



Certification Page Regular and Emergency Rules

Revised September 2016

Emergency Rules (After completing all of Sections 1 through 3, proceed to Section 5 below)

Regular Rules

1. General Information

a. Agency/Board Name Wyoming Department of Health		
b. Agency/Board Address 2300 Capitol Avenue, Suite 510	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Laura Hudspeth	f. Agency Liaison Telephone Number 307-777-6882	
g. Agency Liaison Email Address laura.hudspeth@wyo.gov	h. Adoption Date April 15, 2019	
i. Program Healthcare Licensing and Surveys		

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Enrolled Act Numbers and Years Enacted: **2016 Session Laws Chapter 99**

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.

(Please use the Additional Rule Information form for more than 10 chapters and attach it to this certification)

Chapter Number:	Chapter Name:	<input checked="" type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
25	Freestanding Emergency Centers	<input checked="" type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **July 26, 2018**

- approved as to form by the Registrar of Rules; and
- provided to the Legislative Service Office and Attorney General:

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. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

c. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

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: **April 16, 2019**

b. Date on which final rules were approved as to form by the Secretary of State and sent to the Legislative Service Office: **April 16, 2019**

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	Michael A. Ceballos
Signatory Title	Director
Date of Signature	April 15, 2019

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	

Rules and Regulations for Freestanding Emergency Centers
Intent to Adopt New Rules

Chapter 25

Statement of Reasons

The Wyoming Department of Health proposes to adopt the following Rules pursuant to Wyoming Statutes §§ 35-2-904, -907 and -908. These rules provide for the licensure and regulation of Freestanding Emergency Centers.

In 2016, the legislature amended the definition of a “health care facility” under Wyoming Statute § 35-2-901(a)(x) to include a “freestanding emergency center.” 2016 Wyo. Sess. Laws 400-01 (ch. 99. § 2). These Rules intend for Freestanding Emergency Centers to be regulated in a similar manner as other health care facilities.

These Rules identify and define key terms. These Rules also provide for the organization and management requirements needed to establish policies for the facility.

Rules providing for operational, equipment, staffing and transfer requirements necessary to function effectively and safely as a Freestanding Emergency Center are provided.

As required by Wyoming Statute § 16-3-1-03(a)(i)(G), these Rules meet minimum substantive state statutory requirements.



Wyoming Department of Health Aging Division - Healthcare Licensing and Surveys

Chapter 25 Freestanding Emergency Centers

Summary of Public Comments & Modifications Due to Public Comments

The public comment period for these rules was from, July 30, 2018 through September 13, 2018. The Department summarizes and responds to the comments it received as follows:

	Comments/Questions	Department Response
1	<i>Two comments were received stating Registered Nurses (RNs) are ineligible for certification in Advanced Trauma Life Support (ATLS) as stated in Sections 9 and 23. One comment referred to the CEN (Certified Emergency Nurse).</i>	The Department concurs with these comments. Sections 9 and 23 of the rule will be amended to reflect that the required certification for an RN is either a Trauma Nursing Core Course (TNCC), or an Advanced Trauma Care for Nurses (ATCN) Course. There is no course associated with the Certified Emergency Nurse (CEN) exam.
2	<i>Three comments were received regarding the definition of “on call” and what would be the acceptable time frame for the practitioner or RN to be physically present in the facility. One commenter stated a provider should be physically on-site in a reasonable amount of time and not just available by phone.</i>	The Department acknowledges that a definition of on-call and the time frame for the practitioner to be present in the facility is not included in the rule. The specific criteria for being on call and the time frame for when the practitioner is required to be physically present in the facility could be established by the facility and current standards of practice, including professional license requirements.
3	<i>One commenter was concerned about allowing mid-levels without physician on site care.</i>	According to the Wyoming State Board of Nursing, Advanced Practice Registered Nurses, with appropriate certifications, are independent practitioners, and therefore, can work without the supervision of a physician. In terms of Physician Assistants (PA), it is not uncommon for a PA to work in Emergency Medicine under the overall supervision of a physician.
4	<i>A comment was received regarding specifying which procedures a facility must be capable of providing, along with required equipment.</i>	Given the nature of emergency medicine, it is impossible to completely list what procedures or equipment would be needed for each case that could present to a Freestanding Emergency Center. In Section 24, the Department lists the minimum equipment for patients of all ages that

	Comments/Questions	Department Response
		the facility must have available. Facility policy could expand in more detail the list of equipment and procedures.
5	<i>One comment was received regarding Laboratory Services. The concern was that many of the tests listed were not considered basic tests that were not routinely performed in hospital Emergency Rooms. The particular tests questioned were: blood alcohol and drug toxicology screening, Aspirin and acetaminophen levels, and Arterial Blood gases. The commenter also asked if a reference lab could be utilized for anything other than basic testing.</i>	The Department concurs that some of the listed tests are not required for a Freestanding Emergency Center to screen for an emergency medical condition. This section will be amended. A Freestanding Emergency Center may choose to provide additional laboratory testing that is not required in the rules, or send to a reference lab when appropriate.
6	<i>One commenter suggested removing under Section 14, Pharmaceuticals (b)(ii), Compounding, packaging, and dispensing drugs and biologicals. The commenter was concerned that a pharmacist would be required 24 hours a day.</i>	The Department concurs that compounding drugs and biologicals is not required for Freestanding Emergency Centers and this requirement will be removed from the rule. However, packaging and dispensing drugs and biologicals are tasks that should be performed at a Freestanding Emergency Center. Therefore, in order to meet patient's needs, the requirement for packaging and dispensing drugs and biologicals will remain. An on-site staff pharmacist would not be required.
7	<i>One commenter stated the legislation does not require a Freestanding Emergency Center to stabilize and treat patients with emergency conditions who are uninsured or underinsured.</i>	According to W.S. 35-2-913(c), “[a]ny freestanding emergency center shall accept patients regardless of age, Medicare, Medicaid or other insurance status or ability to pay.” W.S. 35-2-913(c)
8	<i>One comment was received asking about the possibility of current Emergency Clinics be grandfathered in as a Freestanding Emergency Clinic.</i> <i>One comment stated legislation reads that “On or before June 30, 2019..... a rural health care district shall not require licensure under this act provided a hospital transfer agreement is in place.” What will be required after June 30?</i>	The statute has no provision for the grandfathering of Freestanding Emergency Centers. If a current operating emergency clinic meets the definition of a Freestanding Emergency Center, the clinic is required to be licensed as a Freestanding Emergency Center. If the clinic does not meet the definition, it would not qualify for licensure. Effective February 19, 2019, W.S. 35-2-913(b) was amended to read: “On and before June 30, 2019 2025, freestanding emergency centers operated by a hospital district or rural health care district shall not require licensure under this act provided a hospital transfer agreement is in

	Comments/Questions	Department Response
		place.” 2019 Wyo. Sess. Laws [page unknown] (ch. 68, sec. 1).
9	<i>One commenter inquired about a physician clinic providing emergency services, after June 30, 2019, and was not licensed as a Freestanding Emergency Center, would this be a violation?</i>	If the physician clinic meets the definition of a Freestanding Emergency Center, it is required to be licensed. See W.S. 35-2-901(a)(xxvi), -902, -913.
10	<i>One commenter stated they had found from places other than state statutes that Freestanding Emergency Center must be financially affiliated with a hospital. Would a transfer agreement suffice?</i>	There is no requirement that a Freestanding Emergency Center must be financially affiliated with a hospital. According to W.S. 35-2-913(c), “A freestanding emergency center not owned by a Wyoming hospital shall have an appropriate hospital transfer agreement in place.” W.S. 35-2-913(c).
11	<i>One commenter requested a definition of “discontinued drug” in Section 14.</i>	The Department concurs the term “discontinued” is confusing and the section referencing discontinued drugs will be removed from the rule.
12	<i>One comment was received asking why is an Advanced Practice Registered Nurse is excluded from the Medical Director’s position.</i>	According to the rule, the medical director of the Freestanding Emergency Center has the responsibility of providing the overall direction of activities of other physicians, PAs, and APRNs. The Department acknowledges that the current standard of practice in emergency medical services is to have a physician medical director. At this time, no changes will be made to the rule.
13	<i>One comment was received regarding how billing would work and the difference between a Critical Access Hospital, and a Freestanding Emergency Center. It was also questioned whether a cost based billing like a Critical Access Hospital designation would be considered and possibly fit a Freestanding Emergency Center. An additional question was whether a clinic would bill as a doctor’s office, and if the Freestanding Emergency Center would bill differently than a connected clinic.</i>	The Department acknowledges that billing practices are not within of the scope of these rules. Therefore, each Freestanding Emergency Center would develop their own policies and procedures related to billing.

	Comments/Questions	Department Response
14	<i>One commenter stated that Freestanding Emergency Centers are not currently listed in Wyoming Department of Health, Chapter 3 Construction Regulations.</i>	Wyoming Statute 35-2-901 defines the term “health care facility” to include Freestanding Emergency Centers. W.S. 35-2-901(a)(x). And the construction rules apply to all health care facilities in Wyoming. <i>See Rules, Wyo. Dep’t of Health, Healthcare Licensing and Surveys, Ch. 3, § 2(a) (2008) (“construction rules”).</i> Therefore, even though Freestanding Emergency Centers are not specially listed in the construction rules, they are required to comply with the construction rules.
15	<i>One commenter asked that since Rural Health Care District emergency centers are exempt from the Wyoming licensure requirement until June 30, 2019, does that mean that in effect they are licensed and can advertise, etc., as being a Freestanding Emergency Center?</i>	In order for a Freestanding Emergency Center to be licensed, the Department must determine that all licensure requirements have been met prior to issuing a license. An unlicensed Freestanding Emergency Center would be in violation of W.S. 35-2-902 and is therefore prohibited from advertising as a Freestanding Emergency Center. Effective February 19, 2019, W.S. 35-2-913(b) was amended to read: “On and before June 30, 2019 <u>2025</u> , freestanding emergency centers operated by a hospital district or rural health care district shall not require licensure under this act provided a hospital transfer agreement is in place.” 2019 Wyo. Sess. Laws [page unknown] (ch. 68, sec.1).
16	<i>One commenter suggested adding “State” to Wyoming Board of Nursing in Section 3 to reflect the official agency/Board name.</i>	The Department concurs with this comment and will change Section 3 to “The Wyoming State Board of Nursing.”
17	<i>Once commenter suggested changing Section 23. Staff (b)(iii) by adding an “s” after “patient” to indicate plurality.</i>	The Department concurs with this comment and will change patient to patients.
18	<i>One commenter was concerned that Freestanding Emergency Centers will most likely be staffed by locum agencies that have “no skin in the game” as far as patient care.</i>	The Department recognizes that it will be the responsibility of the Governing Body to provide appropriate, qualified personnel to deliver safe and effective emergency care. The Department will monitor compliance with the rule through routine surveys. If a complaint is received regarding compliance with the rule, the Department will conduct a complaint survey.
19	<i>One commenter felt Freestanding Emergency Centers should be studied in terms of how this will impact care delivery in Wyoming to ensure there are no unintended consequences that damage the good things that are in process. The commenter was also concerned about how this affected local EMS Systems and whether EMS systems would be owned by the Freestanding Emergency Centers?</i>	The Department of Health does not regulate what entities could own Freestanding Emergency Centers or Emergency Management Systems. This would be a local business decision. Any entity could perform a local analysis of need if they so choose.

	Comments/Questions	Department Response
20	<i>Comments were received regarding how this business model would make sense in small town Wyoming. It was questioned whether Freestanding Emergency Centers could be economically staffed, or detract from ERs that are providing services and cut down on their revenue that leads to them not begin able to staff adequately?</i>	The Department of Health does not regulate the population base required for a Freestanding Emergency Center. The viability of a Freestanding Emergency Center would be a local business decision.
21	<i>One commenter stated the existence of a Freestanding Emergency Center in any Wyoming community large enough to support one will undermine the ability of the local community hospital to provide emergency services to all its citizens. The commenter was concerned that this would create an uneven playing field that would undermine the financial stability of Wyoming's community hospitals. One commenter was concerned that a community large enough to support a freestanding emergency center will already have urgent care providers.</i>	<p>The Department of Health acknowledges there is no certificate of need criteria that must be met in order to build a Freestanding Emergency Center. Local EMS will transfer based on the capabilities of facilities to treat.</p> <p>The Department recognizes that it will be a local business decision if a Freestanding Emergency Center will be built in the same community as an urgent care clinic. According to W.S. 35-2-901(a)-(xxvi), a Freestanding Emergency Center means a facility that provides services twenty-four (24) hours a day, seven (7) days a week for life threatening emergency conditions. This is a different level of care than provided at an urgent care clinic</p>
22	<i>One commenter questioned when the final Freestanding Emergency Center rules will be made public?</i>	The Department is following the State of Wyoming rule promulgation process. See W.S. 16-3-103. The exact date for public release is unknown at this time.

In response to six (6) public comments, the Department elected to make the following modifications to the proposed rules.

1. In response to Comment #1:
 - a. § 9(c)(vii)(B) has been modified to change “Advanced Trauma Life Support (ATLS)” to “Trauma Nursing Core Course (TNCC) or an Advanced Trauma Care for Nurses (ATCN) Course”; and
 - b. § 23(b)(i) has been modified to change “ATLS” to “TNCC or ATCN”.
2. In response to Comment #5, § 13(a) has been modified to remove the following laboratory tests and apply conforming edits:
 - a. “Microscopic examination of urine sediment”;
 - b. “Urine drug screen”;

- c. "Primary culturing for transmittal to a laboratory";
 - d. "Erythrocyte sedimentation rate";
 - e. "Complete blood count";
 - f. "Chemistry metabolic panel";
 - g. "Blood alcohol and drug toxicology screening";
 - h. "Aspirin and acetaminophen levels";
 - i. "Troponin levels"; and
 - j. "Arterial Blood Gases".
3. In response to Comment #6, § 14(b)(ii) has been modified to remove the term "compound".
 4. In response to Comment #11, § 14(b)(iv) has been modified as follows
 - a. § 14(b)(iv) has been modified to remove the final clause "..., including the following considerations:" and apply conforming edits; and
 - b. §§ 14(b)(iv)(A) to (C) have been removed in their entirety.
 5. In response to Comment #16, §§ 3(a)(i) and (ix) have been modified to change "Wyoming Board of Nursing" to "Wyoming State Board of Nursing."
 6. In response to Comment #17, § 23(b)(iii) has been modified to replace "a patient" with "patients".

The Department views these modifications to be permissible under the logical outgrowth standard because these modifications are within the scope of the initially proposed rules by either (a) removing initially proposed terms or requirements or (b) correcting typographical error or ambiguities. Therefore, a subsequent round of public notice and comment is not necessary to proceed with these rules.

CHAPTER 25

FREESTANDING EMERGENCY CENTERS

Section 1. Authority. The Wyoming Department of Health (Department) promulgates this Chapter under Wyoming Statutes 35-2-904, -907, and -908.

Section 2. Purpose and Applicability.

(a) This Chapter applies to the operation of a freestanding emergency center.

(b) The Department may issue a provider manual, bulletin, or other guidance materials to interpret the provisions of this Chapter. Such guidance must be consistent with and reflect the policies contained in these Rules.

(c) If any portion of this Chapter is found to be invalid or unenforceable, the remainder continues in effect.

Section 3. Definitions.

(a) The following definitions apply to this Chapter:

(i) “Advanced Practice Registered Nurse” or “APRN” means a person authorized by the Wyoming State Board of Nursing to practice as an advanced practice registered nurse pursuant to W.S. 33-21-134(b).

(ii) “Central registry” means the registry operated by the Wyoming Department of Family Services to index individuals who have been substantiated for:

(A) Abuse or neglect of children under W.S. 14-3-213; or

(B) Abuse, neglect, exploitation, or abandonment of vulnerable adults under W.S. 35-20-115.

(iii) “Emergency medical condition” means a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in: placing the health of the individual or unborn child in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of bodily organs. All emergency medical conditions are viewed as “life threatening emergency medical conditions” under W.S. 35-2-901(a)(xxvi).

(iv) “Freestanding emergency center” or “center” means a facility, that pursuant to W.S. 35-2-901(a)(xxvi), “provides services twenty-four (24) hours a day, seven (7) days a week for life threatening emergency medical conditions and is at a location separate from a hospital.”

(v) “Hospital” means an institution licensed pursuant to W.S. 35-2-902 and certified as a hospital or critical access hospital by the Centers for Medicare and Medicaid Services.

(vi) “Immediate jeopardy” means a situation in which a center’s noncompliance with one or more requirements of these Rules has caused, or is likely to cause, serious injury, harm, impairment, or death to a patient.

(vii) “License” means the authority granted by the State Survey Agency to operate a freestanding emergency center pursuant to W.S. 35-2-902.

(viii) “Medical screening exam” means the process required to reach, with reasonable clinical confidence, a determination about whether an emergency medical condition does, or does not, exist.

(ix) “Registered Nurse” or “RN” means a person authorized by the Wyoming State Board of Nursing to practice as a registered professional nurse pursuant to W.S. 33-21-134(a).

(x) “Physician” means a person authorized by the Wyoming Board of Medicine to practice medicine pursuant to W.S. 33-26-301.

(xi) “Physician Assistant” or “PA” means a person authorized by the Wyoming Board of Medicine to practice as a physician assistant pursuant to W.S. 33-26-504.

(xii) “Plan of correction” means a center’s plan to correct the deficiencies identified during a survey conducted by the State Survey Agency.

(xiii) “Practitioner” means a physician, Advanced Practice Registered Nurse, or Physician Assistant, and does not include a Registered Nurse.

(xiv) “State Survey Agency” means the Wyoming Department of Health, Aging Division, Healthcare Licensing and Surveys, including its staff and designees.

(xv) “Survey” means an onsite or offsite inspection conducted by the State Survey Agency to determine compliance with these Rules. The term includes activities commonly referred to in the field as surveys, revisits, complaint investigations, periodic surveys, and other inspections deemed necessary by the State Survey Agency.

(xvi) “Triage” means the clinical assessment of an individual’s presenting signs and symptoms at the time of arrival, in order to prioritize when the individual will be seen by a physician or other qualified practitioner.

Section 4. Licensing.

(a) A freestanding emergency center may not operate in Wyoming unless the center is licensed by the State Survey Agency under this Chapter.

(b) A center shall display its current license in a public area within the center.

(c) The State Survey Agency may issue a center a provisional license according to the following conditions:

(i) A provisional license provides a center with temporary authorization to operate while the center pursues compliance with these Rules. A provisional license is effective for no more than three (3) months. The State Survey Agency may extend the term of a provisional license for additional three (3) month periods, as deemed necessary by the State Survey Agency.

(ii) To apply for a provisional license, a center shall submit the following to the State Survey Agency:

(A) A complete and accurate application form, available from the State Survey Agency upon request or at <http://health.wyo.gov/aging/hls>;

(B) A complete and accurate Freestanding Emergency Center Required Licensure Documentation Checklist, available from the State Survey Agency upon request or at <http://health.wyo.gov/aging/hls>; and

(C) The required licensure fee, in the form of a check or money order made payable to “Treasurer, State of Wyoming,” as identified in *Rules, Department of Health, Health Quality*, Chapter 1 (1998).

(iii) Upon receipt and review of the required application, checklist, and fee, the State Survey Agency may issue the center a provisional license if the State Survey Agency finds the center has demonstrated a good faith effort to comply with these Rules. The State Survey Agency may also issue a provisional license to a center as the State Survey Agency deems necessary to allow the center to become compliant with these Rules.

(d) After the State Survey Agency completes a survey under Section 5(b)(i) of this Chapter, the State Survey Agency may issue a license to a provisionally-licensed center if the State Survey Agency determines the center has submitted an acceptable plan of correction or corrected any deficiencies cited by the State Survey Agency.

(e) The State Survey Agency may renew a license according to the following conditions:

(i) To apply for licensure renewal, a center shall submit the following to the State Survey Agency:

(A) A complete and accurate application form, available from the State Survey Agency upon request or at <http://health.wyo.gov/aging/hls>; and

(B) The required licensure fee, in the form of a check or money order made payable to “Treasurer, State of Wyoming,” identified in *Rules, Department of Health, Health Quality*, Chapter 1 (1998).

(ii) Upon receipt of the required application and fee, the State Survey Agency may renew the center’s license if the State Survey Agency finds the center has demonstrated good faith effort to comply with the regulatory requirements.

(f) A center may not transfer a license, even if the center changes ownership.

(i) If a center undergoes a change of ownership, the center shall:

(A) Provide written notice no later than sixty (60) calendar days prior to the effective date of the change of ownership to the State Survey Agency that outlines the specific details of the change, parties involved, and proposed effective date;

(B) Within twenty-four (24) hours of the effective change of ownership date, submit a copy of the signed bill of sale and any lease agreements that reflects the effective date of the sale or lease; and

(C) Obtain a new license according to this Section before the center may continue operations.

(ii) A change of ownership occurs when there is a change in the legal entity responsible for the operation of the center, whether by lease or by ownership.

(g) If a center changes the center’s name or address, the center shall submit the appropriate form and fee established by the State Survey Agency no later than sixty (60) days before the change in center name or address is effective.

(h) If a center voluntarily terminates operations, the center shall notify the State Survey Agency in writing within sixty (60) days before the voluntary termination of operations.

(i) A center voluntarily terminating operations shall provide for the continued storage of medical, financial, and personnel records for a period of six (6) years.

(ii) The notice provided to the State Survey Agency must include the name, address, email, and other contact information of the custodian of the center’s medical, financial, and personnel records.

Section 5. Surveys.

(a) A center shall submit to and comply with a survey performed by the State Survey Agency.

(b) The State Survey Agency shall perform:

(i) A survey before the State Survey Agency may issue a license under Section 4(d) of this Chapter;

(ii) A survey as necessary to monitor or resolve previously-identified deficiencies;

(iii) A survey as necessary to periodically monitor compliance with these Rules;

(iv) A survey upon receipt of a complaint against a center for the alleged violation of these Rules or other applicable laws; and

(v) Any other surveys the State Survey Agency deems necessary to enforce the provisions of these Rules, to enforce other applicable law, or to protect the public health, safety, or welfare.

(c) The State Survey Agency may conduct a survey off-site, or remotely, as the State Survey Agency deems necessary.

(d) While under survey, a center shall provide the State Survey Agency with immediate access to all center records.

(e) If immediate jeopardy is identified during a survey, the State Survey Agency shall verbally notify the administrator or the administrator's designee. The center must:

(i) Immediately develop a written action plan to remove the immediate risk to the patient(s);

(ii) Provide the written action plan to the State Survey Agency for review and approval; and

(iii) Upon approval, implement the action plan.

(f) The State Survey Agency shall notify the administrator or administrator's designee when an immediate jeopardy situation has been removed.

Section 6. Deficiencies and Actions Against a License.

(a) If the State Survey Agency determines during a survey that a center is out of compliance with any provision of these Rules or other applicable law, the following conditions apply:

(i) The State Survey Agency shall provide the center a statement of deficiencies within ten (10) business days of the survey exit date.

(ii) If a center receives a statement of deficiencies, the center shall comply with the following provisions:

(A) The center shall submit an acceptable plan of correction to the State Survey Agency within ten (10) business days.

(B) The plan of correction must be a written document that provides the following information:

(I) Who will be charged with the responsibility to correct each deficiency;

(II) What will be done to correct each deficiency;

(III) How the plan of correction will be incorporated into the center's quality management program;

(IV) Who will be charged with monitoring the center to ensure each deficiency does not occur or develop again; and

(V) The deadline by when the center expects to correct all deficiencies, which may not exceed sixty (60) calendar days after the survey exit date.

(iii) If the State Survey Agency determines it will take the center longer than the sixty (60) calendar days to implement the plan of correction and there is no threat to the health or safety of patients, the State Survey Agency may extend the sixty (60) calendar day deadline.

(b) Pursuant to W.S. 35-2-905, the State Survey Agency may take action against a center according to the following conditions:

(i) The State Survey Agency may take action against a center if the State Survey Agency finds that the center:

(A) Violated a provision of these Rules or other applicable laws;

(B) Permitted, aided, or abetted the commission of any illegal act by a facility licensed by the State Survey Agency; or

(C) Conducted practices detrimental to the health, safety, or welfare of the patients of the center.

(ii) Action against a center may include:

(A) Placing conditions upon a center's license;

(B) Installing a monitor or manager, at the center's expense, that has been approved by the State Survey Agency;

(C) Suspending the admission of new patients at the center; or

(D) Denying, suspending, or revoking a center's license.

Section 7. Governing Body.

(a) A governing body of a center shall:

(i) Adopt and maintain bylaws that define, identify, and establish responsibilities for the operation and performance of the center;

(ii) Establish administrative policies including qualifications and responsibilities of the medical director and center administrator;

(iii) Ensure the center does not provide care that exceeds twenty-four (24) hours of treatment until discharge or transfer;

(iv) Provide appropriate personnel, physical resources, and equipment for the delivery of safe and effective emergency medical care;

(v) Approve policies for the provision of an effective procedure for the immediate transfer of patients requiring emergency care beyond the capabilities of the center to a hospital; and

(vi) Meet at least annually and keep minutes or other records necessary for the orderly conduct of the center. Meetings held by the center's governing body must be separate meetings with separate minutes.

Section 8. Center Administrator.

(a) Prior to licensure, a center shall employ and designate a center administrator.

(b) A person is eligible to serve as center administrator if the person possesses the education, training, and experience necessary to oversee the management and operations of a center.

(c) The center administrator shall:

(i) Oversee management and operation for the center;

(ii) Comply with policies, rules and regulations, and statutory provisions pertaining to the health and safety of patients;

- (iii) Serve as the liaison between the governing body and the staff;
- (iv) Plan, organize, and direct activities that may be delegated by the governing body;
- (v) Control the purchase, maintenance, and distribution of the equipment, materials, and facilities of the center;
- (vi) Establish lines of authority, accountability, and supervision of staff;
- (vii) Establish controls related to the custody of the official documents of the center and to maintaining the confidentiality, security, and physical safety of data on patients and staff; and
- (viii) Ensure personnel policies are adopted, implemented, and enforced to facilitate attainment of the mission, goals, and objectives of the center.

Section 9. Medical Director.

- (a) Prior to licensure, a center shall employ and designate a medical director.
- (b) A person is eligible to serve as a medical director, including the center administrator, if the person is a Wyoming licensed physician and:
 - (i) Board Certified or Board Eligible in Emergency Medicine; or
 - (ii) Board Certified in Internal Medicine with a minimum of 3 years of emergency medicine experience; or
 - (iii) Board Certified in Family Medicine with a minimum of 3 years of emergency medicine experience.
- (c) The medical director shall:
 - (i) Establish minimum staff qualifications for the provision of care based on necessary education, experience and specialized training, consistent with State law and acceptable standards of practice;
 - (ii) Promulgate written protocols necessary for the provision of services at the center;
 - (iii) Oversee and evaluate the provision of services at the center;
 - (iv) Promulgate a list of equipment, supplies, drugs, and biologicals, which are necessary to provide emergency services and must be available at the center at all times;

(v) Direct the center's infection control program, quality management program, and patient transfer program;

(vi) Be on-site at the center as necessary to fulfill the duties imposed by these Rules and the center's governing body; and

(vii) Ensure that at all times a practitioner or RN is on-site at the center who possesses the following certifications:

(A) Advanced Cardiovascular Life Support (ACLS);

(B) Trauma Nursing Core Course (TNCC) or an Advanced Trauma Care for Nurses (ATCN) Course; and

(C) Pediatric Advanced Life Support (PALS).

Section 10. Duties and Powers of a Licensed Freestanding Emergency Center.

(a) A center shall provide:

(i) Dietary services according to Section 11 of this Chapter;

(ii) Emergency services according to Section 12 of this Chapter;

(iii) Laboratory services according to Section 13 of this Chapter;

(iv) Pharmaceutical services according to Section 14 of this Chapter;

(v) Radiologic services according to Section 15 of this Chapter; and

(vi) Respiratory services according to Section 16 of this Chapter.

(b) A center shall adopt, implement, and enforce:

(i) An emergency preparedness plan according to Section 17 of this Chapter;

(ii) An infection control program according to Section 18 of this Chapter;

(iii) A quality management program according to Section 19 of this Chapter;

(iv) A patient transfer policy according to Section 20 of this Chapter;

(v) A patient rights policy according to Section 21 of this Chapter;

(vi) A records policy according to Section 22 of this Chapter; and

- (vii) A staffing policy according to Section 23 of this Chapter.
- (c) A center shall purchase and maintain equipment according to Section 24 of this Chapter.
- (d) A center shall maintain a physical environment according to the following conditions:
 - (i) A center must be designed, constructed, arranged, equipped, and maintained, including the provision of fire safety, in accordance with Chapter 3 of these Rules.
 - (ii) If a center constructs, remodels, or changes the use of center space, the center shall comply with Chapter 3 of these Rules.
- (e) A center shall provide, disclose, or otherwise make available medical records, personnel records, incident reports, and other documents related to compliance with these Rules upon the written request of the State Survey Agency.

Section 11. Dietary Services.

- (a) A center shall maintain a nourishment station within the center that contains refrigerated storage, a self-dispensing ice machine, and a handwashing sink.
- (b) A center shall designate a person responsible for properly receiving, storing, and handling food at the center.
- (c) A center may not offer meal services, except the center may provide nutritional snacks as needed in accordance with practitioner orders.

Section 12. Emergency Services.

- (a) A center shall display in all its advertising, publications, signs, or other forms of communication the term “Freestanding” in a prominent manner sufficient to distinguish the center from a hospital emergency department.
- (b) A center shall participate in the local Emergency Medical Service (EMS) and trauma system, consistent with the center’s capabilities and capacity and the locale’s existing EMS and trauma plans and protocols.
- (c) A center shall receive and maintain formal designation through the Wyoming Trauma Program administered by the Department according to W.S. 35-1-801 to -805.
- (d) If a center does not provide diagnosis or treatment services to a victim of sexual assault, the center shall refer the victim seeking a forensic medical examination to a hospital or other health care facility that provides services to victims of sexual assault.

(e) Without regard to the patient's ability to pay, a center shall provide a patient that presents to the center:

(i) A medical screening examination to determine if an emergency medical condition exists; and

(ii) Any necessary stabilizing treatment.

Section 13. Laboratory Services.

(a) A center shall provide basic laboratory testing necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities, including:

(i) Chemical examinations of urine by stick or tablet methods, or both (including urine ketones);

(ii) Blood glucose;

(iii) Stool specimens for occult blood;

(iv) Pregnancy test; and

(v) International normalized ratio.

(b) A staff member may not perform laboratory services or report laboratory results unless the staff member is designated as qualified by the appropriate medical staff by virtue of the staff member's education, experience, and training.

(c) A center shall have an agreement with a hospital or independent laboratory to provide any additional laboratory services needed for a patient.

Section 14. Pharmaceutical Services.

(a) A center shall provide pharmaceutical services necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities.

(b) A center shall:

(i) Maintain the pharmacy or drug storage area according to relevant federal and state law;

(ii) Package and dispense drugs and biologicals according to relevant federal and state law;

(iii) Keep drugs and biologicals in a locked storage area; and

(iv) Destroy drugs and biologicals as necessary according to accepted medical practices.

(c) A staff member shall immediately report a drug administration error, adverse drug reaction, or incompatibility to the attending practitioner.

Section 15. Radiologic Services.

(a) A center shall provide radiological services necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities, including plain film x-ray.

(b) A staff member may not use radiographic equipment unless the staff member is designated as qualified by the appropriate medical staff by virtue of the staff member's education, experience and training.

(c) A center shall ensure that a Wyoming-licensed radiologist is available to interpret radiographic tests that are determined by a practitioner to require a radiologist's specialized knowledge.

Section 16. Respiratory Services.

(a) A center shall provide respiratory services necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities.

(b) A staff member may not provide respiratory services unless under the orders of a practitioner.

Section 17. Emergency Preparedness.

(a) A center shall develop and maintain an emergency preparedness plan in accordance with the Chapter 3 of these Rules.

(b) A center shall:

(i) Ensure the plan includes ongoing coordination with community agencies and other local health care facilities;

(ii) Review the plan annually; and

(iii) Update the plan as necessary.

Section 18. Infection Control.

(a) A center shall prevent, identify, and control infections and communicable diseases, according to nationally recognized standards of practice and applicable laws.

- (b) A center's infection control program must:
 - (i) Prevent, identify, and control infections and communicable diseases;
 - (ii) Report issues involving the control of infections and communicable diseases to the center's quality management program; and
 - (iii) Maintain documentation related to corrective actions and outcomes.

Section 19. Quality Management.

(a) A center shall implement a quality management function pursuant to W.S. 35-2-910.

- (b) A center's quality management program must:
 - (i) Ensure and evaluate the quality of patient care provided at the center; and
 - (ii) Provide for the annual review of:
 - (A) The utilization of the center's services, including the number of patients served and volume of services;
 - (B) The center's health care policies;
 - (C) The center's infection control program including antibiotic stewardship; and
 - (D) The initiation and documentation of appropriate remedial action to address deficiencies found through the quality management program, as well as documentation of the outcome of remedial action.

Section 20. Patient Transfer.

- (a) A center shall maintain a patient transfer agreement with at least one Wyoming hospital.
- (b) A center may enter into more than one transfer agreement as necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities.
- (c) A center's patient transfer policy must:
 - (i) Include written protocols that establish when a patient requires transfer to a hospital according to a transfer agreement;

(ii) Provide that the transfer of a patient may not be predicated upon arbitrary, capricious, or unreasonable discrimination based upon considerations such as race, religion, national origin, age, gender, physical condition, economic status, insurance status, or ability to pay;

(iii) Include a written operational plan to provide for patient transfer transportation services if the center does not provide transportation services, itself;

(iv) Recognize the right of a patient to request transfer into the care of a physician or a hospital of the patient's own choosing. If a patient requests or consents to transfer for economic reasons, the practitioner or center administration shall fully disclose to the patient the eligibility requirements established by the patient's chosen physician or hospital;

(v) Recognize the right of a patient to refuse a transfer and, if transfer is refused, ensure that reasonable steps are taken to secure the written informed consent of the patient;

(vi) Provide that a patient may not be transferred unless center staff verify that qualified practitioners are available and on-duty at the receiving hospital to accept transfer;

(vii) Provide that in determining the use of medically appropriate life support measures, personnel, and equipment, the transferring practitioner shall exercise that degree of care which a reasonable and prudent practitioner exercising ordinary care in the same or similar locality would use for the transfer;

(viii) Provide that a copy of those portions of the patient's medical record which are available and relevant to the transfer and to the continuing care of the patient be forwarded to the receiving physician and receiving hospital with the patient. If all necessary medical records for the continued care of the patient are not available at the time the patient is transferred, the records shall be forwarded to the receiving physician and hospital as soon as possible; and

(ix) Provide that the transferring practitioner shall determine and order life support measures that are medically appropriate to stabilize the patient before transfer and to sustain the patient during transfer. In addition, the transferring practitioner shall determine and order the utilization of appropriate personnel and equipment for the transfer.

(d) If a patient has an emergency medical condition that has not been stabilized, a center may not transfer a patient unless:

(i) The patient, after being informed of the center's obligations and of the risk of transfer, signs a written request for transfer that provides the reason for the request and that the patient is aware of the risks and benefits of the transfer; or

(ii) A practitioner signs a certification that, based on the information available at the time of transfer:

(A) Provides a summary of the risks and benefits of the transfer; and

(B) Finds the medical benefits reasonably expected from the provision of care at the receiving hospital to outweigh the risk of transfer to the patient, and, in the case of labor, to the unborn child, which may also include a finding that the center cannot adequately stabilize the patient due the lack of relevant staff or equipment.

(e) If a center transfers a patient, the center shall retain a copy of the transfer documentation provided to the receiving hospital for its own records.

Section 21. Patient Rights.

(a) A center shall promote and protect patient rights.

(b) A center shall:

(i) Treat a patient with respect, consideration, and dignity;

(ii) Provide a patient appropriate privacy;

(iii) Provide a patient, to the degree known, appropriate information concerning the patient's diagnosis, treatment, and prognosis. When it is medically inadvisable to give such information to a patient, the center shall provide the information to a person designated by the patient or to a legally authorized person;

(iv) Provide a patient the opportunity to participate in decisions involving the patient's health care, except when the patient's participation is contraindicated for medical reasons; and

(v) Provide the patient written information regarding the patient's rights, including the following subjects:

(A) Patient conduct and responsibilities;

(B) Services available at the center;

(C) The center's transfer policy and procedures;

(D) Fees for services provided at the center;

(E) The center's payment policies; and

(F) The center's procedure for filing and pursuing a grievance, including all relevant steps from filing the initial grievance to achieving a resolution.

Section 22. Records.

- (a) A center shall maintain a log of all patients. The log must include, as applicable:
- (i) The patient's name;
 - (ii) The patient's date and time of arrival;
 - (iii) The patient's mode of arrival;
 - (iv) The patient's chief complaint;
 - (v) Whether the patient was treated, or refused or was denied treatment;
 - (vi) The time of discharge or transfer;
 - (vii) The place that the patient discharged or transferred to, including home or hospital; and
 - (viii) The mode of discharge transportation.
- (b) If a patient receives services at a center, the center shall create and maintain a patient medical record. A patient medical record must include, as applicable:
- (i) The patient's identification and social data;
 - (ii) The patient's chief complaint;
 - (iii) The patient's triage level;
 - (iv) The patient's pertinent medical history;
 - (v) The patient's properly executed consent forms;
 - (vi) Reports of medical screening examinations, diagnostic and laboratory test results, and consultation findings;
 - (vii) All practitioners' orders and notes, nurses' notes, and reports of treatment and medications;
 - (viii) Any other pertinent information necessary to monitor the patient's prognosis;
 - (ix) The patient's final diagnosis; and
 - (x) The patient's discharge summary.

(c) A center shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996, the implementing regulations of HIPAA, and any other applicable law relating to the maintenance or disclosure of health information.

(d) A center shall maintain all records according to professional standards of practice, including storage of records in a secure and designated area.

(e) A center's medical records policy must:

(i) Ensure the confidentiality of patient records and safeguard against loss, destruction, or unauthorized use, in accordance with applicable law;

(ii) Govern the use and removal of records from the record storage area;

(iii) Specify the conditions under which record information may be released and to whom; and

(iv) Specify when the patient's written consent is required for release of information.

(f) Personnel records shall be maintained for each person employed at the center which include:

(i) The employment application;

(ii) Verification of criminal background check and Central Registry check;

(iii) Licensure verification;

(iv) Current certification and competency in Basic Life Support (BLS) and other certifications required under this Chapter;

(v) Immunizations and other medical tests; and

(vi) Results of medical examinations required as a part of employment.

(g) Equipment records shall be maintained per the manufacturer's recommendations.

Section 23. Staff.

(a) A center may not permit a staff member to provide a service unless:

(i) The staff member possesses the necessary education, training, experience, licensure, and certifications; and

(ii) The medical director has authorized the staff member to provide the particular service.

(b) A center shall employ sufficient staff to allow for:

(i) A practitioner or RN certified in ACLS, TNCC or ATCN, and PALS to be on-site at the center at all times;

(ii) A practitioner to be on-call and immediately available by telephone or radio if there is no practitioner on-site at the center; and

(iii) An adequate number of practitioners and RNs to be available on-call to meet the emergency needs of patients in a timely manner.

(c) A center shall require all direct care center staff to submit to a Child & Adult Abuse/Neglect Central Registry Screen, through the Wyoming Department of Family Services, and a full fingerprint-based national criminal background check.

(i) If a direct care staff member is found to have previously committed abuse/neglect or a criminal offence, the center must not allow the staff member to work independently and unsupervised unless the center:

(A) Investigates the conduct at issue in a thorough manner;

(B) Determines, based on the findings of its investigation, that the direct care staff member may be allowed to have unsupervised access to patients and the center's operational systems; and

(C) Maintains documentation of its investigation and determination in the direct care staff member's subsequent personnel file.

Section 24. Equipment.

(a) A center shall maintain adequate, age-appropriate equipment and supplies to provide services.

(b) Equipment must be tested and maintained according to the manufacturer guidelines.

(c) Adequate equipment and supplies is determined by the amount, type, and extensiveness of services provided by the center and includes, at a minimum:

(i) Personal protection equipment and supplies;

(ii) Patient assessment and diagnostic measurement equipment and supplies;

- (iii) Suctioning equipment and supplies;
- (iv) Airway management equipment and supplies;
- (v) Bleeding control and wound management equipment and supplies;
- (vi) Immobilization equipment;
- (vii) Cardiac equipment and supplies;
- (viii) Ingested poisons equipment and supplies;
- (ix) Obstetrics and gynecology equipment and supplies;
- (x) Heat and cold related injuries equipment and supplies; and

(d) The emergency drug cart and adjunctive emergency equipment must be checked by an appropriate, designated staff member after each use to assure that all items required for immediate availability are contained in the cart and in usable condition.

CHAPTER 25
FREESTANDING EMERGENCY CENTERS

Section 1. Authority. The Wyoming Department of Health (Department) promulgates this Chapter under Wyoming Statutes 35-2-904, -907, and -908.

Section 2. Purpose and Applicability.

(a) This Chapter applies to the operation of a freestanding emergency center.

(b) The Department may issue a provider manual, bulletin, or other guidance materials to interpret the provisions of this Chapter. Such guidance must be consistent with and reflect the policies contained in these Rules.

(c) If any portion of this Chapter is found to be invalid or unenforceable, the remainder continues in effect.

Section 3. Definitions.

(a) The following definitions apply to this Chapter:

(i) “Advanced Practice Registered Nurse” or “APRN” means a person authorized by the Wyoming State Board of Nursing to practice as an advanced practice registered nurse pursuant to W.S. 33-21-134(b).

(ii) “Central registry” means the registry operated by the Wyoming Department of Family Services to index individuals who have been substantiated for:

(A) Abuse or neglect of children under W.S. 14-3-213; or

(B) Abuse, neglect, exploitation, or abandonment of vulnerable adults under W.S. 35-20-115.

(iii) “Emergency medical condition” means a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in: placing the health of the individual or unborn child in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of bodily organs. All emergency medical conditions are viewed as “life threatening emergency medical conditions” under W.S. 35-2-901(a)(xxvi).

(iv) “Freestanding emergency center” or “center” means a facility, that pursuant to W.S. 35-2-901(a)(xxvi), “provides services twenty-four (24) hours a day, seven (7) days a week for life threatening emergency medical conditions and is at a location separate from a hospital.”

(v) “Hospital” means an institution licensed pursuant to W.S. 35-2-902 and certified as a hospital or critical access hospital by the Centers for Medicare and Medicaid Services.

(vi) “Immediate jeopardy” means a situation in which a center’s noncompliance with one or more requirements of these Rules has caused, or is likely to cause, serious injury, harm, impairment, or death to a patient.

(vii) “License” means the authority granted by the State Survey Agency to operate a freestanding emergency center pursuant to W.S. 35-2-902.

(viii) “Medical screening exam” means the process required to reach, with reasonable clinical confidence, a determination about whether an emergency medical condition does, or does not, exist.

(ix) “Registered Nurse” or “RN” means a person authorized by the Wyoming State Board of Nursing to practice as a registered professional nurse pursuant to W.S. 33-21-134(a).

(x) “Physician” means a person authorized by the Wyoming Board of Medicine to practice medicine pursuant to W.S. 33-26-301.

(xi) “Physician Assistant” or “PA” means a person authorized by the Wyoming Board of Medicine to practice as a physician assistant pursuant to W.S. 33-26-504.

(xii) “Plan of correction” means a center’s plan to correct the deficiencies identified during a survey conducted by the State Survey Agency.

(xiii) “Practitioner” means a physician, Advanced Practice Registered Nurse, or Physician Assistant, and does not include a Registered Nurse.

(xiv) “State Survey Agency” means the Wyoming Department of Health, Aging Division, Healthcare Licensing and Surveys, including its staff and designees.

(xv) “Survey” means an onsite or offsite inspection conducted by the State Survey Agency to determine compliance with these Rules. The term includes activities commonly referred to in the field as surveys, revisits, complaint investigations, periodic surveys, and other inspections deemed necessary by the State Survey Agency.

(xvi) “Triage” means the clinical assessment of an individual’s presenting signs and symptoms at the time of arrival, in order to prioritize when the individual will be seen by a physician or other qualified practitioner.

Section 4. Licensing.

(a) A freestanding emergency center may not operate in Wyoming unless the center is licensed by the State Survey Agency under this Chapter.

(b) A center shall display its current license in a public area within the center.

(c) The State Survey Agency may issue a center a provisional license according to the following conditions:

(i) A provisional license provides a center with temporary authorization to operate while the center pursues compliance with these Rules. A provisional license is effective for no more than three (3) months. The State Survey Agency may extend the term of a provisional license for additional three (3) month periods, as deemed necessary by the State Survey Agency.

(ii) To apply for a provisional license, a center shall submit the following to the State Survey Agency:

(A) A complete and accurate application form, available from the State Survey Agency upon request or at <http://health.wyo.gov/aging/hls>;

(B) A complete and accurate Freestanding Emergency Center Required Licensure Documentation Checklist, available from the State Survey Agency upon request or at <http://health.wyo.gov/aging/hls>; and

(C) The required licensure fee, in the form of a check or money order made payable to "Treasurer, State of Wyoming," as identified in *Rules, Department of Health, Health Quality*, Chapter 1 (1998).

(iii) Upon receipt and review of the required application, checklist, and fee, the State Survey Agency may issue the center a provisional license if the State Survey Agency finds the center has demonstrated a good faith effort to comply with these Rules. The State Survey Agency may also issue a provisional license to a center as the State Survey Agency deems necessary to allow the center to become compliant with these Rules.

(d) After the State Survey Agency completes a survey under Section 5(b)(i) of this Chapter, the State Survey Agency may issue a license to a provisionally-licensed center if the State Survey Agency determines the center has submitted an acceptable plan of correction or corrected any deficiencies cited by the State Survey Agency.

(e) The State Survey Agency may renew a license according to the following conditions:

(i) To apply for licensure renewal, a center shall submit the following to the State Survey Agency:

(A) A complete and accurate application form, available from the State Survey Agency upon request or at <http://health.wyo.gov/aging/hls>; and

(B) The required licensure fee, in the form of a check or money order made payable to "Treasurer, State of Wyoming," identified in *Rules, Department of Health, Health Quality*, Chapter 1 (1998).

(ii) Upon receipt of the required application and fee, the State Survey Agency may renew the center's license if the State Survey Agency finds the center has demonstrated good faith effort to comply with the regulatory requirements.

(f) A center may not transfer a license, even if the center changes ownership.

(i) If a center undergoes a change of ownership, the center shall:

(A) Provide written notice no later than sixty (60) calendar days prior to the effective date of the change of ownership to the State Survey Agency that outlines the specific details of the change, parties involved, and proposed effective date;

(B) Within twenty-four (24) hours of the effective change of ownership date, submit a copy of the signed bill of sale and any lease agreements that reflects the effective date of the sale or lease; and

(C) Obtain a new license according to this Section before the center may continue operations.

(ii) A change of ownership occurs when there is a change in the legal entity responsible for the operation of the center, whether by lease or by ownership.

(g) If a center changes the center's name or address, the center shall submit the appropriate form and fee established by the State Survey Agency no later than sixty (60) days before the change in center name or address is effective.

(h) If a center voluntarily terminates operations, the center shall notify the State Survey Agency in writing within sixty (60) days before the voluntary termination of operations.

(i) A center voluntarily terminating operations shall provide for the continued storage of medical, financial, and personnel records for a period of six (6) years.

(ii) The notice provided to the State Survey Agency must include the name, address, email, and other contact information of the custodian of the center's medical, financial, and personnel records.

Section 5. Surveys.

(a) A center shall submit to and comply with a survey performed by the State Survey Agency.

(b) The State Survey Agency shall perform:

(i) A survey before the State Survey Agency may issue a license under Section 4(d) of this Chapter;

(ii) A survey as necessary to monitor or resolve previously-identified deficiencies;

(iii) A survey as necessary to periodically monitor compliance with these Rules;

(iv) A survey upon receipt of a complaint against a center for the alleged violation of these Rules or other applicable laws; and

(v) Any other surveys the State Survey Agency deems necessary to enforce the provisions of these Rules, to enforce other applicable law, or to protect the public health, safety, or welfare.

(c) The State Survey Agency may conduct a survey off-site, or remotely, as the State Survey Agency deems necessary.

(d) While under survey, a center shall provide the State Survey Agency with immediate access to all center records.

(e) If immediate jeopardy is identified during a survey, the State Survey Agency shall verbally notify the administrator or the administrator's designee. The center must:

(i) Immediately develop a written action plan to remove the immediate risk to the patient(s);

(ii) Provide the written action plan to the State Survey Agency for review and approval; and

(iii) Upon approval, implement the action plan.

(f) The State Survey Agency shall notify the administrator or administrator's designee when an immediate jeopardy situation has been removed.

Section 6. Deficiencies and Actions Against a License.

(a) If the State Survey Agency determines during a survey that a center is out of compliance with any provision of these Rules or other applicable law, the following conditions apply:

(i) The State Survey Agency shall provide the center a statement of deficiencies within ten (10) business days of the survey exit date.

(ii) If a center receives a statement of deficiencies, the center shall comply with the following provisions:

(A) The center shall submit an acceptable plan of correction to the State Survey Agency within ten (10) business days.

(B) The plan of correction must be a written document that provides the following information:

(I) Who will be charged with the responsibility to correct each deficiency;

(II) What will be done to correct each deficiency;

(III) How the plan of correction will be incorporated into the center's quality management program;

(IV) Who will be charged with monitoring the center to ensure each deficiency does not occur or develop again; and

(V) The deadline by when the center expects to correct all deficiencies, which may not exceed sixty (60) calendar days after the survey exit date.

(iii) If the State Survey Agency determines it will take the center longer than the sixty (60) calendar days to implement the plan of correction and there is no threat to the health or safety of patients, the State Survey Agency may extend the sixty (60) calendar day deadline.

(b) Pursuant to W.S. 35-2-905, the State Survey Agency may take action against a center according to the following conditions:

(i) The State Survey Agency may take action against a center if the State Survey Agency finds that the center:

(A) Violated a provision of these Rules or other applicable laws;

(B) Permitted, aided, or abetted the commission of any illegal act by a facility licensed by the State Survey Agency; or

(C) Conducted practices detrimental to the health, safety, or welfare of the patients of the center.

(ii) Action against a center may include:

(A) Placing conditions upon a center's license;

(B) Installing a monitor or manager, at the center's expense, that has been approved by the State Survey Agency;

(C) Suspending the admission of new patients at the center; or

(D) Denying, suspending, or revoking a center's license.

Section 7. Governing Body.

(a) A governing body of a center shall:

(i) Adopt and maintain bylaws that define, identify, and establish responsibilities for the operation and performance of the center;

(ii) Establish administrative policies including qualifications and responsibilities of the medical director and center administrator;

(iii) Ensure the center does not provide care that exceeds twenty-four (24) hours of treatment until discharge or transfer;

(iv) Provide appropriate personnel, physical resources, and equipment for the delivery of safe and effective emergency medical care;

(v) Approve policies for the provision of an effective procedure for the immediate transfer of patients requiring emergency care beyond the capabilities of the center to a hospital; and

(vi) Meet at least annually and keep minutes or other records necessary for the orderly conduct of the center. Meetings held by the center's governing body must be separate meetings with separate minutes.

Section 8. Center Administrator.

(a) Prior to licensure, a center shall employ and designate a center administrator.

_____ (b) A person is eligible to serve as center administrator if the person possesses the education, training, and experience necessary to oversee the management and operations of a center.

_____ (c) The center administrator shall:

_____ (i) Oversee management and operation for the center;

_____ (ii) Comply with policies, rules and regulations, and statutory provisions pertaining to the health and safety of patients;

_____ (iii) Serve as the liaison between the governing body and the staff;

_____ (iv) Plan, organize, and direct activities that may be delegated by the governing body;

_____ (v) Control the purchase, maintenance, and distribution of the equipment, materials, and facilities of the center;

_____ (vi) Establish lines of authority, accountability, and supervision of staff;

_____ (vii) Establish controls related to the custody of the official documents of the center and to maintaining the confidentiality, security, and physical safety of data on patients and staff; and

_____ (viii) Ensure personnel policies are adopted, implemented, and enforced to facilitate attainment of the mission, goals, and objectives of the center.

Section 9. Medical Director.

_____ (a) Prior to licensure, a center shall employ and designate a medical director.

_____ (b) A person is eligible to serve as a medical director, including the center administrator, if the person is a Wyoming licensed physician and:

_____ (i) Board Certified or Board Eligible in Emergency Medicine; or

_____ (ii) Board Certified in Internal Medicine with a minimum of 3 years of emergency medicine experience; or

_____ (iii) Board Certified in Family Medicine with a minimum of 3 years of emergency medicine experience.

_____ (c) The medical director shall:

- (i) Establish minimum staff qualifications for the provision of care based on necessary education, experience and specialized training, consistent with State law and acceptable standards of practice;
- (ii) Promulgate written protocols necessary for the provision of services at the center;
- (iii) Oversee and evaluate the provision of services at the center;
- (iv) Promulgate a list of equipment, supplies, drugs, and biologicals, which are necessary to provide emergency services and must be available at the center at all times;
- (v) Direct the center's infection control program, quality management program, and patient transfer program;
- (vi) Be on-site at the center as necessary to fulfill the duties imposed by these Rules and the center's governing body; and
- (vii) Ensure that at all times a practitioner or RN is on-site at the center who possesses the following certifications:
 - (A) Advanced Cardiovascular Life Support (ACLS);
 - (B) Trauma Nursing Core Course (TNCC) or an Advanced Trauma Care for Nurses (ATCN) Course; and
 - (C) Pediatric Advanced Life Support (PALS).

Section 10. Duties and Powers of a Licensed Freestanding Emergency Center.

- (a) A center shall provide:
 - (i) Dietary services according to Section 11 of this Chapter;
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 - (iii) Laboratory services according to Section 13 of this Chapter;
 - (iv) Pharmaceutical services according to Section 14 of this Chapter;
 - (v) Radiologic services according to Section 15 of this Chapter; and
 - (vi) Respiratory services according to Section 16 of this Chapter.
- (b) A center shall adopt, implement, and enforce:

- (i) An emergency preparedness plan according to Section 17 of this Chapter;
- (ii) An infection control program according to Section 18 of this Chapter;
- (iii) A quality management program according to Section 19 of this Chapter;
- (iv) A patient transfer policy according to Section 20 of this Chapter;
- (v) A patient rights policy according to Section 21 of this Chapter;
- (vi) A records policy according to Section 22 of this Chapter; and
- (vii) A staffing policy according to Section 23 of this Chapter.

(c) A center shall purchase and maintain equipment according to Section 24 of this Chapter.

(d) A center shall maintain a physical environment according to the following conditions:

(i) A center must be designed, constructed, arranged, equipped, and maintained, including the provision of fire safety, in accordance with Chapter 3 of these Rules.

(ii) If a center constructs, remodels, or changes the use of center space, the center shall comply with Chapter 3 of these Rules.

(e) A center shall provide, disclose, or otherwise make available medical records, personnel records, incident reports, and other documents related to compliance with these Rules upon the written request of the State Survey Agency.

Section 11. Dietary Services.

(a) A center shall maintain a nourishment station within the center that contains refrigerated storage, a self-dispensing ice machine, and a handwashing sink.

(b) A center shall designate a person responsible for properly receiving, storing, and handling food at the center.

(c) A center may not offer meal services, except the center may provide nutritional snacks as needed in accordance with practitioner orders.

Section 12. Emergency Services.

(a) A center shall display in all its advertising, publications, signs, or other forms of communication the term "Freestanding" in a prominent manner sufficient to distinguish the center from a hospital emergency department.

(b) A center shall participate in the local Emergency Medical Service (EMS) and trauma system, consistent with the center's capabilities and capacity and the locale's existing EMS and trauma plans and protocols.

(c) A center shall receive and maintain formal designation through the Wyoming Trauma Program administered by the Department according to W.S. 35-1-801 to -805.

(d) If a center does not provide diagnosis or treatment services to a victim of sexual assault, the center shall refer the victim seeking a forensic medical examination to a hospital or other health care facility that provides services to victims of sexual assault.

(e) Without regard to the patient's ability to pay, a center shall provide a patient that presents to the center:

(i) A medical screening examination to determine if an emergency medical condition exists; and

(ii) Any necessary stabilizing treatment.

Section 13. Laboratory Services.

(a) A center shall provide basic laboratory testing necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities, including:

(i) Chemical examinations of urine by stick or tablet methods, or both (including urine ketones);

(ii) Blood glucose;

(iii) Stool specimens for occult blood;

(iv) Pregnancy test; and

(v) International normalized ratio.

(b) A staff member may not perform laboratory services or report laboratory results unless the staff member is designated as qualified by the appropriate medical staff by virtue of the staff member's education, experience, and training.

(c) A center shall have an agreement with a hospital or independent laboratory to provide any additional laboratory services needed for a patient.

Section 14. Pharmaceutical Services.

(a) A center shall provide pharmaceutical services necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities.

(b) A center shall:

(i) Maintain the pharmacy or drug storage area according to relevant federal and state law;

(ii) Package and dispense drugs and biologicals according to relevant federal and state law;

(iii) Keep drugs and biologicals in a locked storage area; and

(iv) Destroy drugs and biologicals as necessary according to accepted medical practices.

(c) A staff member shall immediately report a drug administration error, adverse drug reaction, or incompatibility to the attending practitioner.

Section 15. Radiologic Services.

(a) A center shall provide radiological services necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities, including plain film x-ray.

(b) A staff member may not use radiographic equipment unless the staff member is designated as qualified by the appropriate medical staff by virtue of the staff member's education, experience and training.

(c) A center shall ensure that a Wyoming-licensed radiologist is available to interpret radiographic tests that are determined by a practitioner to require a radiologist's specialized knowledge.

Section 16. Respiratory Services.

(a) A center shall provide respiratory services necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities.

(b) A staff member may not provide respiratory services unless under the orders of a practitioner.

Section 17. Emergency Preparedness.

(a) A center shall develop and maintain an emergency preparedness plan in accordance with the Chapter 3 of these Rules.

(b) A center shall:

(i) Ensure the plan includes ongoing coordination with community agencies and other local health care facilities;

(ii) Review the plan annually; and

(iii) Update the plan as necessary.

Section 18. Infection Control.

(a) A center shall prevent, identify, and control infections and communicable diseases, according to nationally recognized standards of practice and applicable laws.

(b) A center's infection control program must:

(i) Prevent, identify, and control infections and communicable diseases;

(ii) Report issues involving the control of infections and communicable diseases to the center's quality management program; and

(iii) Maintain documentation related to corrective actions and outcomes.

Section 19. Quality Management.

(a) A center shall implement a quality management function pursuant to W.S. 35-2-910.

(b) A center's quality management program must:

(i) Ensure and evaluate the quality of patient care provided at the center; and

(ii) Provide for the annual review of:

(A) The utilization of the center's services, including the number of patients served and volume of services;

(B) The center's health care policies;

(C) The center's infection control program including antibiotic stewardship; and

(D) The initiation and documentation of appropriate remedial action to address deficiencies found through the quality management program, as well as documentation of the outcome of remedial action.

Section 20. Patient Transfer.

(a) A center shall maintain a patient transfer agreement with at least one Wyoming hospital.

(b) A center may enter into more than one transfer agreement as necessary to meet the emergency needs of patients and to adequately support the center's clinical capabilities.

(c) A center's patient transfer policy must:

(i) Include written protocols that establish when a patient requires transfer to a hospital according to a transfer agreement;

(ii) Provide that the transfer of a patient may not be predicated upon arbitrary, capricious, or unreasonable discrimination based upon considerations such as race, religion, national origin, age, gender, physical condition, economic status, insurance status, or ability to pay;

(iii) Include a written operational plan to provide for patient transfer transportation services if the center does not provide transportation services, itself;

(iv) Recognize the right of a patient to request transfer into the care of a physician or a hospital of the patient's own choosing. If a patient requests or consents to transfer for economic reasons, the practitioner or center administration shall fully disclose to the patient the eligibility requirements established by the patient's chosen physician or hospital;

(v) Recognize the right of a patient to refuse a transfer and, if transfer is refused, ensure that reasonable steps are taken to secure the written informed consent of the patient;

(vi) Provide that a patient may not be transferred unless center staff verify that qualified practitioners are available and on-duty at the receiving hospital to accept transfer;

(vii) Provide that in determining the use of medically appropriate life support measures, personnel, and equipment, the transferring practitioner shall exercise that degree of care which a reasonable and prudent practitioner exercising ordinary care in the same or similar locality would use for the transfer;

(viii) Provide that a copy of those portions of the patient's medical record which are available and relevant to the transfer and to the continuing care of the patient be forwarded to the receiving physician and receiving hospital with the patient. If all necessary medical records

for the continued care of the patient are not available at the time the patient is transferred, the records shall be forwarded to the receiving physician and hospital as soon as possible; and

(ix) Provide that the transferring practitioner shall determine and order life support measures that are medically appropriate to stabilize the patient before transfer and to sustain the patient during transfer. In addition, the transferring practitioner shall determine and order the utilization of appropriate personnel and equipment for the transfer.

(d) If a patient has an emergency medical condition that has not been stabilized, a center may not transfer a patient unless:

(i) The patient, after being informed of the center's obligations and of the risk of transfer, signs a written request for transfer that provides the reason for the request and that the patient is aware of the risks and benefits of the transfer; or

(ii) A practitioner signs a certification that, based on the information available at the time of transfer:

(A) Provides a summary of the risks and benefits of the transfer; and

(B) Finds the medical benefits reasonably expected from the provision of care at the receiving hospital to outweigh the risk of transfer to the patient, and, in the case of labor, to the unborn child, which may also include a finding that the center cannot adequately stabilize the patient due the lack of relevant staff or equipment.

(e) If a center transfers a patient, the center shall retain a copy of the transfer documentation provided to the receiving hospital for its own records.

Section 21. Patient Rights.

(a) A center shall promote and protect patient rights.

(b) A center shall:

(i) Treat a patient with respect, consideration, and dignity;

(ii) Provide a patient appropriate privacy;

(iii) Provide a patient, to the degree known, appropriate information concerning the patient's diagnosis, treatment, and prognosis. When it is medically inadvisable to give such information to a patient, the center shall provide the information to a person designated by the patient or to a legally authorized person;

(iv) Provide a patient the opportunity to participate in decisions involving the patient's health care, except when the patient's participation is contraindicated for medical reasons; and

_____ (v) Provide the patient written information regarding the patient's rights, including the following subjects:

_____ (A) Patient conduct and responsibilities;

_____ (B) Services available at the center;

_____ (C) The center's transfer policy and procedures;

_____ (D) Fees for services provided at the center;

_____ (E) The center's payment policies; and

_____ (F) The center's procedure for filing and pursuing a grievance, including all relevant steps from filing the initial grievance to achieving a resolution.

Section 22. Records.

_____ (a) A center shall maintain a log of all patients. The log must include, as applicable:

_____ (i) The patient's name;

_____ (ii) The patient's date and time of arrival;

_____ (iii) The patient's mode of arrival;

_____ (iv) The patient's chief complaint;

_____ (v) Whether the patient was treated, or refused or was denied treatment;

_____ (vi) The time of discharge or transfer;

_____ (vii) The place that the patient discharged or transferred to, including home or hospital; and

_____ (viii) The mode of discharge transportation.

_____ (b) If a patient receives services at a center, the center shall create and maintain a patient medical record. A patient medical record must include, as applicable:

_____ (i) The patient's identification and social data;

_____ (ii) The patient's chief complaint;

_____ (iii) The patient's triage level;

- (iv) The patient's pertinent medical history;
- (v) The patient's properly executed consent forms;
- (vi) Reports of medical screening examinations, diagnostic and laboratory test results, and consultation findings;
- (vii) All practitioners' orders and notes, nurses' notes, and reports of treatment and medications;
- (viii) Any other pertinent information necessary to monitor the patient's prognosis;
- (ix) The patient's final diagnosis; and
- (x) The patient's discharge summary.
- (c) A center shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996, the implementing regulations of HIPAA, and any other applicable law relating to the maintenance or disclosure of health information.
- (d) A center shall maintain all records according to professional standards of practice, including storage of records in a secure and designated area.
- (e) A center's medical records policy must:
 - (i) Ensure the confidentiality of patient records and safeguard against loss, destruction, or unauthorized use, in accordance with applicable law;
 - (ii) Govern the use and removal of records from the record storage area;
 - (iii) Specify the conditions under which record information may be released and to whom; and
 - (iv) Specify when the patient's written consent is required for release of information.
- (f) Personnel records shall be maintained for each person employed at the center which include:
 - (i) The employment application;
 - (ii) Verification of criminal background check and Central Registry check;
 - (iii) Licensure verification;

(iv) Current certification and competency in Basic Life Support (BLS) and other certifications required under this Chapter;

(v) Immunizations and other medical tests; and

(vi) Results of medical examinations required as a part of employment.

(g) Equipment records shall be maintained per the manufacturer's recommendations.

Section 23. Staff.

(a) A center may not permit a staff member to provide a service unless:

(i) The staff member possesses the necessary education, training, experience, licensure, and certifications; and

(ii) The medical director has authorized the staff member to provide the particular service.

(b) A center shall employ sufficient staff to allow for:

(i) A practitioner or RN certified in ACLS, TNCC or ATCN, and PALS to be on-site at the center at all times;

(ii) A practitioner to be on-call and immediately available by telephone or radio if there is no practitioner on-site at the center; and

(iii) An adequate number of practitioners and RNs to be available on-call to meet the emergency needs of patients in a timely manner.

(c) A center shall require all direct care center staff to submit to a Child & Adult Abuse/Neglect Central Registry Screen, through the Wyoming Department of Family Services, and a full fingerprint-based national criminal background check.

(i) If a direct care staff member is found to have previously committed abuse/neglect or a criminal offence, the center must not allow the staff member to work independently and unsupervised unless the center:

(A) Investigates the conduct at issue in a thorough manner;

(B) Determines, based on the findings of its investigation, that the direct care staff member may be allowed to have unsupervised access to patients and the center's operational systems; and

(C) Maintains documentation of its investigation and determination in the direct care staff member's subsequent personnel file.

Section 24. Equipment.

(a) A center shall maintain adequate, age-appropriate equipment and supplies to provide services.

(b) Equipment must be tested and maintained according to the manufacturer guidelines.

(c) Adequate equipment and supplies is determined by the amount, type, and extensiveness of services provided by the center and includes, at a minimum:

(i) Personal protection equipment and supplies;

(ii) Patient assessment and diagnostic measurement equipment and supplies;

(iii) Suctioning equipment and supplies;

(iv) Airway management equipment and supplies;

(v) Bleeding control and wound management equipment and supplies;

(vi) Immobilization equipment;

(vii) Cardiac equipment and supplies;

(viii) Ingested poisons equipment and supplies;

(ix) Obstetrics and gynecology equipment and supplies;

(x) Heat and cold related injuries equipment and supplies; and

(d) The emergency drug cart and adjunctive emergency equipment must be checked by an appropriate, designated staff member after each use to assure that all items required for immediate availability are contained in the cart and in usable condition.