.e., M.D., D.O., P.A.,
  - (iv) The licensee's medical specialty;
  - (v) Whether the licensee is board certified and
  - (vi) The current office address and current telephone number at such address of a licensee.

(b) All other information except that specifically described in subsection (a) maintained or in the possession of the members, employees or agents of the board, shall be considered a "board record," including but not limited to documents, records, summaries, photographs, diplomas, correspondence, test scores and licensure verification, and shall not be available for public dissemination or disclosure except as required by W.S. 33-26-408(f).

(c) The Board may disseminate the information set forth in subsection (a) above by any means including, but not limited to, responses to inquiries, any Internet web pages maintained or contributed to by the Board and in the physician directory published annually by the Board.

(d) This definition shall not restrict the type or content of information that the Board is required to disclose pursuant to W.S. 33-26-202(b)(vii) or information, the disclosure of which has been waived by the licensee who is the subject of such information.

#### **Section 4. Maintenance of Current Mailing, Physical Addresses.**

(a) All licensees shall maintain a current mailing address on file with the Board.

(b) All licensees shall maintain a current physical address on file with the Board. This address shall be the licensee's address of record for purpose of service of any disciplinary action brought against licensee under this title.

(c) The licensee shall update his or her mailing address and physical address with the Board by submitting, within forty-five (45) days of the effective date of the new mailing or physical address, a completed change of address form as published by the Board. Failure to maintain current mailing and physical addresses with the Board shall be grounds for disciplinary action.



(d) In no event will the Board accept a request for the licensee's mailing address to be used for some, but not all, written communications from the Board.

## CHAPTER 6 MISCELLANEOUS

### Section 1. **Malpractice claims.**

(a) When the ~~board~~ officers screen complaints ~~pursuant to chapter 4, section 4(a)(vi) and chapter 5, section 15(a)(v)~~, they shall review reports of malpractice claims against ~~Wyoming licensed physicians and physician assistants~~ licensees reported since the previous complaint screening.

(b) Based on this review, the board officers shall determine if further review and/or investigation is necessary under the terms and provisions of the act. If further review and/or investigation is deemed necessary, the matter shall be handled as a ~~board initiated~~ complaint ~~pursuant to chapters 4 and 5 of these rules~~.

(c) The executive director shall compile all reports of malpractice claims from licensees, insurance carriers, attorneys, courts, health care entities, data banks and other reliable sources and maintain statistics for each licensee as to the number, frequency, nature and disposition of such claims.

### Section 2. **Disciplinary actions in other jurisdictions.**

(a) Final disciplinary orders entered in other jurisdictions against Wyoming licensed physicians and physician assistants shall be handled as follows:

(i) Those with current Wyoming licenses who are practicing in Wyoming may be subject to a board initiated complaint and investigation pursuant to chapters 4 and 5 of these rules, as appropriate.

(ii) Those with current licenses but practicing out of state may be served with a consent decree requiring the physician or physician assistant to notify the board in writing at least thirty (30) days prior to returning to the state to practice. The consent decree shall be a final order of the board, subject to reporting as provided in these rules and regulations. If a physician or physician assistant fails or refuses to sign such a consent decree, he or she may be subject to a board initiated complaint and investigation pursuant to chapters 4 and 5 of these rules, as appropriate.

### Section 3. ~~Dissemination of information~~ Board records.

~~All final board orders subject to public disclosure pursuant to W.S. 33-26-408(e) shall be sent to any medical facilities where the licensee has privileges, to the appropriate state medical society and to any local county medical society to which the licensee might belong, to a wire service, to the Federation of State Medical Boards, to the National Practitioner Data Bank and/or the Healthcare Integrity Protection Data Bank when~~

~~applicable, to the Wyoming Board of Pharmacy and to the Federal Drug Enforcement Administration.~~

(a) For all purposes, the term 'board record' as set forth in W.S. 33-26-408(f) includes all information acquired by the board by any means except:

- (i) The name of the licensee;
- (ii) The licensure status of a licensee, i.e., current and in good standing, current with conditions or restrictions, lapsed, suspended, surrendered or revoked;
- (iii) The professional designation of a licensee, i.e., M.D., D.O., P.A., or P.A.-C.;
- (iv) The licensee's medical specialty;
- (v) Whether the licensee is board certified and
- (vi) The current ~~practice~~-office address and current telephone number at such address of a licensee.

(b) All other information except that specifically described in subsection (a) maintained or in the possession of the members, employees or agents of the board, shall be considered a "board record," including but not limited to documents, records, summaries, photographs, diplomas, correspondence, test scores and licensure verification, and shall not be available for public dissemination or disclosure except as required by W.S. 33-26-408(f).

(c) The Board may disseminate the information set forth in subsection (a) above by any means including, but not limited to, responses to inquiries, any Internet web pages maintained or contributed to by the Board and in the physician directory published annually by the Board.

(d) This definition shall not restrict the type or content of information that the Board is required to disclose pursuant to W.S. 33-26-202(b)(vii) or information, the disclosure of which has been waived by the licensee who is the subject of such information.

#### Section 4. **Maintenance of Current Mailing, Physical Addresses.**

(a) All licensees shall maintain a current mailing address on file with the Board.

(b) All licensees shall maintain a current physical address on file with the Board. This address shall be the licensee's address of record for purpose of service of any disciplinary action brought against licensee under this title.

(c) The licensee shall update his or her mailing address and physical address with the Board by submitting, within forty-five (45) days of the effective date of the new mailing or physical address, a completed change of address form as published by the Board. Failure to maintain current mailing and physical addresses with the Board shall be grounds for disciplinary action.

(d) In no event will the Board accept a request for the licensee's mailing address to be used for some, but not all, written communications from the Board. ~~In addition, in no event shall the Board accept a mailing or physical address to which the licensee indicates that correspondence shall be marked "confidential" or otherwise restricted.~~

**CHAPTER 7**  
**RULES OF PRACTICE AND PROCEDURE FOR THE CONDUCT OF**  
**DISCIPLINARY PROCEEDINGS AGAINST PHYSICIANS AND PHYSICIAN**  
**ASSISTANTS**

Section 1.     **Authority.** These rules are promulgated pursuant to authority granted by the Act and the A.P.A.

Section 2.     **Purpose.** These rules set forth the procedures of the board for the filing of complaints against licensees; for the conduct of investigations of, and disciplinary proceedings against, licensees; and to describe the process for license denials and appeals therefrom.

Section 3.     **Preliminary Complaint Evaluation**

(a)     All parties have a right to represent themselves or be represented by counsel at every stage of any investigation or disciplinary proceeding, including the informal interview.

(b)     Proceedings under these rules shall commence when a complainant notifies the board of conduct by a licensee which falls within the board's jurisdiction and that may constitute a violation of the Act.

(c)     A copy of every written complaint, and every writing in the general nature of a complaint, as well as reports of every oral communication in the nature of a complaint received by the board shall be filed and maintained in the board's permanent files and entered in the ledger.

(d)     Upon receipt of a complaint, the executive director of the board shall notify the complainant in writing of said receipt. The notice to the complainant required by this section shall, at a minimum, clearly state:

(i)     Pursuant to W.S. 33-26-408(a)(ii), the complainant and any witnesses incur no civil liability for information provided to the board in good faith, without malice, and in reasonable belief that the information is accurate.

(ii)    Any effort by the licensee named in the complaint to directly or indirectly discourage, intimidate, or otherwise impede investigation of the complaint constitutes a separate and distinct prosecutable instance of unprofessional conduct.

(e)     If cause exists to withhold the identity of the complainant from the licensee, or if the complainant requests his identity be withheld, the staff may withhold the complainant's name from the licensee until the complaint screening. If the complainant's name has been withheld, and it is necessary to disclose the name of a particular patient in order to permit the licensee to respond to the Board's inquiry, the staff may do so with the prior approval of the officers.

(f) Board staff shall preliminarily ascertain whether the alleged conduct by a licensee may constitute a violation of the act.

(i) If the alleged conduct may constitute a violation of the act, board staff shall request a written response from the licensee. The request to the licensee shall, at a minimum, include the following:

(A) A copy of the complaint, unless the complainant's identity is being withheld pursuant to subsection (e), in which case the request shall set forth information sufficient for the licensee to understand the nature of the complaint and respond;

(B) A date by which the licensee is requested to submit a written response to the allegations in the complaint;

(C) The section(s) of the act and/or the board's rules that may have been violated by the licensee's alleged conduct;

(D) Notice that the licensee has a right to represent himself or be represented by counsel at every stage of any investigation or disciplinary proceeding, including the informal interview;

(E) Notice that any effort by the licensee named in the complaint to discourage, intimidate or otherwise impede a full and vigorous pursuit of the complaint constitutes, under board rules, a separate and reportable instance of unprofessional conduct; and

(F) Notice that the complainant will be provided a copy of the request for written response from the licensee.

(ii) If the alleged conduct is not within the Board's jurisdiction, or would not constitute a violation of the act, board staff shall notify the complainant in writing and close the complaint. Board staff shall provide a summary of the complaint, and the reason(s) for its closure, to the officers at the next complaint screening.

(g) Upon receipt of the licensee's response to the complaint, the board staff shall review the complaint and the response. If it continues to appear that the alleged conduct may constitute a violation of the act, the board staff shall refer the complaint and the licensee's response for review at the next complaint screening.

#### **Section 4. Commencement of Disciplinary Proceedings**

At the complaint screening, officers and staff review complaints, licensee responses, and reasons for closing any complaints.

(a) If the majority of the board officers cannot determine whether the complaint alleges conduct by a licensee which falls with the board's jurisdiction and/or

may constitute a violation of the Act, the officers may direct the board's staff and agents to investigate the complaint to provide sufficient information for board officers to complete the screening process.

(b) If a majority of the officers determines that the complaint alleges conduct by a licensee which falls within the board's jurisdiction and may constitute a violation of the Act, the officers shall appoint two members of the board, and one member of the advisory council if the licensee in question is a physician assistant, as interviewers, or take other appropriate action. Nothing herein precludes the appointment of a board officer as a petitioner in any case that they have screened.

(c) If the majority of the officers cannot determine whether the complaint alleges conduct by a licensee which falls with the board's jurisdiction and/or may constitute a violation of the Act, they may direct the board's staff and agents to investigate the complaint to provide sufficient information for them to complete the screening process. If the identity of the complainant has been withheld from the licensee, the officers shall also make a determination whether to continue to withhold the complainant's name.

(d) Within fifteen (15) business days after the appointment of interviewers, the board staff shall send a notice to the licensee and to the complainant. The notice to the licensee shall include:

(i) The nature and subject matter of the petition, when it was filed, the board's appointment of interviewers;

(ii) That counsel representing the licensee may be present at the informal interview, describe the interview process;

(iii) The range of potential sanctions that may be available to the board as a result of the interviewers' recommendations; and

(iv) That any effort by the licensee named in the complaint to directly or indirectly discourage, intimidate or otherwise impede a full and vigorous pursuit of the complaint constitutes a separate and prosecutable instance of unprofessional conduct.

#### Section 5. **Informal interview.**

(a) The interviewers shall investigate the allegations against the licensee of conduct that may violate the Act and, where circumstances warrant, conduct an informal interview.

(b) The interviewers may conduct the informal interview without assistance of the board prosecutor. If the licensee notifies the board of representation by counsel, the board prosecutor shall participate in the interview. Notice by the licensee of intent to be represented by counsel shall be sent to the board, in writing, not less than seven (7) days

prior to the interview.

(c) The interviewers are the agents and representatives of the board.

(d) The informal interview is to determine whether: the allegations may constitute a violation of the Act; a mental, physical, or medical skills or knowledge examination of the licensee is warranted; further investigation is warranted; additional charges should be brought; resolution of the complaint without further proceedings is possible; and, a contested case hearing should be pursued.

(e) The informal interview may be conducted by electronic means if the interviewers determine that the purpose of the interview can be achieved in such manner.

(f) The interviewers, board prosecutor, licensee and/or licensee's counsel may discuss stipulation, dismissal, the consent decrees, restrictions or any other pertinent procedural or substantive information.

(g) An electronic or stenographic record may be made and shall, if made, become part of the confidential files of the board.

(h) An informal interview is not subject to strict legal procedural or evidentiary rules. Informal interviews are not open to the public nor is their occurrence a matter of public record.

(i) If the alleged conduct is not within the Board's jurisdiction, or would not constitute a violation of the act, interviewers shall notify the complainant in writing and close the complaint. Board staff shall provide the interviewers' reason(s) for the closure of the complaint to the officers at the next complaint screening, and the closure shall be noted on the ledger.

(j) The results of any board ordered mental, physical competency or medical competency examination shall be provided to the licensee and the interviewers prior to any further board action.

(k) Following notice by the interviewers of their intent to conduct an informal interview, the licensee may, at any time, waive the right to an informal interview. Waiver of the informal interview process must be made in writing, signed by the licensee, and his attorney if represented, and sent to the Board before the scheduled informal interview. A licensee's waiver of the informal interview process shall not, in and of itself, constitute grounds for additional charges of unprofessional conduct.

(l) The reasons, grounds, conditions and other provisions of any such consent decree, voluntary relinquishment, suspension or restriction or other board action taken in lieu of a contested case hearing shall be recorded in the docket file and become a permanent part of the Board's confidential files; provided, however, that any action taken by the board constituting a final action shall be a public document as provided by the Act



and the Board's rules.

**Section 6. Contested case.**

(a) Any contested case before the board shall be conducted pursuant to these rules, the Act and the A.P.A.

(b) Contested cases before the board shall be initiated by a petition.

(c) At least ten (10) days prior to service of petition, written communication shall be sent to the respondent requiring indication whether respondent will accept service of the petition by United States certified mail, return receipt requested, or if respondent desires personal service at his place of business. Failure to return written election of choice of service to the board within ten (10) days of receipt shall mandate personal service.

(d) The respondent shall file an answer, or cause an appearance to be entered before the Board, within thirty (30) days of service of the petition.

(e) Prior to any contested case hearing, other than one pursuant to a licensee's petition for reinstatement of a license or removal of restrictions or conditions on a license, an informal interview must be offered to the licensee.

**Section 7. Hearing officer.**

(a) Upon the filing of a petition, the board may appoint a hearing officer to preside over the contested case. The hearing officer shall not have participated in the preliminary investigation or case preparation.

(b) The hearing officer shall withdraw from the case if he deems himself to be disqualified.

(c) A party may make a written request for the removal of a hearing officer. The request shall be made as soon as the party has reasonable grounds to believe that the hearing officer is subject to disqualification. The written request shall explain the reasons for the requested disqualification and shall be accompanied by affidavits. If the hearing officer denies the request, he shall issue a written explanation of such denial and enter the explanation into the record.

(d) The hearing officer shall have those powers set forth in the A.P.A. and all such other powers as may be necessary to conduct a fair and impartial contested case hearing, including but not limited to, the power to provide for and determine the scope of discovery and set a case schedule, and may assist the board in its deliberations and the development of findings of fact and conclusions of law.

**Section 8. Discovery.**

(a) Discovery in board disciplinary proceedings shall be governed by W.S. 16-3-107, the Act, and these rules.

(b) Pursuant to W.S. 16-3-107, the board or its hearing officer, at the request of a party, may subpoena the attendance of witnesses or require the production of books, papers or other evidence. A respondent may apply for a subpoena subject to W.S. 33-26-408(f).

**Section 9. Pre-hearing conference.**

(a) Upon request of either party, or on his own motion, the hearing officer may hold a pre-hearing conference to consider simplifying the issues, amending the pleadings, clarifying or limiting the evidence, formulating procedures to govern the hearing and any other matters which will aid in the disposition of the case.

(b) An order reflecting the action taken at the pre-hearing conference shall be written and entered into the record. The pre-hearing order shall control the course of the hearing unless modified to prevent manifest injustice. A party may request a modified order if the order is ambiguous or does not fully cover the issues presented at the pre-hearing conference.

**Section 10. Evidence and testimony.**

(a) Admissibility of evidence is governed by W.S. 16-3-108. Parties shall have the right to present evidence and conduct cross examinations. Irrelevant, immaterial, and unduly repetitious information shall be excluded. All documentary or physical evidence shall be marked as exhibits. The petitioner's(s') exhibits shall be marked alphabetically beginning with "A". The respondent's(s') exhibits shall be marked numerically beginning with "1".

(b) The grounds for objections to evidentiary rulings shall be briefly stated. All objections and rulings shall be entered into the record.

(c) The hearing officer shall recognize any privilege at law.

(d) Official notice may be taken of any information in the nature of traditional matters of judicial notice or within the board's special technical knowledge or files.

**Section 11. Order of procedure.** To the extent practicable, contested case hearings shall be conducted in accordance with the following procedure:

(a) The hearing officer shall conduct the hearing in closed session pursuant to W.S. 16-4-405(a)(ii) and/or (a)(ix), unless the respondent requests a public hearing. The hearing officer may sequester witnesses upon appropriate request by any party.

(b) The hearing officer shall commence the hearing by calling the docket number and title of the case to be heard. The hearing officer may allow the parties to

dispose of preliminary matters. The hearing officer shall allow the parties a reasonable time to conduct voir dire the hearing panel on the grounds that a hearing panel member has a conflict of interest or is biased.

(c) If the respondent or his or her representative fails to appear, the hearing officer may:

(i) Grant a continuance; or,

(ii) Declare the respondent in default and accept all allegations set forth in the petition as true. In such event, the hearing officer shall conduct the proceeding with the presentation of evidence by the petitioner(s) only.

(d) An oath shall be administered to all witnesses at the beginning of the hearing or before each witness testifies.

(e) The hearing officer may allow the parties to give an opening statement to briefly explain their position and outline the evidence they propose to offer.

(f) The hearing officer may recess the proceedings as appropriate.

(g) The petitioner(s) shall present their case in chief first, followed by the respondent(s) presenting their case in chief. The petitioner(s) may submit a rebuttal case. No surrebuttal shall be permitted.

(h) The examination of witnesses shall consist of direct examination, cross examination, and redirect examination.

(i) Closing statements shall be made after the close of evidence with the petitioner going first followed by the respondent. The petitioner may be allowed a brief rebuttal.

(j) No evidence shall be taken after the hearing unless requested and upon a showing of good cause.

(k) If allowed by the hearing officer, any party may submit legal briefs and proposed findings of fact and conclusions of law.

(l) All hearings shall be recorded stenographically or by other appropriate means.

## Section 12. **Evidentiary Hearing to Compile a Record.**

(a) A hearing panel shall not be required to personally attend any part of a hearing including, but not limited to, opening statements, presentation of evidence, and/or closing arguments.

(b) The hearing officer may, upon the recommendation of the president or the executive director or upon his own motion, receive the evidence and compile the record in a contested case outside the presence of the hearing panel.

(c) Upon the close of evidence, all evidence received and compiled by the hearing officer, and the record of the contested case, shall be given as soon as practicable to the hearing panel for their review, deliberations and decision in accordance with this chapter.

(d) The evidentiary record provided to the hearing panel shall include the following:

(i) A transcript and video recording of the hearing, and any depositions entered as witness testimony in the proceedings; and,

(ii) An indexed copy of all exhibits admitted by the hearing officer during the course of the proceeding.

(e) As part of its deliberations on the case, one or more members of the hearing panel may request that a witness who previously testified in the proceeding be called before the panel, placed under oath, and asked one or more questions by the members of the hearing panel to clarify, correct or expand upon the witness's prior testimony. The board advisory attorney shall communicate the request to the hearing officer, in writing with copies to the parties. The hearing officer shall issue such orders and subpoenas as are necessary to secure the witness testimony requested by the hearing panel member(s). The hearing officer may, but is not required to, permit the parties to question a recalled witness, and may restrict the scope of questions posed by the parties.

### Section 13. **Deliberations and Decision.**

(a) Board counsel shall assist the hearing panel in its deliberations, and in drafting findings of fact, conclusions of law and an order.

(b) The board shall make its decision in public session, and shall serve a copy of the decision upon all parties. The decision shall include:

(i) A statement of the findings of fact and conclusions of law, separately stated and supported by concise and explicit statements, and

(ii) An order setting forth the action taken, including costs, if any, assessed against respondent.

### Section 14. **Record.**

(a) The record in contested cases shall consist of those items set forth in W.S. 16-3-107(o) and the transcript of the proceedings.

(b) If the board's decision is appealed to the district court, the appealing party shall pay the costs of copying the transcripts and duplicating the record for submission to the court and the parties to the appeal.

**Section 15. Reinstatement, Removal or Modification of Restrictions or Conditions, or Denial of Issuance or Reactivation of, a License.**

(a) A former licensee whose license has been relinquished or revoked may file a petition for reinstatement of his license pursuant to the Act.

(b) A licensee whose license has restrictions or conditions on it may file a petition seeking removal or modification of one or more restrictions or conditions, pursuant to the Act.

(c) In the course of proceedings under subsections (a) and (b), the licensee will be designated "petitioner." The petitioners appointed during the proceedings that led to relinquishment, revocation, or placement of restrictions or conditions on an existing license shall be designated "respondent(s)." If none the previously appointed petitioners remain on the board or the advisory council, the officers shall appoint one (1) board member to serve as the respondent in the proceedings to reinstate or remove or modify conditions or restrictions.

(d) After a hearing before the board on a petition filed pursuant to this section, the board shall issue specific findings of fact, conclusions of law and a final order:

- (i) Reinstating the license without restrictions or conditions;
- (ii) Reinstating the license subject to restrictions or conditions;
- (iii) Removing or modifying the restrictions or conditions on the license;
- (iv) Denying reinstatement of the license or removal of the restrictions or conditions on the license; or,
- (v) Taking such other action as the board deems appropriate and just in the circumstances.

(e) An applicant who is denied an initial license or reactivation of a license, or a licensee whose petition for reinstatement of or removal or modification or restrictions or conditions on, a license, or who is issued a license with conditions or restrictions may appeal such final order to the district court pursuant to W.S. 16-3-114.

**Section 16. Public inspection.**

(a) The legal custodian shall segregate all documentation pertaining to any petition and place it into the appropriate docket file or the ledger of public information.

The executive director shall provide proper identification of all the records in the docket files and ledger.

(b) The ledger shall be open for public inspection in the board offices.

(c) Docket files shall be confidential, segregated files not available for public inspection, maintained in the board offices.

(d) If the legal custodian or his designee denies a request to inspect or copy records, written reasons shall be given if requested and the requestor shall be advised of the right to appeal and state why inspection should be granted including the purpose for which the record is needed by the requestor.

(e) All ledger records shall be kept at the board office or in a governmental record storage site and shall be available for public inspection and copying during office hours when such inspection or copying does not unduly interfere with the work of board staff.

(f) Original ledger records shall be examined under the supervision of board staff and shall not be removed from the office.

(g) A request to inspect ledger records shall be deemed sufficient if it reasonably describes the requested records and contains the requestor's name and address.

Section 17. **Notification.** All final board orders subject to public disclosure pursuant to W.S. 33-26-408(c) shall be sent to any medical facilities where the licensee has privileges, to the appropriate state medical society and to any local county medical society to which the licensee might belong, to a wire service, to the F.S.M.B., and the N.P.D.B. and, when applicable, to the Wyoming Board of Pharmacy and the Federal Drug Enforcement Administration, within thirty (30) days of the final disposition of the case.

**CHAPTER 7**  
**RULES OF PRACTICE AND PROCEDURE FOR THE CONDUCT OF**  
**DISCIPLINARY PROCEEDINGS AGAINST PHYSICIANS AND PHYSICIAN**  
**ASSISTANTS**

Section 1. **Authority.** These rules are promulgated pursuant to authority granted by the Act and the A.P.A.

Section 2. **Purpose.** These rules set forth the procedures of the board for the filing of complaints against licensees; for the conduct of investigations of, and disciplinary proceedings against, licensees; and to describe the process for license denials and appeals therefrom.

**Section 3. Preliminary Complaint Evaluation**

(a) All parties have a right to represent themselves or be represented by counsel at every stage of any investigation or disciplinary proceeding, including the informal interview.

(b) Proceedings under these rules shall commence when a complainant notifies the board of conduct by a licensee which falls within the board's jurisdiction and that may constitute a violation of the Act.

(c) A copy of every written complaint, and every writing in the general nature of a complaint, as well as reports of every oral communication in the nature of a complaint received by the board shall be filed and maintained in the board's permanent files and entered in the ledger.

(d) Upon receipt of a complaint, the executive director of the board shall notify the complainant in writing of said receipt. The notice to the complainant required by this section shall, at a minimum, clearly state:

(i) Pursuant to W.S. 33-26-408(a)(ii), the complainant and any witnesses incur no civil liability for information provided to the board in good faith, without malice, and in reasonable belief that the information is accurate.

(ii) Any effort by the licensee named in the complaint to directly or indirectly discourage, intimidate, or otherwise impede investigation of the complaint constitutes a separate and distinct prosecutable instance of unprofessional conduct.

(e) If cause exists to withhold the identity of the complainant from the licensee, or if the complainant requests his identity be withheld, the staff may withhold the complainant's name from the licensee until the complaint screening. If the complainant's name has been withheld, and it is necessary to disclose the name of a particular patient in order to permit the licensee to respond to the Board's inquiry, the staff may do so with the prior approval of the officers.

(f) Board staff shall preliminarily ascertain whether the alleged conduct by a licensee may constitute a violation of the act.

(i) If the alleged conduct may constitute a violation of the act, board staff shall request a written response from the licensee. The request to the licensee shall, at a minimum, include the following:

(A) A copy of the complaint, unless the complainant's identity is being withheld pursuant to subsection (e), in which case the request shall set forth information sufficient for the licensee to understand the nature of the complaint and respond;

(B) A date by which the licensee is requested to submit a written response to the allegations in the complaint;

(C) The section(s) of the act and/or the board's rules that may have been violated by the licensee's alleged conduct;

(D) Notice that the licensee has a right to represent himself or be represented by counsel at every stage of any investigation or disciplinary proceeding, including the informal interview;

(E) Notice that any effort by the licensee named in the complaint to discourage, intimidate or otherwise impede a full and vigorous pursuit of the complaint constitutes, under board rules, a separate and reportable instance of unprofessional conduct; and

(F) Notice that the complainant will be provided a copy of the request for written response from the licensee.

(ii) If the alleged conduct is not within the Board's jurisdiction, or would not constitute a violation of the act, board staff shall notify the complainant in writing and close the complaint. Board staff shall provide a summary of the complaint, and the reason(s) for its closure, to the officers at the next complaint screening.

(g) Upon receipt of the licensee's response to the complaint, the board staff shall review the complaint and the response. If it continues to appear that the alleged conduct may constitute a violation of the act, the board staff shall refer the complaint and the licensee's response for review at the next complaint screening.

#### **Section 4. Commencement of Disciplinary Proceedings**

At the complaint screening, officers and staff review complaints, licensee responses, and reasons for closing any complaints.

(a) If the majority of the board officers cannot determine whether the complaint alleges conduct by a licensee which falls with the board's jurisdiction and/or



may constitute a violation of the Act, the officers may direct the board's staff and agents to investigate the complaint to provide sufficient information for board officers to complete the screening process.

(b) If a majority of the officers determines that the complaint alleges conduct by a licensee which falls within the board's jurisdiction and may constitute a violation of the Act, the officers shall appoint two members of the board, and one member of the advisory council if the licensee in question is a physician assistant, as interviewers, or take other appropriate action. Nothing herein precludes the appointment of a board officer as a petitioner in any case that they have screened.

(c) If the majority of the officers cannot determine whether the complaint alleges conduct by a licensee which falls with the board's jurisdiction and/or may constitute a violation of the Act, they may direct the board's staff and agents to investigate the complaint to provide sufficient information for them to complete the screening process. If the identity of the complainant has been withheld from the licensee, the officers shall also make a determination whether to continue to withhold the complainant's name.

(d) Within fifteen (15) business days after the appointment of interviewers, the board staff shall send a notice to the licensee and to the complainant. The notice to the licensee shall include:

(i) The nature and subject matter of the petition, when it was filed, the board's appointment of interviewers;

(ii) That counsel representing the licensee may be present at the informal interview, describe the interview process;

(iii) The range of potential sanctions that may be available to the board as a result of the interviewers' recommendations; and

(iv) That any effort by the licensee named in the complaint to directly or indirectly discourage, intimidate or otherwise impede a full and vigorous pursuit of the complaint constitutes a separate and prosecutable instance of unprofessional conduct.

#### Section 5. Informal interview.

(a) The interviewers shall investigate the allegations against the licensee of conduct that may violate the Act and, where circumstances warrant, conduct an informal interview.

(b) The interviewers may conduct the informal interview without assistance of the board prosecutor. If the licensee notifies the board of representation by counsel, the board prosecutor shall participate in the interview. Notice by the licensee of intent to be represented by counsel shall be sent to the board, in writing, not less than seven (7) days

prior to the interview.

(c) The interviewers are the agents and representatives of the board.

(d) The informal interview is to determine whether: the allegations may constitute a violation of the Act; a mental, physical, or medical skills or knowledge examination of the licensee is warranted; further investigation is warranted; additional charges should be brought; resolution of the complaint without further proceedings is possible; and, a contested case hearing should be pursued.

(e) The informal interview may be conducted by electronic means if the interviewers determine that the purpose of the interview can be achieved in such manner.

(f) The interviewers, board prosecutor, licensee and/or licensee's counsel may discuss stipulation, dismissal, the consent decrees, restrictions or any other pertinent procedural or substantive information.

(g) An electronic or stenographic record may be made and shall, if made, become part of the confidential files of the board.

(h) An informal interview is not subject to strict legal procedural or evidentiary rules. Informal interviews are not open to the public nor is their occurrence a matter of public record.

(i) If the alleged conduct is not within the Board's jurisdiction, or would not constitute a violation of the act, interviewers shall notify the complainant in writing and close the complaint. Board staff shall provide the interviewers' reason(s) for the closure of the complaint to the officers at the next complaint screening, and the closure shall be noted on the ledger.

(j) The results of any board ordered mental, physical competency or medical competency examination shall be provided to the licensee and the interviewers prior to any further board action.

(k) Following notice by the interviewers of their intent to conduct an informal interview, the licensee may, at any time, waive the right to an informal interview. Waiver of the informal interview process must be made in writing, signed by the licensee, and his attorney if represented, and sent to the Board before the scheduled informal interview. A licensee's waiver of the informal interview process shall not, in and of itself, constitute grounds for additional charges of unprofessional conduct.

(l) The reasons, grounds, conditions and other provisions of any such consent decree, voluntary relinquishment, suspension or restriction or other board action taken in lieu of a contested case hearing shall be recorded in the docket file and become a permanent part of the Board's confidential files; provided, however, that any action taken by the board constituting a final action shall be a public document as provided by the Act

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(a) Any contested case before the board shall be conducted pursuant to these rules, the Act and the A.P.A.

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(c) At least ten (10) days prior to service of petition, written communication shall be sent to the respondent requiring indication whether respondent will accept service of the petition by United States certified mail, return receipt requested, or if respondent desires personal service at his place of business. Failure to return written election of choice of service to the board within ten (10) days of receipt shall mandate personal service.

(d) The respondent shall file an answer, or cause an appearance to be entered before the Board, within thirty (30) days of service of the petition.

(e) Prior to any contested case hearing, other than one pursuant to a licensee's petition for reinstatement of a license or removal of restrictions or conditions on a license, an informal interview must be offered to the licensee.

**Section 7. Hearing officer.**

(a) Upon the filing of a petition, the board may appoint a hearing officer to preside over the contested case. The hearing officer shall not have participated in the preliminary investigation or case preparation.

(b) The hearing officer shall withdraw from the case if he deems himself to be disqualified.

(c) A party may make a written request for the removal of a hearing officer. The request shall be made as soon as the party has reasonable grounds to believe that the hearing officer is subject to disqualification. The written request shall explain the reasons for the requested disqualification and shall be accompanied by affidavits. If the hearing officer denies the request, he shall issue a written explanation of such denial and enter the explanation into the record.

(d) The hearing officer shall have those powers set forth in the A.P.A. and all such other powers as may be necessary to conduct a fair and impartial contested case hearing, including but not limited to, the power to provide for and determine the scope of discovery and set a case schedule, and may assist the board in its deliberations and the development of findings of fact and conclusions of law.

**Section 8. Discovery.**

(a) Discovery in board disciplinary proceedings shall be governed by W.S. 16-3-107, the Act, and these rules.

(b) Pursuant to W.S. 16-3-107, the board or its hearing officer, at the request of a party, may subpoena the attendance of witnesses or require the production of books, papers or other evidence. A respondent may apply for a subpoena subject to W.S. 33-26-408(f).

**Section 9. Pre-hearing conference.**

(a) Upon request of either party, or on his own motion, the hearing officer may hold a pre-hearing conference to consider simplifying the issues, amending the pleadings, clarifying or limiting the evidence, formulating procedures to govern the hearing and any other matters which will aid in the disposition of the case.

(b) An order reflecting the action taken at the pre-hearing conference shall be written and entered into the record. The pre-hearing order shall control the course of the hearing unless modified to prevent manifest injustice. A party may request a modified order if the order is ambiguous or does not fully cover the issues presented at the pre-hearing conference.

**Section 10. Evidence and testimony.**

(a) Admissibility of evidence is governed by W.S. 16-3-108. Parties shall have the right to present evidence and conduct cross examinations. Irrelevant, immaterial, and unduly repetitious information shall be excluded. All documentary or physical evidence shall be marked as exhibits. The petitioner's(s') exhibits shall be marked alphabetically beginning with "A". The respondent's(s') exhibits shall be marked numerically beginning with "1".

(b) The grounds for objections to evidentiary rulings shall be briefly stated. All objections and rulings shall be entered into the record.

(c) The hearing officer shall recognize any privilege at law.

(d) Official notice may be taken of any information in the nature of traditional matters of judicial notice or within the board's special technical knowledge or files.

**Section 11. Order of procedure.** To the extent practicable, contested case hearings shall be conducted in accordance with the following procedure:

(a) The hearing officer shall conduct the hearing in closed session pursuant to W.S. 16-4-405(a)(ii) and/or (a)(ix), unless the respondent requests a public hearing. The hearing officer may sequester witnesses upon appropriate request by any party.

(b) The hearing officer shall commence the hearing by calling the docket number and title of the case to be heard. The hearing officer may allow the parties to

dispose of preliminary matters. The hearing officer shall allow the parties a reasonable time to conduct voir dire the hearing panel on the grounds that a hearing panel member has a conflict of interest or is biased.

(c) If the respondent or his or her representative fails to appear, the hearing officer may:

(i) Grant a continuance; or,

(ii) Declare the respondent in default and accept all allegations set forth in the petition as true. In such event, the hearing officer shall conduct the proceeding with the presentation of evidence by the petitioner(s) only.

(d) An oath shall be administered to all witnesses at the beginning of the hearing or before each witness testifies.

(e) The hearing officer may allow the parties to give an opening statement to briefly explain their position and outline the evidence they propose to offer.

(f) The hearing officer may recess the proceedings as appropriate.

(g) The petitioner(s) shall present their case in chief first, followed by the respondent(s) presenting their case in chief. The petitioner(s) may submit a rebuttal case. No surrebuttal shall be permitted.

(h) The examination of witnesses shall consist of direct examination, cross examination, and redirect examination.

(i) Closing statements shall be made after the close of evidence with the petitioner going first followed by the respondent. The petitioner may be allowed a brief rebuttal.

(j) No evidence shall be taken after the hearing unless requested and upon a showing of good cause.

(k) If allowed by the hearing officer, any party may submit legal briefs and proposed findings of fact and conclusions of law.

(l) All hearings shall be recorded stenographically or by other appropriate means.

## **Section 12. Evidentiary Hearing to Compile a Record.**

(a) A hearing panel shall not be required to personally attend any part of a hearing including, but not limited to, opening statements, presentation of evidence, and/or closing arguments.

(b) The hearing officer may, upon the recommendation of the president or the executive director or upon his own motion, receive the evidence and compile the record in a contested case outside the presence of the hearing panel.

(c) Upon the close of evidence, all evidence received and the record compiled by the hearing officer shall be given as soon as practicable to the hearing panel for their review, deliberations and decision in accordance with this chapter.

### Section 13. Deliberations and Decision.

(a) Board counsel shall assist the hearing panel in its deliberations, and in drafting findings of fact, conclusions of law and an order.

(b) The board shall make its decision in public session, and shall serve a copy of the decision upon all parties. The decision shall include:

(i) A statement of the findings of fact and conclusions of law, separately stated and supported by concise and explicit statements, and

(ii) An order setting forth the action taken, including costs, if any, assessed against respondent.

### Section 14. Record.

(a) The record in contested cases shall consist of those items set forth in W.S. 16-3-107(o) and the transcript of the proceedings.

(b) If the board's decision is appealed to the district court, the appealing party shall pay the costs of copying the transcripts and duplicating the record for submission to the court and the parties to the appeal.

### Section 15. Reinstatement, Removal or Modification of Restrictions or Conditions, or Denial of Issuance or Reactivation of, a License.

(a) A former licensee whose license has been relinquished or revoked may file a petition for reinstatement of his license pursuant to the Act.

(b) A licensee whose license has restrictions or conditions on it may file a petition seeking removal or modification of one or more restrictions or conditions, pursuant to the Act.

(c) In the course of proceedings under subsections (a) and (b), the licensee will be designated "petitioner." The petitioners appointed during the proceedings that led to relinquishment, revocation, or placement of restrictions or conditions on an existing license shall be designated "respondent(s)." If none the previously appointed petitioners remain on the board or the advisory council, the officers shall appoint one (1) board member to serve as the respondent in the proceedings to reinstate or remove or

modify conditions or restrictions.

(d) After a hearing before the board on a petition filed pursuant to this section, the board shall issue specific findings of fact, conclusions of law and a final order:

(i) Reinstating the license without restrictions or conditions;

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

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

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

(v) Taking such other action as the board deems appropriate and just in the circumstances.

(e) An applicant who is denied an initial license or reactivation of a license, or a licensee whose petition for reinstatement of or removal or modification or restrictions or conditions on, a license, or who is issued a license with conditions or restrictions may appeal such final order to the district court pursuant to W.S. 16-3-114.

#### Section 16. Public inspection.

(a) The legal custodian shall segregate all documentation pertaining to any petition and place it into the appropriate docket file or the ledger of public information. The executive director shall provide proper identification of all the records in the docket files and ledger.

(b) The ledger shall be open for public inspection in the board offices.

(c) Docket files shall be confidential, segregated files not available for public inspection, maintained in the board offices.

(d) If the legal custodian or his designee denies a request to inspect or copy records, written reasons shall be given if requested and the requestor shall be advised of the right to appeal and state why inspection should be granted including the purpose for which the record is needed by the requestor.

(e) All ledger records shall be kept at the board office or in a governmental record storage site and shall be available for public inspection and copying during office hours when such inspection or copying does not unduly interfere with the work of board staff.

(f) Original ledger records shall be examined under the supervision of board staff and shall not be removed from the office.

(g) A request to inspect ledger records shall be deemed sufficient if it reasonably describes the requested records and contains the requestor's name and address.

Section 17. **Notification.** All final board orders subject to public disclosure pursuant to W.S. 33-26-408(c) shall be sent to any medical facilities where the licensee has privileges, to the appropriate state medical society and to any local county medical society to which the licensee might belong, to a wire service, to the F.S.M.B., and the N.P.D.B. and, when applicable, to the Wyoming Board of Pharmacy and the Federal Drug Enforcement Administration, within thirty (30) days of the final disposition of the case.