



Certification Page Regular and Emergency Rules

Revised July 2019

Emergency Rules *(Complete Sections 1-3 and 5-6)*

Regular Rules

1. General Information

a. Agency/Board Name		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison	f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address	h. Adoption Date	
i. Program		

2. Legislative Enactment For purposes of this Section 2, "new" only applies to regular (non-emergency) 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 non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. If the rules are new, please provide the Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):

3. Rule Type and Information For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title* and Proposed Action for Each Chapter. *Please use the "Additional Rule Information" form to identify additional rule chapters.*

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

* If the name of a chapter of rules is changing, please only provide the NEW chapter name on this rules certification form.



Additional Rule Information

Revised July 2019

Include this page only if needed.

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison	f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address		
h. Program		

2. Rule Type and Information, Cont.

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

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

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:


5. Checklist

a. For regular rules, the Statement of Principal Reasons is attached to this Certification and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule

b. For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

Signature of Authorized Individual	
Printed Name of Signatory	Michael A. Ceballos
Signatory Title	Director
Date of Signature	February 3, 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	

BEHAVIORAL HEALTH – PERSONNEL & PROGRAM QUALITY

REPEAL OF CHAPTERS 1-12

SUMMARY OF COMMENTS

The Wyoming Department of Health did not receive any public comments.

COMMUNITY PROGRAM MENTAL HEALTH & SUBSTANCE ABUSE PROGRAM

REPEAL OF CHAPTERS 1-10

SUMMARY OF COMMENTS

The Wyoming Department of Health did not receive any public comments.

SUBSTANCE ABUSE

REPEAL OF CHAPTERS 1-8

SUMMARY OF COMMENTS

The Wyoming Department of Health did not receive any public comments.

MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES

PROMULGATION OF CHAPTERS 1-6

SUMMARY OF COMMENTS

The Wyoming Department of Health did not receive any public comments.

Rules and Regulations for Mental Health and Substance Use Disorder Services
Intent to Repeal Rules

Statement of Reasons

The Wyoming Department of Health (“Department”) has determined that the current rules addressing mental health and substance use disorder services need to be updated to reflect new legislation and other changes. These current rules include thirty chapters spread across three different programs, noted as follows:

1. *Rules, Wyoming Department of Health, Behavioral Health – Personnel & Program Quality*, chapters 1 to 12, which have been effective since 1992;
2. *Rules, Wyoming Department of Health, Community Program – Mental Health & Substance Abuse Program*, chapters 1 to 10, which have been effective since 1993; and
3. *Rules, Wyoming Department of Health, Substance Abuse*, chapters 1 to 8, which have been effective since 2009.

Because the Department seeks to make extensive changes to the format, organization, and substance of these rules addressing mental health and substance abuse disorder services, the Department has decided to repeal these thirty chapters across three programs and create a new program comprising of six chapters, effectively replacing the current rules.

Here, the Department specifically seeks to repeal *Rules, Wyoming Department of Health, Behavioral Health – Personnel & Program Quality*, chapters 1-12 (1992) to make way for the new program comprising of six chapters. This repeal is proposed concurrently with: (1) the repeal of *Rules, Wyoming Department of Health, Community Program – Mental Health & Substance Abuse Program*, chapters 1-10 (1993); (2) the repeal of *Rules, Wyoming Department of Health, Substance Abuse*, chapters 1-8 (2009); and (3) the creation of *Rules, Wyoming Department of Health, Mental Health and Substance Use Disorder Services*, chapters 1-6. These three other acts of rulemaking are addressed by separate rules packets available online at <https://rules.wyo.gov>. The proposed rules packet for *Rules, Wyoming Department of Health, Mental Health and Substance Use Disorder Services*, chapters 1-6 contains a discussion of the key modifications between the proposed new program comprising of six chapters and the current rules the Department proposes to repeal.

CHAPTER I
AUTHORITY AND REASONS FOR RULES

This Chapter has been repealed.

CHAPTER I
AUTHORITY AND REASONS FOR RULES

This Chapter has been repealed.

~~Section 1.—Authority. The Wyoming Constitution, Article 7, Section 20 establishes the paternalistic standard for the State of Wyoming to protect and promote the health and morals of the people of Wyoming:~~

~~“As the health and the morality of the people are essential to their well-being, and to the peace and permanence of the state, it shall be the duty of the legislature to protect and promote these vital interests by such measures for the encouragement of temperance and virtue, and such restrictions upon vice and immorality of every sort, as are deemed necessary to the public welfare.”~~

~~Compliance with that constitutional mandate has taken various forms. Of recent interest, however, the social services for the State were under the jurisdiction of the board and Department of Health, the board and Department of Welfare, and the board and Division of Vocational Rehabilitation of the Department of Education.~~

~~Those boards and departments were abolished effective July 1, 1969, and their powers, duties, and regulatory authority were transferred to the then newly created Department of Health and Social Services.~~

~~In 1979, four divisions were created within the Department, one of which is the Division of Community Programs. That Division became the state mental health authority, the developmental disabilities authority, and the substance abuse authority. In 1982, the Division was expanded to be the authority for family violence and sexual assault. In 1983, the Division was expanded to include community services for youth.~~

~~The Legislature gave certain duties to the Division of Behavioral Health, among which are:~~

~~W.S. 9-2-102(a)(iii) Establish minimum standards and approve policies and procedures for the establishment and operation of community-based mental health, substance abuse, and developmental disabilities programs receiving state support;~~

~~(iv) Establish minimum standards for all mental health, substance abuse, developmental disabilities, family violence and sexual assault services supported by state funds;~~

~~The 1979 “Community Mental Health Services Act” expanded the role of the Division of Behavioral Health. The Legislature authorized the Division to contract for human services programs defined as “community facilities and services for the prevention and amelioration of mental illness, substance abuse, or developmental disabilities.” [W.S. 35-1-620(a)(i); and 35-1613(a)(iv)]. The Department was mandated to establish standards to effectuate the act and to:~~

~~(v) Review and evaluate all programs authorized or funded under this act;~~

~~(vi) Select the most appropriate service providers within each region in order to achieve the most effective and efficient human services system;~~

~~(vii) Prescribe procedures to ensure confidentiality of patient records; and~~

~~(viii) Prescribe conditions of eligibility for funding under this act so that no person shall be denied services on the basis of race, creed, color, national origin, or inability to pay.~~

~~Section 2. Application of Rules. The Director of the Department is required to “promulgate reasonable rules and regulations, after consultation with the departmental advisory council, in compliance with the Wyoming Administrative Procedure Act, for the implementation of all state and federal public health, welfare, rehabilitation, and mental health laws.” [W.S. 9-2-106(a)(vii)]. Pursuant to that mandate, the following rules of general applicability to the Division of Behavioral Health are hereby promulgated.~~

~~Section 3. Reasons for Adopting Rules of Procedure.~~

~~(a) — W.S. 9-2-101(d) created the Division of Community Programs within the Department of Health and Social Services. W.S. 9-2-106(a)(iii) mandates that the Director of the Department prescribe by rule, order, or regulation the conditions under which monies are disbursed and administered by the Department. And W.S. 9-2-102(a) and (b) provide that the Division of Community Programs is responsible to establish minimum standards and approve policies and procedures for the establishment and operation of community based mental health, substance abuse, developmental disabilities, family violence and sexual assault services, and community services for troubled youth receiving state support or supported by state funds.~~

~~(b) — The Department deems it essential that rules of procedure be adopted to:~~

~~(i) Establish criteria for selection of program providers and for contracting with program providers to receive state funds;~~

~~(ii) Provide a process through which a provider or agency may request and receive a fair hearing with respect to certification;~~

~~(iii) Provide a process through which clients or an agency or other interested persons may request and receive a fair hearing for actions or omissions by the provider that result in the denial, suspension, or termination of services or otherwise in the delivery or nondelivery of services, or that result in inadequate quality of services; and~~

~~(iv) Implement the legislative mandates to:~~

~~(A) — Contract with service providers as a condition precedent to receiving state funds;~~

~~(B) — Approve policies and procedures for the establishment and operation of community based mental health, substance abuse, developmental disabilities, family violence and sexual assault services, and community services for troubled youth programs receiving state funds;~~

~~(C) — Administer a state program to shelter victims of family violence and sexual assault, including making state grants based on a formula for state and local participation and contracting for and evaluating shelters for victims of family violence and sexual assault and their children;~~

~~(D) — Contract for and evaluate shelters for troubled youth;~~

~~(E) — Administer a state program of community alternatives for troubled youth, including making contracts to counties submitting plans which meet the guidelines established by the Division;~~

~~(F) — Assist the local communities in organizing human service programs; and~~

~~(G) — Protect the health, welfare, and well-being of the citizens in Wyoming who need community based mental health, substance abuse, developmental disabilities, and family violence and sexual assault services, and community services for troubled youth.~~

~~Section 4. — Notice; Hearing Procedures; Decision by Department; Review and Appeal. The Division shall comply with the Wyoming Administrative Procedure Act, W.S. 16-3-107 through 16-3-115 and with Rules of Procedure before the Division with respect to giving notices, conducting hearings, rendering decisions, and allowing for review of the decisions by the district court and appeal from the district court decision to the Wyoming Supreme Court.~~

~~Section 5. — Confidentiality of Program Information. No information shall be released by the Division in contravention of applicable laws nor in contravention of the confidentiality standards adopted by the Department.~~

CHAPTER II
DEFINITIONS, CONSTRUCTION, NOTICES, ETC

This Chapter has been repealed.

CHAPTER II
DEFINITIONS, CONSTRUCTION, NOTICES, ETC

This Chapter has been repealed.

Section 1. ~~Definitions.~~

(a) ~~“Administrator” means the person appointed by the Governor pursuant to W.S. 9-2-103 to administer the Division of Community Programs of the Department of Health.~~

(b) ~~“Adult” means a person who has reached the nineteenth (19th) anniversary of his birth, except in the case of adult developmental disabilities programs, “Adult” means a person who has reached the twenty-first (21st) anniversary of his birth.~~

(c) ~~“Applicant” means a community services board or a public or private agency applying to the Administrator for any right, authority, or state funding provided for under W.S. 35-1620.~~

(d) ~~“Certification” means recognition that the program meets the Division standards promulgated for the respective program areas and complies with the applicable laws and regulations.~~

(e) ~~“Client” means the individual recipient of services from the program provider.~~

(f) ~~“Community board” means either a community mental health board, or a substance abuse board, or a developmental disabilities board, or a family violence and/or sexual assault board, or a children’s shelter board, or a board offering a combination of human service programs created pursuant to W.S. 35-1-611 through 35-1-626 and declared therein to be a public agency.~~

(g) ~~“Complaint” means an action by a person, agency, or the Administrator against a program provider with respect to the health and welfare of the clients, and delivery or non-delivery of services to the clients and the quality of services delivered.~~

(h) ~~“Complainant” means any person or public or private agency or the Administrator who files a complaint against a provider receiving funds from the Division.~~

(i) ~~“Contested case” means a proceeding involving but not restricted to determination of client benefits, quality of client benefits and eligibility of client for services and formal complaints against providers in which proceeding the legal rights, duties, or privileges of a party are required by law or regulation to be determined by the Department or Division.~~

(j) ~~“Contract” means a written agreement between a program’s governing board and any other organization, agency, or individual creating a legal relationship that specifies state funds to be expended in exchange for services, personnel, or space to be provided to the program.~~

(k) ~~“Department” means the Department of Health and Social Services created by W.S. 9-2-101(a).~~

(l) ~~“Director” means the person appointed by the Governor as generally in charge of the Department pursuant to W.S. 9-2108(a).~~

(m) ~~“Division” means the Division of Community Programs of the Department which Division is the state mental health authority, the developmental disabilities authority, the substance abuse authority, the authority for family violence and sexual assault, and the authority for community service for troubled youth.~~

(n) ~~“Fiscal year” means July 1 through June 30.~~

(o) ~~“Fund” and “Funding” mean a contract made by the Division for the use of state funds for the delivery of human services.~~

(p) ~~“Governing body” means the duly elected or appointed qualified officers of a public agency, or the Board of Directors or Board of Trustees of a private agency.~~

(q) ~~“Intervenor” means a person or public or private agency whom the Administrator permits to become a party to any proceeding before the Administrator.~~

(r) ~~“Minor” means a person who has not yet reached the nineteenth (19th) anniversary of his birth, or in the case of adult developmental disabilities programs, a person who has not reached the twenty first (21st) anniversary of his birth.~~

(s) ~~“Person” means an individual, a group of individuals, or a private or a public agency.~~

(t) ~~“Petitioner” means a person seeking relief against the Division on his own behalf.~~

(u) ~~“Presiding officer” means the person designated by the Administrator or Director to serve as the officer to preside at the taking of evidence in all contested cases.~~

(v) ~~“Private agency” means a corporation duly existing and qualified under the laws of the State of Wyoming which provides at least one (1) human services program which serves the residents of at least one (1) county; which has a director whose qualifications meet the standards fixed by the Division; whose duties are prescribed in the Charter or Bylaws of the Corporation; and which charges clients fees at a rate comparable to the uniform schedule of fees for services that has been promulgated by the Division.~~

(w) ~~“Program” means community facilities and services for the prevention and amelioration of mental illness, substance abuse, or developmental disabilities and community based facilities and services to shelter victims of family violence and sexual assault, and troubled youth or a combination or umbrella of those community facilities and services.~~

(x) ~~“Protest” means a written objection to an order or ruling of the Division.~~

(y) ~~“Protestant” means a provider who files a protest with the Division.~~

(z) ~~“Provider” means a person involved in the delivery of services purchased on a contract with the Division for the use of state funds in whole or in part for the delivery of human services.~~

(aa) ~~“Public agency” means an organization operated by a unit of local government or a~~

~~combination of local governments or agencies formed under the Wyoming Joint Powers Act to provide human services programs, including a Community Services Board established pursuant to W.S. 35-1-614(d).~~

~~(bb) — “Region” means a section of Wyoming designated by the Division based on geography and population to be a service area for division programs.~~

~~(cc) — “Respondent” means a human services provider receiving funds from the Division against whom a complaint has been filed concerning any act or omission allegedly committed in violation of W.S. 9-2-101 through 9-2-115 or W.S. 35-1-611 through 35-1-627 or any rule of the Division or Department.~~

~~(dd) — “Umbrella agency” means a provider or more than one (1) service to the public.~~

~~(ee) — “Waiver” means the decision by the Division to forego temporarily the enforcement or requirement of a particular regulation or standard of the Division with respect to a particular program.~~

~~Section 2. — Rules of Construction. The construction of these rules shall be as provided in W.S. 8-1-103 where applicable and unless that construction is plainly contrary to the intent of the legislature and the Division.~~

~~Section 3. — Notices and Communications.~~

~~(a) — All applications, petitions, complaints, protests, and other written communications shall be addressed to the administrator, Division of Community Programs, Hathaway Building, Cheyenne, Wyoming 82002.~~

~~(b) — All application, petitions, complaints, protests and other written communications shall be deemed to be received on the date they are actually delivered to the Administrator as documented by the stamped receipt date in the Division.~~

~~(c) — Official notices required by law or by these rules to be served shall be served in person or by certified mail return receipt requested addressed to the last known address of the addressee. Service is deemed complete when the return receipt is received by the Division signed by the addressee or his agent and dated with the date of delivery.~~

~~Section 4. — “Grandfather” Rights.~~

~~(a) — All administrative actions by the Division, including standards and the designation of regions, which are in effect prior to fiscal year 1983 shall remain in effect for granting fiscal year 1984 contracts.~~

~~Section 5. — Severability. If any provision is declared unconstitutional, the remaining provisions shall not be affected by the declaration.~~

CHAPTER III
REGIONS OF SERVICE DELIVERY

This Chapter has been repealed.

CHAPTER III
REGIONS OF SERVICE DELIVERY

This Chapter has been repealed.

~~Section 1. — Division of the State into Regions.~~

~~(a) — The Division shall divide the state into regions for the maintenance, operation, and delivery of comprehensive community services. The Division shall take into consideration at least the following factors to establish realistic and appropriately defined geographic areas:~~

- ~~(i) Physical geographic characteristics and barriers;~~
- ~~(ii) Population base;~~
- ~~(iii) Service needs of population;~~
- ~~(iv) Presently existing services available;~~
- ~~(v) County or multi-county organization and support;~~
- ~~(vi) Accessibility to services;~~
- ~~(vii) Residential patterns;~~
- ~~(viii) Economic and social groupings; and~~
- ~~(ix) Available transportation systems.~~

~~(b) — Regions proposed by the Division shall be presented in the Division's biennial budget request to the legislature. After the region is approved by the legislature through approval of the biennial budget, the region shall remain in effect until the legislature revises the region in the Division's budget.~~

~~Section 2. — Other Proposed Revisions of Regions.~~

~~(a) — Persons or programs who wish a revision of the existing regions of service delivery shall submit a request in writing to the Administrator. The request shall:~~

- ~~(i) Specify the proposed revision of boundaries of the region; and~~
- ~~(ii) Justify the reason for the proposed change in boundaries.~~

~~(b) — Upon receipt of the request, the Administrator shall within a reasonable period determine what the fiscal impact to the state would be by the proposed revision of the service delivery regions, what effect the proposed revision would have on other programs funded by the Division, and review the effect on the regional criteria established in Chapter II, Section 1,a. The Administrator shall forward his determinations and recommendations to the person or program which submitted the proposed revision.~~

~~(c) — If a program wishes to be excluded from an existing region and advises the Administrator that it does not want to contract with the Division for funding programs, the program shall follow the~~

~~procedure set forth in paragraph (a) of this section. The Administrator shall thereupon follow the procedure in paragraph (b) and (d) of this section.~~

~~(d) — The Administrator shall approve or disapprove the proposed revision. If approved, the Administrator shall include the revision in the Division budget request as outlined in Section 1(b) of this chapter, and include also the fiscal impact statement as prepared pursuant to Section 2(b) of this chapter.~~

CHAPTER IV
PURCHASE OF SERVICES AUTHORIZED

This Chapter has been repealed.

CHAPTER IV
PURCHASE OF SERVICES AUTHORIZED

This Chapter has been repealed.

~~Section 1. — Services Delivery for Programs. For the purposes of Chapters V, VI, and VII, the services which the Division is authorized to purchase in each service area are:~~

~~(a) — For services delivery for adult developmental programs:-~~

- ~~(i) Vocational services; and~~
- ~~(ii) Residential services.~~

~~(b) — For services delivery for preschool developmental programs:-~~

- ~~(i) Infant stimulation; and~~
- ~~(ii) Preschool developmental services.~~

~~(c) — For services delivery for mental health programs:-~~

- ~~(i) Outpatient services; and~~
- ~~(ii) Special services (liaison services and partial care).~~

~~(d) — For services delivery for substance abuse programs:-~~

- ~~(i) Direct treatment;~~
- ~~(ii) Prevention;~~
- ~~(iii) Medically supervised detoxification; and~~
- ~~(iv) Residential services.~~

~~(e) — For services delivery for family violence and sexual assault programs:-~~

- ~~(i) Shelter services;~~
- ~~(ii) Crisis lines; and~~
- ~~(iii) Prevention/education.~~

~~(f) — For community services for troubled youth:-~~

- ~~(i) Shelter services; and~~
- ~~(ii) Community alternatives.~~

~~Section 2. — Legislative Approval. The Division is not obligated to purchase services enumerated in Section 1 of this chapter if for any reason legislative appropriation is inadequate or the authorized services are changed by the legislature.~~

~~Section 3. — Other Services. Nothing in Section 1 or 2 should be construed as prohibiting the Division from purchasing other services in accordance with State and Federal laws and rules.~~

CHAPTER V
APPLICATION FOR FUNDS

This Chapter has been repealed.

CHAPTER V
APPLICATION FOR FUNDS

This Chapter has been repealed.

~~Section 1. Application for Contract.~~

~~(a) — Any public or private agency may apply to the Division for a contract to provide community human services.~~

~~(b) — On or before the 15th day of March each year, commencing in the year 1984, the Division shall seek letters of intent to provide Division services except for community alternatives for troubled youth. These funds are not distributed on an application basis. (See Rules and Regulations, Division of Community Programs, Community Alternatives.) The publication of the notice shall include, at a minimum, currently certified program providers and all persons who have notified the Division of an interest in providing one or more services required by the Division.~~

~~(c) — Each program interested in applying for a contract shall submit to the Administrator a letter of intent which shall be signed by the chairman of the board of directors and by the director of the program. If the applicant has been or is currently certified by the Division, he shall give the date and the nature of the certification.~~

~~(d) — Upon receipt of a letter of intent, the Administrator shall determine if the application is new, competing, or renewal in accordance with Division policies. The Administrator shall:~~

~~(i) Send the applicant the standard application form and a copy of the standards and rules prepared by the Division for the particular program for which application is made;~~

~~(ii) Advise the applicant of the selection procedure and methods of prioritizing programs that the Division intends to use;~~

~~(iii) If applicable, advise the applicant that although it has previously received funding, nevertheless it has not taken corrective action to a complaint about its delivery of services and that corrective action acceptable to the Administrator must be taken before it may be funded again; and~~

~~(iv) Inform the applicant of the date when the application form must be submitted to the Division.~~

~~Section 2. — The Application.~~

~~(a) — The application for funding a program shall contain at least the following information:~~

~~(i) The name, address, and telephone number of the applicant;~~

~~(ii) The names and addresses of the officers of the applicant;~~

~~(iii) The name and qualifications of the director or administrator of the program and of the staff of the program;~~

- ~~(iv) Location of applicant's services within the region;~~
- ~~(v) A statement about the service regions for which the applicant seeks to receive funding; either an entire region or a portion of the region;~~
- ~~(vi) The location and description of the place or places where the program is, or is intended to be, given;~~
- ~~(vii) As assurance signed by the chairman of the board that:
 - ~~(A) — The program will provide written materials as outlined in the Division's on-site review forms to demonstrate compliance with the Division standards;~~
 - ~~(B) — The Division staff will be allowed to make on-site review of the program in accordance with the Division's procedures for on-site reviews; and~~
 - ~~(C) — The program will provide data on a regular basis as required by the Division and on forms prescribed by the Division.~~~~
- ~~(viii) A statement evidencing compliance with Wyoming laws and regulations pertaining to safety of building and operations;~~
- ~~(ix) A service delivery plan which shall include a description of:
 - ~~(A) — The program goals and objectives;~~
 - ~~(B) — The needs in the region and how the program proposes to meet those needs;~~
 - ~~(C) — The program services provided or proposed to be provided which shall be as set forth in Chapter IV of these rules;~~
 - ~~(D) — The strategy for providing the services; and~~
 - ~~(E) — The program's relationship to other human service programs in the region.~~~~
- ~~(x) The amount of funds requested for each service;~~
- ~~(xi) Whether or not local funds are available;~~
- ~~(xii) Whether the applicant has cooperative agreements with allied agencies;~~
- ~~(xiii) Any other supporting documentation the applicant wishes to submit; and~~
- ~~(xiv) An explanation of the fiscal management system which the applicant uses or plans to use and which shall be in accordance with generally accepted accounting practices.~~

~~(b) — Copies of the following documents shall accompany new and competing applications:~~

~~(i) — Articles of Incorporation and bylaws of the applicant, or if the applicant is a community human service board, a copy of the organizational document; and~~

~~(ii) — The criteria followed by the applicant for providing services to clients.~~

~~(c) — The Division shall maintain a file of the applications and supporting documents it receives.~~

~~Section 3. — Application from Umbrella Services for Funding Programs.~~

~~(a) — A public or private agency may apply for contract of Division programs as a segment of its overall services.~~

~~(b) — An application by the umbrella agency for funding a service or services shall comply with Section 2 of this chapter and shall meet the following conditions:~~

~~(i) — The charter or bylaws of the agency show that at least one of its permissible services is a human service program as defined in W.S. 35-1-613 (a)(iv);~~

~~(ii) — Each service requested to be funded by the Division is consistent with the charter or bylaws of the agency;~~

~~(iii) — The funding received from the Division shall be maintained separate and apart from other funds of the agency;~~

~~(iv) — The funding for each service area within the Division, that is, mental health, substance abuse, developmental disabilities, family violence and sexual abuse, or community services for troubled youth shall be kept separate and apart from all other Division funds;~~

~~(v) — Each service area funded by the Division and operated by the agency shall be a distinct program within the overall services of the agency including specific description of services, job responsibilities, statistics, records, and bookkeeping, etc.; and~~

~~(vi) — Each service area shall be subject to the rules and standards promulgated by the Division for that service.~~

~~Section 4. — Funding of Existing Programs without Competition.~~

~~(a) — Continued funding for currently funded programs without competition may be made if the following criteria are met by the Administrator without further review on the local level:~~

~~(i) — The program's certification is current;~~

~~(ii) — The Division has not received any complaints against the program which have not been resolved under the procedures provided in either Chapter X or Chapter XI of these rules;~~

~~(iii) The services to be provided are the same as delivered and provided in the immediately preceding certification period;~~

~~(iv) The provider supplies the Division with letters of support from the county commissioners in the region to be served by the program;~~

~~(v) If a private agency, it complies with the eligibility requirements of W.S. 35-1-624;~~
and

~~(vi) No other letters of intent to serve the region are received by the Administrator.~~

~~(b) If the Division has received a complaint about the program, the procedure provided in either Chapter X or XI shall be followed to resolve the complaint before the Administrator may renew the contract with the program to serve the county or region. If corrective action is needed and the program has not taken the required corrective action, the Division shall actively seek a competitive bid as provided in Section 1(b) of this chapter to administer the program in that region.~~

~~(c) If the board of county commissioners are not satisfied with the services provided by a regional provider, the lack of support by the county commissioners shall be treated as an informal complaint against the provider.~~

~~(d) If applications to provide the same or similar services within the same region are received by the Administrator, he shall follow the provisions set forth in Chapter VI, Section 2.~~

~~Section 5. — Determining Completeness.~~

~~(a) Upon receipt of either a competitive or noncompetitive application, the Division shall have fifteen (15) working days to declare an application complete or incomplete.~~

~~(i) If an application is declared incomplete, a written request for the required information needed to complete the application will be made to the applicant. The Division shall have fifteen (15) working days to review the additional information and declare it complete or incomplete.~~

~~(ii) If the applicant feels that requests for additional information made by the Division are not justified, or are unreasonable, or if the Division fails to declare the application complete or incomplete within fifteen (15) days, they may request the Administrator render a decision on the completeness of the application. The Administrator's decision shall be considered final.~~

CHAPTER VI SELECTION
OF PROVIDERS

This Chapter has been repealed.

CHAPTER VI SELECTION OF PROVIDERS

This Chapter has been repealed.

~~Section 1. Selection of New Providers without Competition.~~

~~(a) The Administrator may approve the application within the budgetary limitations of the Division if:~~

~~(i) It is complete and satisfactorily complies with the applicable federal, state, and local laws and regulations and with the rules of the Division;~~

~~(ii) The applicant has the support of the board of county commissioners in the region;~~
~~and~~

~~(iii) No other application has been received proposing to provide the same or similar services within the same region.~~

~~(b) If applications to provide the same or similar services within the same region are received by the Administrator, he shall follow the provisions set forth in Section 2 of this chapter.~~

~~(c) When the Division purchases services from a new program provider, the Administrator shall monitor the services provided. Monitoring shall include examination of reports received from or about the provider, on-site examinations, discussions with the board or boards of county commissioners of the county or counties where the services are provided, and recourse to any other pertinent and reliable source of information concerning the provider and its services. During the first year of funding, the program is expected to apply for certification as outlined in Chapter VIII.~~

~~Section 2. Screening Process upon Receipt of Competitive Applications for Funding.~~

~~(a) When the Division receives competing applications for funding, the Administrator shall study the applications and shall evaluate the eligibility of the programs based on the following criteria:~~

~~(i) Compliance with the applicable federal, state, and local laws, and the rules and standards which have been prepared by the Division;~~

~~(ii) Demonstrated service experience, performance, and ability to provide the proposed services to the target population in accordance with Division standards for each service area as outlined in Chapter IV of these rules including a demonstration of the following:~~

~~(A) Management structure including capable and adequate staffing;~~

~~(B) Oversight by the board of directors which board will be representative of the region and capable and willing to oversee the services and participate in the program;~~

~~(C) An effective fiscal management policy exists with respect to:~~

~~(1) Budget;~~

- ~~(II) Audit procedure;~~
- ~~(III) Fee schedule; and~~
- ~~(IV) Cost effectiveness; and~~
- ~~(D) Facilities available in which to deliver the services; and~~

~~(iii) Adequacy of service delivery plan including:~~

- ~~(A) A feasible and cost effective approach to service delivery.~~

~~(b) When the applicant is applying to serve only a portion of a region or a single service within a service area, the Administrator shall ensure that provision is made for regional coverage of all services within the region before granting funds for any portion of the region or service area.~~

~~(c) The Administrator may deny the application after considering the criteria if he finds that the criteria are not substantially met. If the Administrator denies an application because the applicant does not meet the provisions set out in Subsection (a) of this section, he shall issue his order stating his findings and conclusions and serve the order on the applicant.~~

~~Section 3. Recommendation on Competing Applicants by Board of County Commissioners.~~

~~(a) If the Administrator finds that two (2) or more of the applicants meet the criteria set out in Subsection (a) of Section 2, he shall request that a select committee be appointed immediately as provided in Section 4 of this chapter to study the Administrator's evaluation and to recommend to the Administrator which provider can best and most efficiently serve the community.~~

~~Section 4. Same. Select Committee to Make Recommendations.~~

~~(a) Members of the select committee shall have no vested or competitive interest in the program or services proposed by the applicants.~~

~~(b) Members of the select committee shall be appointed as follows:~~

~~(i) In a single county region, the Administrator shall request the board of county commissioners to appoint three (3) members who are residents of the county where the proposed services are to be performed; and~~

~~(ii) In a multi county region, the Administrator shall request each board of county commissioners to appoint one (1) person from each county. If an even number of persons results from those appointments, the Division shall choose an additional committee member from the region.~~

~~(c) The provisions of Subsections (a) and (b) of this section do not preclude the county commissioners from acting as the select committee.~~

~~(d) The Division shall provide technical assistance to the select committee while reviewing~~

~~the applications and shall establish guidelines for the procedure by which the select committee shall make recommendations.~~

~~Section 5. Notice of Review.~~

~~(a) — At the beginning of the review by the select committee, the Division will provide written notification to affected persons, including the public who are to be served by the community program.~~

~~(b) — Notices will be published in one (1) newspaper of general circulation in the area of the competing application. Such notice will provide the proposed review schedule and the procedure to interested parties to submit written comments.~~

~~(c) — Notices shall include notice of the public meeting to be held by the select committee, and such notice be provided a minimum of ten (10) days before the date of the hearing. The notice shall include:~~

~~(i) The time, place, and nature of the meeting.~~

~~(ii) The legal authority and jurisdiction under which the meeting is to be held.~~

~~(iii) The particular sections of the statutes and rules involved.~~

~~(iv) A short and concise statement of the nature of the applications being reviewed.~~

~~(v) Procedure for participation by the public.~~

~~(d) — The procedure for affected persons or interested parties to submit written comments shall include the address for such comments to be forwarded and the time frame for them to be submitted.~~

~~(e) — This notice shall be in the form of a legal notice.~~

~~Section 6. Procedure for Review by the Select Committee.~~

~~(a) — A public meeting shall be held on all applications for the same funds. The meeting shall be conducted by the select committee.~~

~~(b) — The Division shall publish notice of the meeting as outlined in Chapter VI, Section 6.~~

~~(c) — The public meeting shall be held in the area affected.~~

~~(d) — The Division shall notify, at a minimum, the following affected parties by certified mail of the public meeting:~~

~~(i) The presidents of the boards of directors of the competing applicants; and~~

~~(ii) Other organizations determined on an individual basis by the Division.~~

~~Section 7. Order of Procedure at the Meeting.~~

~~(a) — The meeting shall be conducted in accordance with the following order of procedure:~~

~~(i) The chairperson of the select committee shall announce that the select committee has convened, introduce the committee members, and announce by the names of the organizations of the applications to be considered.~~

~~(ii) Each applicant will be allowed an opening statement to explain and outline the project to the select committee.~~

~~(iii) The select committee shall have the opportunity to question the applicants on information presented in the application and on information presented during the opening statement.~~

~~(iv) Other interested parties present will each be allowed to make a statement to the select committee regarding any of the competing applications.~~

~~(A) — Parties making statements at the meeting shall be asked to register prior to the time set for taking public testimony. Such registration should include the name, address, and interest being represented by the person offering testimony.~~

~~(B) — Persons who have not registered in accordance with Section 7(a)(4)(A) desiring to make a statement to the select committee shall identify themselves to the chairperson by name, address, and interest they represent.~~

~~(C) — The chairperson shall announce this requirement both at the opening of the public meeting and immediately preceding the taking of testimony as provided in paragraph (iv) of this subsection. A written notice of this requirement shall be posted at the time and place set for hearing.~~

~~(v) The select committee shall have the opportunity to question each party making a statement.~~

~~(vi) Time for presentation of oral testimony and the questioning of the applicant and other parties may be limited by the chairperson.~~

~~(vii) Written statements regarding the applications:~~

~~(A) — May be submitted to the Division at any time during the review period or to the chairperson of the select committee at the time of the meeting and shall be marked as to the date received and made a part of the record.~~

~~(B) — Should be addressed to the Administrator of the Division of Community Programs, Department of Health and Social Services, Hathaway Building, Cheyenne, Wyoming 82002.~~

~~(viii) Each applicant shall be allowed to make a closing statement to the select committee.~~

~~(ix) The chairperson shall then call for discussion of the applications and development of~~

~~findings with respect to the applications.~~

~~(x) Following the discussion, the chairperson shall call for the vote on the motion of which applicant to recommend to the Administrator for funding.~~

~~(A) Each committee member shall have one (1) vote.~~

~~(B) To pass, a motion must have a majority vote.~~

~~(xi) All meetings conducted by the select committee or Division shall be recorded by a competent reporter or by tape recorder.~~

~~Section 8. — Review Criteria.~~

~~(a) An organization currently under contract by the Division to provide services shall be granted a preference in the subsequent fiscal year to have the contract renewed over other organizations applying for the same contract unless the select committee following a public hearing determines that the organization is no longer entitled to a preference because of any one of the following reasons:~~

~~(i) Lack of community support from other human service agencies both state and local, and the public in the service area.~~

~~(ii) Failure to provide acceptable services within the region.~~

~~(iii) Failure to provide services in a cost effective manner.~~

~~(iv) Failure to hire qualified staff.~~

~~(v) Failure to provide adequate board and administrative oversight of the program.~~

~~(vi) Misuse of funds.~~

~~(vii) Other reasons relating to the effectiveness of the services provided by the program and in the opinion of the committee affecting the care and well being of clients. The select committee shall outline such reasons in the findings of the committee submitted to the Administrator.~~

~~(b) If the select committee determines that the currently funded organization shall no longer be granted preference, the committee may recommend another applicant to the Administrator.~~

~~(c) The select committee shall submit to the Administrator its written findings and name of the recommended program. In cases where the select committee does not recommend the existing provider, the written findings must outline which criteria the review committee felt were not met and give the basis for this decision.~~

~~Section 9. Same. Final Selection between Competing Applications.~~

~~(a) Upon receipt of the recommendation of the select committee, the Administrator shall select~~

~~the recommended applicant to receive funding unless:~~

~~(i) The Administrator receives information that the procedures in Sections 3, 4, 5, 6, 7, and 8 of this chapter were not followed by the county commissioners and the select committee.~~

~~(ii) The Administrator receives information that the select committee failed to give preference to an existing provider in accordance with the provision in Section 8.~~

~~(iii) The select committee fails to provide the administrator with written findings for not granting preference to an existing provider.~~

~~(iv) The Administrator receives information that the recommended applicant would not be able to provide acceptable services as required for the purpose of the contract or if misuse of state funds is found. In such cases, the Administrator shall not contract with the applicant recommended by the select committee.~~

~~(b) The Administrator shall issue a written statement explaining the reasons for his decision.~~

~~(c) The decision of the Administrator is final.~~

CHAPTER VII
THE CONTRACT FOR FUNDED SERVICES

This Chapter has been repealed.

CHAPTER VII
THE CONTRACT FOR FUNDED SERVICES

This Chapter has been repealed.

~~Section 1. Contract to Purchase Services.~~

~~(a) The Administrator may proceed to prepare a contract to purchase human services when:~~

~~(i) The application for funding is complete and satisfactorily complies with the applicable federal, state, and local laws and regulations, and the rules of the Division; and~~

~~(ii) The eligibility and selection of the provider of the services has been finally determined by the Administrator.~~

~~(b) The Administrator shall prepare the contract to purchase the proposed services and submit it to the applicant.~~

~~Section 2. Contents of Contract.~~

~~(a) The contract shall contain at least the following information:~~

~~(i) Statements of the statutory authority and of the legislative appropriation under which the Division may enter into the contract;~~

~~(ii) Name and address of the provider;~~

~~(iii) Location where services shall be provided;~~

~~(iv) Identification of services to be purchased;~~

~~(v) List of the provider's responsibilities including a requirement that provider establish a fair hearing procedure to hear and decide clients' complaints against the provider, and a list of the requirements and conditions with which the provider shall comply;~~

~~(vi) List of the responsibilities of the Division;~~

~~(vii) Payments to be made by the Division, the amount, schedule, rate, and provisions for reimbursement.~~

~~(viii) Term of the contract;~~

~~(ix) Effective date of the contract;~~

~~(x) An express provision that the provider agrees:~~

~~(A) To provide the specific services purchased by the Division in accordance with the standards promulgated by the Division for the program area of service;~~

~~(B) To comply with all the applicable federal, state, and local laws and rules of the Division, and conditions and provisions of the contract;~~

~~(C) To submit to the Division annual financial and expenditure reports;~~

~~(D) To submit two copies of an independent financial audit to the Office of Planning and Administration within the Department of Health and Social Services and one copy to the State Examiner. The audit shall conform to the requirements of W.S. 16-4-121 through 16-4-123 and W.S. 16-4-102(a)(ix). The audit shall be performed within sixty (60) days after the end of the provider's fiscal year. Compliance with this section of the contract will be based on the State Examiner's review and acceptance or rejection of the audit in conformity with W.S. 26-4-123:~~

~~(I) All federal funds~~

~~(II) All state funds by source;~~

~~(III) All county funds;~~

~~(IV) All municipal funds; and~~

~~(V) All funds received from private sources including client fees.~~

~~(E) To termination of the contract is not using contract funds for contract purposes;~~

~~(I) The program provider is not using contract funds for contract purposes;~~

~~(II) The contract program is not being administered in accordance with W.S. 35-1-611 through 35-1-627;~~

~~(III) The program is not of an acceptable standard or quality;~~

~~(IV) The provider is not complying with the terms of the contract; or~~

~~(V) The provider commits an act or omission in violation of federal, state, or local laws or rules of the Division which would affect services to clients.~~

~~(xi) An express provision that the Division does not waive its sovereign immunity by entering into the contract and fully retains all immunities and defenses provided by law with regard to any action based on the contract.~~

~~(xii) An express provision that funds received from the Division may be used to pay for the costs of the audit.~~

~~(b) The contract may contain individualized provisions for specific requirements or conditions which are necessary and appropriate to the contractual relationship with the provider.~~

~~(c) The contract shall be dated and signed by the Director of the Department, the Administra-~~

~~tor of the Division, the chairman of the board of directors of the provider and attested to by the treasurer of the board of directors of the provider. If the provider is a community human services board, the officers of the board shall sign the contract on its behalf.~~

~~(d) — The contract shall be executed in duplicate originals, one to be delivered to the provider and one to be retained by the Division.~~

~~(e) — Upon receipt of the executed contract, the Administrator shall take the necessary steps to purchase the services offered by the provider and to remit payment to the provider.~~

~~Section 3. — Termination of the Contract.~~

~~(a) — In order to terminate a contract with a provider, the Administrator must notify the president or chairman of the board of directors of the program by certified mail that the Division has determined that the program is not meeting the terms of the contract with the Division. This notification shall be in the form of a formal complaint against the program. The complaint will be handled in accordance with Chapter XI of these rules. A program which has had its certification revoked in accordance with the provisions of Chapter VIII of these rules is not entitled to a hearing on termination of the contract.~~

~~(b) — If at any time the Administrator finds that the health and safety of clients are in imminent danger, the Administrator shall immediately make arrangements to place the clients in a safe setting and terminate all funding to the program until a hearing can be held.~~

CHAPTER VIII
CERTIFICATION OF PROGRAMS

This Chapter has been repealed.

CHAPTER VIII
CERTIFICATION OF PROGRAMS

Repealed

~~Section 1.—Certification Procedure.~~

~~(a) —The Division shall promulgate standards for each service purchased by the Division.~~

~~(b) —All programs receiving funds from the Division shall request regular certification and recertification in accordance with these rules in order to continue to receive funding from the Division.~~

~~(c) —Any program providing human services to the public without state funds may request certification and recertification by the Division in accordance with these rules.~~

~~(d) —Certification and recertification shall be in accordance with the time line established by the Administrator. The Administrator shall schedule the certification of Division programs on a regular basis.~~

~~(e) —Each program desiring recertification from the Division shall submit a request for recertification not less than thirty (30) days prior to the end of the current certification.~~

~~(f) —Upon receipt of a request for recertification, the Administrator shall make or cause to be made a review of program documents which demonstrate compliance with the standards and make or cause to be made one or more on-site inspections of the program. Based upon the information on hand and the result of the on-site inspection, the Administrator shall certify the program if:~~

~~(i) The program meets the standards prepared by the Division for the particular area of services~~

~~(ii) The program complies with the applicable federal, state, and local laws and rules of the Division~~

~~(iii) No complaints have been filed against the program which have not been resolved as provided in either Chapter X or XI of these rules.~~

~~(g) —Each certificate is issued for the premises and persons or governmental units named in the certificate. It is not transferable nor assignable except with the prior written approval of the Division. The provider shall notify the Administrator in writing of all changes in personnel, premises, or governmental units named in the certificate.~~

~~Section 2.—Waiver of Standards or Regulations.~~

~~(a) —The board chairman of the program may request the Administrator to waive a particular regulation or standard if at the time of the initial application for certification or at any other time, the program finds that a particular regulation or standard does not apply to it because it is not compatible with the manner in which the program functions to provide services. The request shall be in writing and shall give the following information:~~

~~(i) The particular regulation or standard that is incompatible with the program functions and why it is incompatible;~~

~~(ii) All operational systems which function to meet the intent or purposes of the regulation or standard; and~~

~~(iii) Documentation that the waiver of the regulation or standard, if granted, will not diminish the quality of services given by the program.~~

~~(b) The Administrator shall review the request for a waiver and the information submitted with the request and shall notify the board chairman of the program of his decision within thirty (30) days of the request for the waiver.~~

~~(c) The Administrator may grant a waiver of the particular standard or regulation with respect to a program if the Administrator determines:~~

~~(i) That immediate compliance with the particular standard or regulation would create an undue hardship on the program; and~~

~~(ii) That temporary noncompliance with the particular standard or regulation would not substantially impair the quality of services provided by the program.~~

~~(d) Prior to or as a condition to granting a waiver under this section, the Administrator may:~~

~~(i) Establish schedules or time lines setting forth time limits during which the program shall achieve compliance with the standard or regulation which is waived;~~

~~(ii) Require the program to submit a written plan to the Administrator setting forth proposed methods of achieving compliance with the standard or regulation;~~

~~(iii) Set a time limit on the effective duration of the waiver; or~~

~~(iv) Solicit public comment concerning the proposed waiver.~~

~~(e) No waiver granted pursuant to this section shall be construed to affect in any way the responsibility of any program to comply with any other applicable legal requirement or standard of the Division.~~

~~(f) If the waiver is granted, the program will then be certified with the type of certification clearly indicated on the face of the certificate.~~

~~Section 3.— Abandonment of Services.~~

~~(a) No program provider shall discontinue services or change its services under the certification without first obtaining approval from the Administrator. Approval may be obtained only upon the filing with the Administrator a petition setting forth the reasons for discontinuance or change of services.~~

~~(b) Any discontinuance of services for reasons other than those over which the provider has no control shall be limited to a reasonable period of time. If the discontinuance is beyond a reasonable period of time or is permanent, the Administrator shall revoke the certification of the provider.~~

~~Section 4. Monitoring Programs.~~

~~(a) After a program has been certified, the Division shall monitor the program to assure its compliance with its certification and with all the applicable federal, state, and local laws, and the rules and standards of the Division. As an element of the monitoring process, the Division shall make on-site inspections and evaluations based on these rules. The monitoring process may include also examination of reports received from or about the provider, on-site examinations, discussions with the board or boards of county commissioners of the county or counties where the services are provided, discussion with allied agencies, public meetings, and recourse to any other pertinent and reliable sources of information concerning the provider and its services.~~

~~Section 5. Investigation for Noncompliance.~~

~~(a) The Division may investigate the program as provided in Chapter X of these rules, on its own initiative or upon receipt of a complaint against a provider filed with the Department or with the Division for noncompliance with any applicable federal, state, or local laws, the Division contract with the program, or the rules of the Division or the standards developed for the particular program area.~~

~~(b) If the Division determines that the program is not in substantial compliance with the applicable federal, state, or local laws, the rules of the Division, the standards developed for the particular program area, or the contract with the Division, it shall give the board president notice of noncompliance. The parties shall then proceed as provided in Section 6 of this chapter.~~

~~Section 6. Plan for Compliance.~~

~~(a) Within thirty (30) days after receipt of the notice of noncompliance as provided in Section 5(b) of this chapter, the board president shall submit to the Administrator written data and a plan and schedule for achieving full compliance with respect to the matter not in compliance. The Administrator shall review the program's data, plan, and schedule and shall:~~

~~(i) Approved the proposed plan and schedule; or~~

~~(ii) Approve a plan and schedule as modified by the Administrator; or~~

~~(iii) Disapprove the plan and schedule and revoke or suspend the prior certification of the program pursuant to Section 7 of this chapter.~~

~~(b) When the Division approves a proposed or modified plan and schedule for achieving full compliance, the Division may grant provisional certification not to exceed one hundred twenty (120) days. A second provisional certification may be granted by the Division if it finds that more time is necessary for the program to achieve full compliance.~~

~~Section 7. Suspension or Revocation of Certification.~~

~~(a) The Division may suspend or revoke a program's certification after its monitoring and investigation proceedings and after:~~

~~(i) It makes written findings of fact that the program has failed to comply with any applicable federal, state, or local laws, the rules of the Division, or the Division standards developed for the particular program area;~~

~~(ii) It gives the program notice of noncompliance and opportunity for hearing as outlined in Chapter IX; and~~

~~(iii) It serve the program director with the Order of Suspension or of Revocation of Certification.~~

~~(b) — Unless an emergency exists, revocation or suspension of certification shall become effective thirty (30) days following the date of issuance of the Order of Suspension or Revocation of Certification.~~

~~(c) — If the Administrator finds that the public health, safety, or welfare imperatively require emergency action and incorporates a finding to that effect in his order, suspension prior to a hearing may be ordered in accordance with the provision in W.S. 16-3-113(c).~~

~~(d) — If at any time the Administrator finds that the health and safety of clients are in imminent danger, the Administrator shall immediately make arrangements to place the clients in a safe setting and terminate all funding to the program.~~

~~(e) — Suspension of Certification shall remain in effect until the date set out in the Administrator's Order or until the program demonstrates substantial compliance with the rules and standards of the Division, whichever occurs first. No suspension shall be unreasonably prolonged by the Division.~~

~~Section 8. — Termination of Contract. If the Division revokes a program's certification in accordance with this chapter, the Administrator shall terminate the contract with the provider.~~

CHAPTER IX PROTEST
PROCEDURE

This Chapter has been repealed.

CHAPTER IX PROTEST PROCEDURE

This Chapter has been repealed.

~~Section 1.—Protestant Hearings.~~

~~(a) — A program has the right to file a written protest with the Division within fourteen (14) working days after the receipt of the Order of Denial, of Suspension, or Revocation of Certification. The form of the protest shall be as provided in Chapter X, Section 1 of these rules. The protest may include a petition for a hearing before the Division. It shall set forth the reasons why the protestant believes the Division's order was contrary to law or the Division's standards or rules, or that it was arbitrary or capricious or not supported by the facts.~~

~~(b) — If the protest includes a petition for a hearing before the Division, the procedure for hearings in contested cases in Chapter XI of these rules shall be followed except where it is inapplicable to protests against Division orders or rulings.~~

~~Section 2.—Services Continued and Assessment of Costs.~~

~~(a) — Services shall continue at the existing level until the matter is reconciled or a fair hearing is held unless the Administrator has found that an emergency exists as described in Chapter VIII, Section 7.~~

~~(b) — If an emergency exists as described in Chapter VIII, Section 7, funds may be immediately terminated to the program. The Division is not responsible for payment of contract funds during the period between emergency termination and a hearing.~~

CHAPTER X INFORMAL
COMPLAINTS

This Chapter has been repealed.

CHAPTER X INFORMAL COMPLAINTS

This Chapter has been repealed.

~~Section 1.— Making an Informal Complaint and Investigation.~~

~~(a) — The Administrator on his own initiative or upon receipt of a complaint may conduct an informal investigation of a program. The Administrator may choose not to investigate oral complaints from a complainant. The Administrator shall conduct an informal investigation upon receipt of a written informal complaint signed by the complainant. The purpose of an informal investigation is to endeavor to bring about satisfaction of the complaint without a formal hearing.~~

~~(b) — If the Administrator receives a written complaint or decides to conduct an investigation on his own initiative, the Administrator shall notify the president of the board of directors of the program of the nature of the complaint and the activities to be undertaken as part of the informal investigation.~~

~~(c) — The investigation may include on-site inspection and collection of all the available pertinent information concerning the operations of the program. The Division may consult with the program director, the governing body of the program, the staff of the program, if relevant, the clients, the parents or guardians of the clients, and other pertinent and reliable sources of information about the program.~~

~~Section 2.— Corrective Action. After an investigation has been completed, the Administrator shall notify the provider and the complainant of the findings of the investigation. If the provider is found to have committed an act or omission in violation of the law or rules and standards, the Administrator may specify the necessary corrective action and the time line for completion of the corrective action. In the event of failure to bring about satisfaction of the complaint through methods outlined in this chapter, or if at any time during the investigation it is found that the health and safety of the clients are in jeopardy, the complainant or the Administrator may file a formal complaint and the informal proceedings shall be discontinued.~~

~~Section 3.— Records of Complaints. The Administrator may keep a record of each complaint received in his office, the allegations made, documentation of investigations, the action taken by the Administrator or the parties and the final disposition of the complaint.~~

CHAPTER XI FORMAL
COMPLAINTS

This Chapter has been repealed.

CHAPTER XI FORMAL COMPLAINTS

This Chapter has been repealed.

~~Section 1.— Filing of a Formal Complaint; Service; Satisfaction or Answer.~~

~~(a) — A formal complaint may be made by the Administrator on his own motion or by any person, setting forth in writing the act done or omitted to be done by the provider in violation of a state or federal law, order, or rule or standard of the Division. The complaint shall show the venue at the top of the page, “Before the Division of Community Programs, Department of Health and Social Services of the State of Wyoming,” and shall bear a heading showing the names of the complainant and of the respondent. The complaint shall state:~~

~~(i) The name, address, and telephone number of the complainant;~~

~~(ii) The name, address, and telephone number, if known, of the respondent;~~

~~(iii) A clear and complete statement of the alleged violation complained of, together with all the facts which will give the Administrator and the respondent a clear and full understanding of the nature of the alleged violation. The allegations may be supported by sworn statements attached to the complaint as exhibits;~~

~~(iv) A definite statement of the exact relief prayed for; and~~

~~(v) The signature of the complainant or his attorney and if by the attorney, then his name, address, and telephone number.~~

~~(b) — The complainant shall submit to the Administrator as many copies of the complaint and exhibits as are necessary for the Administrator to serve them on each respondent.~~

~~(c) — When a formal complaint has been filed with the Administrator, he shall assign a docket number to the case. The docket number shall identify the nature of the case; that is, “C” for “complain,” or “P” for “protest,” and the year the case is filed and the chronological number of the cases filed before the Division. For example, “C 83 1” or “P 83 1.”~~

~~(d) — The Administrator shall thereupon serve each respondent with a copy of the complaint and all the exhibits and his order requiring the defendant to satisfy the complaint if satisfaction is appropriate, or to file an answer to the complaint within twenty (20) days after receipt of the complaint.~~

~~(e) — If the respondent satisfies a formal complaint within the time specified in Subsection (d) of this section, he shall file with the Administrator a statement of satisfaction signed by the complainant and by the respondent and setting forth when and in what manner the complaint has been satisfied. The proceeding shall thereupon be dismissed.~~

~~(f) — If the respondent does not satisfy the complaint within the time specified in Subsection (d) of this section, he shall file his Answer within the specified time. The Answer shall clearly and~~

~~completely advise the parties and the Administrator of the nature of the defense. It shall admit or deny individually and specifically each allegation of the complaint.~~

~~Section 2. Continuances; Amendments; Attorney General's Assistance.~~

~~(a) — For good cause shown, continuances and extensions of time shall be granted at the discretion of the Administrator.~~

~~(b) — The Administrator may permit any pleadings to be amended or corrected or any omission therein to be supplied.~~

~~(c) — The Office of the Attorney General may assist the Division to investigate, prepare, present, and prosecute contested cases as provided in W.S. 16-3-111 and 16-3-112(c).~~

~~Section 3. ————— Hearing.~~

~~(a) — Upon the written request of any party, the Administrator shall grant a hearing when:~~

~~(i) A formal complaint has been filed with the Administrator;~~

~~(ii) The Administrator has issued his order that the respondent satisfy the complaint or file his answer to the complaint; and~~

~~(iii) The respondent has not satisfied the complaint and has filed his Answer to the complaint.~~

~~(b) — The Administrator shall fix the time and place for the hearing which shall be held at least twenty (20) days after the notice of the hearing setting. The notice shall contain:~~

~~(i) The names of the parties;~~

~~(ii) The time and place of the hearing;~~

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

~~(iv) The state law or rule alleged to have been violated;~~

~~(v) A concise statement of the matters asserted; and~~

~~(vi) The docket number.~~

~~(c) — Service of notice of the hearing shall be as prescribed in Chapter II, Section 3(c) of these rules.~~

~~(d) — Before the day of the hearing, the presiding officer on his own motion or upon motion by a party, shall meet with the parties for a conference to consider simplification of the issues, preliminary motions, stipulations and admissions of facts, clarification or limitation of evidence,~~

~~and any other matters that may expedite the proceedings and assure a just conclusion of the case. Prehearing memoranda may be filed and submitted by the parties to each other and to the presiding officer. Stipulation, limitations, agreements, and orders on motions made at the prehearing conference shall be recited in the record and shall control the course of the proceedings, unless modified during the hearing to prevent injustice.~~

~~Section 4. ————— Hearing Proceedings; Presiding Officer.~~

~~(a) — All hearings of contested cases shall be public. The hearing shall be conducted by the presiding officer who shall be appointed by the Administrator. At the request of any party, or upon his own motion, the Administrator may appoint an independent presiding officer. The presiding officer shall conduct the contested case in an impartial manner and shall withdraw at any time if he deems himself disqualified to act impartially or for any other reason.~~

~~(b) — The presiding officer shall:~~

~~(i) Administer oaths and affirmations;~~

~~(ii) Rule on offers of proof and receive relevant evidence;~~

~~(iii) Take or cause depositions to be taken in accordance with the provisions of W.S. 16-3-101 through 16-3-115;~~

~~(iv) Regulate the course of the hearing;~~

~~(v) Hold conference for the settlement or simplification of the issues;~~

~~(vi) Decide procedural requests and similar matters;~~

~~(vii) Make recommended decisions when directed to do so by the Division; and~~

~~(viii) Take any other action authorized by these rules and by W.S. 16-3-101 through 16-3-115.~~

~~(c) — Upon application of a party, the Administrator or the presiding officer shall issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or requiring the production of books, paper, or other documents relevant or material to the contested case. Upon motion made promptly and before the time specified in the subpoena for compliance, the Administrator or the presiding officer may quash or modify the subpoena or take other action as provided in W.S. 16-3-107(e).~~

~~Section 5. — Order of Hearing Proceedings.~~

~~(a) — Every party of record may appear in person and with counsel and testify in the hearing of the contested case. In all contested cases, the proceeding including all testimony shall be reported verbatim stenographically or by any other appropriate means determined by the Administrator or presiding officer. Oral proceedings shall be transcribed on request of a party upon payment of the cost for the transcript.~~

~~(b) — Witnesses shall be examined orally and under oath or affirmation administered by the presiding officer. The complainant shall establish by a preponderance of evidence the controverted facts upon which he bases his complaint. In the absence of an answer by the respondent, the presiding officer shall take such proof of the facts as may be deemed proper and reasonable and make such order thereon as dictated by the circumstances. If the complainant failed to appear at the hearing, the presiding officer shall dismiss the complaint with prejudice.~~

~~(c) — The Wyoming Rules of Evidence shall be followed by the presiding officer and the parties. The provisions of W.S. 16-3-107 and 16-3-108 apply to contested cases before the Division, relating to reporting proceedings, transcription of the proceedings, documentary evidence, exclusion of evidence, cross examination, and judicial notice. Complainant's exhibits shall be marked by numbers beginning with "1" and respondent's exhibits shall be marked by letters of the alphabet beginning with "A."~~

~~(d) — At the commencement of the hearing, the presiding officer shall announce that the hearing is open and shall call the docket number and title of the case to be heard. He may recess the proceedings when necessary and appropriate. at the close of the hearing after the parties have rested, the presiding officer shall excuse all the witnesses and close the evidence. Evidence may be reopened upon motion of a party and a showing of good cause.~~

~~(e) — At hearings of contested cases, the complainant or the protestant shall open and close. On investigations on motion or order, the Administrator shall open and close. Intervenors shall follow the party on whose behalf the intervention is made.~~

~~(f) — Opening and closing statements may be made by the parties or their counsel under conditions and limitations fixed by the presiding officer. Briefs may be filed by any party at the discretion of the presiding officer and within the time fixed by him.~~

~~Section 6. — Decisions by the Administrator.~~

~~(a) — Before rendering his decision in a contested case, the Administrator shall consider the entire record or any portion of the record to which the parties have stipulated. If a recommended decision is rendered, all parties shall be afforded a reasonable opportunity to file exceptions thereto which shall become a part of the record. As a matter of right, each party shall be permitted to file a brief with respect to the recommended decision with the Division and oral argument may be allowed at the discretion of the Administrator.~~

~~(b) — A final decision or order adverse to a party in a contested case shall be in writing and shall be served immediately upon each party or upon his attorney or record. The final decision shall contain findings of fact and conclusions of law separately stated. The findings of fact shall be based exclusively on the evidence and matters officially noticed. If the findings of fact are set forth in statutory language, they shall include, also, a concise and explicit statement of the underlying facts supporting the findings. The Administrator shall serve each party with a copy of his decision and findings of fact and conclusions of law.~~

~~Section 7. — Appeals. Judicial review by district courts of the final decision of the Administrator shall be pursuant to W.S. 16-3-114. Review of any final judgment of the district court under W.S. 16-3-101 through 16-3-115 by appeal to the Wyoming Supreme Court shall be taken as in other civil cases.~~

CHAPTER XII
ACCOUNTING AND AUDIT REQUIREMENTS

This Chapter has been repealed.

CHAPTER XII
ACCOUNTING AND AUDIT REQUIREMENTS

This Chapter has been repealed.

~~Section 1. — Accounting Standards.~~

~~(a) — The program shall have adequate accounting records to record and document all transactions that affect an agency's assets, liabilities, and fund balance. The accounting information system should be designed and maintained to ensure recording and documentation of all transactions or events that affect a program's ability to delivery services.~~

~~(b) — Adequate measures of internal control shall be incorporated within a program's accounting system to promote reporting of reliable information about operations and to ensure stewardship over assets.~~

~~Section 2. — Recording and Reporting Standards.~~

~~(a) — Financial information shall be reported on a basis consistent with prior methods classified in a manner that recognizes inherent similarities, differences, and interrelationships.~~

~~(b) — The financial and qualitative information that can be used to influence decision-making shall be disclosed with the financial statement consisting of:~~

~~(i) — State of Financial Position (Balance Sheet);~~

~~(ii) — State of Support Revenue and Expenses (Detailed), in accordance with Chapter 7, Section 2(x)(D) of these rules;~~

~~(iii) — Statement of Changes of Fund Balance;~~

~~(iv) — Related Qualitative Disclosures (Footnotes); and~~

~~(v) — Grant or Contract Compliance Disclosure.~~

~~(c) — All capitalized assets purchased or donated, all liabilities, fund balances, all revenues, all expenses shall be recorded in conformity with generally accepted accounting principles.~~

~~Section 3. — Auditing and Reporting Standards. The financial audit shall be governed by generally accepted auditing standards and other authoritative pronouncements of the profession. Additional reporting requirements have been incorporated to assure the auditor's reviews and test the information system to validate services provided and related cost and grant or contract compliance of services provided. These standards define and clarify the requirements for an independent audit that is an explicitly stated requirement in all contracts entered into by the division and the providers.~~

~~(a) — The following establishes the audit requirements for subgrantees receiving assistance through the State of Wyoming, Department of Health and Social Services, Division of Community Programs. These requirements provide for an annual independent financial and compliance audit of operations. Such audits are to determine whether: (a) the financial operations are conducted properly; (b) the financial statements are presented fairly; (c) the subgrantee has complied with the terms of the contract; (d) the internal procedures have been established to meet the objectives of the programs for which assistance is provided; and (e) the financial reports submitted to the Department of Health and Social Services, Division of Community Programs contain accurate and reliable information presented consistently with the umbrella service for funding rules Chapter 5, Section 3.~~

~~(b) — Audits shall be made in accordance with the General Accounting Office Standards of Audit of Governmental Organizations, Programs, Activities, and Functions, the Guidelines for Financial and Compliance Audits of Federally Assisted Programs and generally accepted auditing standards established by the American Institute of Certified Accountants.~~

~~(c) — All contractors receiving public funds from the Division of Community Programs shall maintain detailed board minutes. Minutes shall include a list of all warrants issued and their amount except that any warrants that may identify individual clients shall be consolidated in such a manner that the individual client cannot be identified. Minutes shall be made available for public inspection during the regular business hours upon request. Minutes shall adhere to all applicable laws, rules, and regulations that apply to confidentiality of client records. This shall not deny use of executive sessions for discussion of sensitive personnel or client matters.~~

~~(d) — All service providers receiving funds from the Division of Community Programs shall annually submit, within 120 days following the close of the service provider's fiscal year, an independent financial and compliance audit with management recommendation letter to the Office of Planning and Administration within the Department of Health and Social Services and to the State Examiners. Audits shall conform to the requirements of W.S. 16-4-102(a)(ix) and 16-4-121 through 16-4-123 and the State Examiner shall review and accept or reject the audit in conformity with W.S. 16-4-123. The scope of the audit shall include a determination of compliance with the terms of service provider contracts and other requirements of W.S. 35-1-620 otherwise requested by the Department of Health and Social Services or the Division of Community Programs. The service providers shall make copies of the audit available to the general public on request. Funds audited under subsection (d) of this Section shall include:~~

~~(i) — Funds from the division;~~

~~(ii) — State general funds from the Division of Vocational Rehabilitation, the Division of Public assistance and Social Services, and the Division of Health and Medical Services;~~

~~(iii) — All federal funds;~~

~~(iv) — All county funds; and~~

~~(v) — All funds received from private sources.~~

~~(e) — The audit requirements fulfill the requirements for the annual financial and expenditure report (Chapter 7, Rule 10C) only when the contract and fiscal year end correspond to the state fiscal year end June 30.~~

~~Section 4. — Determining Compliance.~~

~~(a) — The decision of the administrator on whether or not a program has complied with the provisions in this Chapter will be based on the State Examiner's acceptance or rejection of the audit and a written assessment by the Budget Office of the Department of Health and Social Services that the program's accounting system is in compliance with the standards established in this Chapter.~~

~~(b) — If a program is found to be in noncompliance, the administrator shall notify the chairman of the board of the program by certified mail of the deficiencies and outline the necessary corrective action and timeline for corrective action.~~

~~(c) — In the event that a program fails to bring about compliance in a timely manner, the Division of Community Programs may withhold contract payments in accordance with the division contract with the provider or terminate the contract in accordance with these rules.~~

~~(d) — The decision of the administrator on issues of compliance with this Chapter is final.~~