TITLE 33 - PROFESSIONS AND OCCUPATIONS

CHAPTER 1 - LICENSING GENERALLY

ARTICLE 1 - IN GENERAL

33-1-101. Sheriff to furnish licenses and collect fees.

It shall be the duty of the sheriff of each county to furnish all licenses and collect all moneys for the same as hereinafter provided, and if the sheriff of any county shall knowingly permit any person subject to such license to conduct or carry on any branch of business, occupation or pursuit without first obtaining such license, such sheriff shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law in case of similar offenses.

33-1-102. Licenses to be prepared by county clerk; contents of licenses; disposition of moneys.

Licenses shall be prepared by the county clerk and shall be delivered to the sheriff of the county wherein they shall be issued, and each license shall contain the name of the person and the character and place of business to be conducted under such license; and it shall be the duty of the county clerk to affix his official signature and the seal of the county to such license, which license shall be countersigned by the county treasurer or his deputy, before being issued by the sheriff, and all moneys collected under and for such license shall be paid by the sheriff into the county treasury within fifteen (15) days from the date of said license.

33-1-103. Clerk to keep abstract of licenses; inspection by commissioners.

It shall be the duty of the county clerk to keep on file in his office, and submit for the inspection of the county commissioners at each of their regular sessions, a faithful and correct abstract containing full information of all licenses so issued to the sheriff, and neglect to comply with the provisions of this section shall be deemed a misdemeanor and shall be punished as provided by law.

33-1-104. County treasurer to make report of license receipts.

It shall be the duty of the county treasurer of each county to furnish to the county commissioners at each of their regular sessions a full and complete statement of all moneys received for licenses issued, as provided in W.S. 33-1-103, failure or neglect on the part of the treasurer to comply with the provisions of this section shall be deemed a misdemeanor, and shall be punished as provided by law.

33-1-105. License money to be credited to general fund.

All money collected for licenses, as provided for by this act, shall constitute a portion of, and be credited to, the general county fund.

33-1-106. Certain licenses payable to incorporated towns.

All licenses issued by any county in this state for the sale of liquors, or for owning or keeping a billiard table, or any table used for pool or bagatelle, and all licenses issued by the counties for any other game or games, not prohibited by the laws of this state, when the licensee shall be a resident of and carrying on the business for which he is licensed within the corporate limits of any incorporated town, city or village, the license shall be collected by the city marshal or collecting officer of the incorporated town, city or village, for the purposes mentioned in this section. It shall be the duty of the collecting officer, between the first and fifteenth days of each month, to pay into the treasury of such incorporated town, city or village, all monies collected for the licenses, which monies shall be applied to the general revenue purposes of the incorporated town, city or village.

33-1-107. Repealed By Laws 2014, Ch. 110, § 101.

33-1-108. Repealed By Laws 2014, Ch. 11, § 101.

33-1-109. Disposition of fines.

Every magistrate or other officer to whom any fines imposed under general laws of the state shall be paid for the use of the county, shall, at each regular meeting of the board of county commissioners, make a report of the total amount so collected, and all fines so collected shall be paid into the county treasury for the credit of the public school fund of the county, within thirty (30) days after collection thereof.

33-1-110. Failure of officer to report fines.

Any magistrate or other officer neglecting, omitting or refusing to comply with the provisions of W.S. 33-1-109 shall be guilty of a misdemeanor, and shall be punished as provided by law.

33-1-111. Informers may testify.

Persons prosecuting or giving information under the provisions of this act may be competent witnesses on the trial thereof, notwithstanding their interest in the penalty to be recovered.

33-1-112. Penalties may be recovered by action.

Penalties incurred by a violation of the provisions of this act may be recovered by action of debt in the name of the county prosecuting the same, or by indictment or complaint in the name of the people of the state of Wyoming.

33-1-113. Unpaid licenses.

If any sheriff fail, from causes not within his control to collect the amount payable on any license issued as provided in W.S. 33-1-101, after such license has been issued, such license shall be returned to the county treasurer within twenty (20) days after the issuance thereof, and it shall be the duty of said county treasurer to note the fact of such failure to collect, and to return the license to the office of the county clerk at the next regular session of the board of county commissioners; said license shall be cancelled or destroyed by said board of county commissioners.

33-1-114. License applications; social security numbers required; exception.

Except as otherwise specifically provided by statute, a board or commission authorized to establish examination, permit or license application requirements for any profession or occupation regulated under this title shall require applicants for new licenses, certificates of registration or renewals of licenses or certificates to include the applicant's social security number on the application form.

33-1-115. Professional assistance programs for health care providers and others as specified; confidentiality of records.

(a) As used in this section:

(i) "Health care provider" means a person who is licensed, certified or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession, and for purposes of this section also includes a pharmacist, pharmacy technician or veterinarian;

(ii) "Licensee" means:

(A) Any individual holding a permit or license as a health care provider as a profession or occupation regulated under this title;

(B) Any individual admitted to the Wyoming state bar; or

(C) Any individual teaching in a public school pursuant to a certificate or permit issued under the laws of this state by the Wyoming professional teaching standards board.

(iii) "Professional assistance program" or "program" means a program or activity relating to mental or behavioral health referral or treatment and to drug or alcohol abuse prevention, referral, treatment or rehabilitation, which is directly or indirectly assisted by a board or commission or other organization established under this title for the regulation of licensees or the Wyoming state bar or the Wyoming professional teaching standards board established under W.S. 21-2-801.

(b) Any information pertaining to the identity, diagnosis, prognosis, referral or treatment of any licensee possessed in connection with the performance of any professional assistance program shall be confidential and shall not be disclosed except under the circumstances expressly authorized by subsections (c) and (d) of this section.

(c) The content of any record referred to in subsection (b) of this section may be disclosed in accordance with the prior written consent of the licensee with respect to whom the record is maintained.

(d) Whether or not the licensee gives his written consent, the content of the record may be disclosed as follows:

(i) To medical personnel to the extent necessary to meet a bona fide medical emergency;

(ii) For the purpose of conducting research or program evaluations, provided that the record may not identify any individual in the program;

(iii) As required to report under state law incidents of suspected child abuse or neglect to the appropriate authorities;

(iv) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefore;

(v) If compelled in an administrative action before a board or commission to enforce its laws, rules, regulations or permit or license requirements, unless the disclosure would violate federal law; or

(vi) To the state board or commission regulating the licensee, if the diagnosis or prognosis determines a clearly definable mental or behavioral health problem or drug or alcohol abuse problem and the licensee refuses to seek treatment.

(e) A court order under this section may authorize disclosure of confidential information only with notice to the professional assistance program and, after an opportunity for response and an in camera review if necessary, the court finds:

(i) The disclosure is necessary to protect against an existing threat to life or of serious bodily injury;

(ii) The disclosure is necessary in connection with investigation or prosecution of an extremely serious crime such as one which directly threatens loss of life or serious bodily injury; or

(iii) The disclosure is in connection with litigation or an administrative proceeding in which the patient offers testimony or other evidence pertaining to the content of the confidential communications.

(f) Except as provided in this section, referrals to a professional assistance program shall be absolutely privileged and no lawsuit predicated thereon may be instituted. The program, its board members, employees and agents shall be immune from suit for conduct within the scope of their functions without malice and in the reasonable belief that their actions

were warranted, including conduct and actions performed by the terms of a contract with a state board or commission.

(g) The department of health shall provide assistance to any certifying, permitting or licensure board that desires to establish professional assistance programs as defined under this section.

33-1-116. Repealed by Laws 2025, ch. 81, § 2.

33-1-117. Expedited licenses and temporary permits for military service members and military spouses.

(a) As used in this section:

(i) "Active" means a status of occupational or professional licensure which has not been suspended, revoked or terminated and which is not otherwise inactive;

(ii) "Applicant" means a military service member or military spouse seeking licensure from a professional or occupational licensing board of this state;

(iii) "Good standing" means a status of occupational or professional licensure which is in compliance with all requirements imposed by the issuing licensing, certification or registration authority;

(iv) "License" means any license, certificate or registration required to practice an occupation or profession;

(v) "Military service member" means an active member of the uniformed services as defined in W.S. 8-1-102(a)(xxii) or a person released from military service within two (2) years of applying for licensure, certification or registration pursuant to this section and whose service was characterized upon release as honorable;

(vi) "Military spouse" means the spouse of a military service member as defined in paragraph (v) of this subsection who has been transferred or is scheduled to be transferred to Wyoming, is domiciled in Wyoming or has moved to Wyoming on a permanent change-of-station basis;

(vii) "Military service" means service in the uniformed services as defined in W.S. 8-1-102(a)(xxii).

(b) A professional or occupational licensing board shall issue an expedited license to a military service member or military spouse within thirty (30) days of receiving a completed application or within thirty (30) days after an applicant's request, without filing a completed application, if the applicant holds a relevant, active occupational or professional license in good standing from another jurisdiction for not less than five (5) consecutive years. An expedited license issued under this subsection would allow the military service member or military spouse to lawfully practice a profession or occupation requiring licensure in this state if the military service member or military spouse:

(i) Holds a relevant, active occupational or professional license in good standing from another state and provides a military identification card, their spouse's military identification card or a marriage license as proof of being a military service member or military spouse;

(ii) Repealed by Laws 2025, ch. 81, § 2.

(iii) Has not engaged in any act that would constitute grounds for refusal, suspension or revocation of the occupational or professional license sought in this state; and

(iv) Completes all required application procedures and pays any required fee;

(v) Provides a copy of military orders for military service in this state, or evidence of an honorable service characterization upon release from military service, and submits to the authority of the licensing authority in this state for purposes of standards of practice, discipline and fulfillment of any continuing education requirements.

(c) All relevant work experience of a military spouse applicant, including full-time or part-time experience, regardless of whether in a paid or volunteer capacity, may be credited in any work experience requirement adopted by an occupational or professional licensing board.

(d) This section shall apply to all applications for licensure under W.S. 21-2-802 or under title 33 of the Wyoming statutes except title 33, chapter 5, attorneys at law and applications to any board which represents a profession with prescriptive drug authority.

(e) Pursuant to rules which shall be adopted for this purpose, a professional or occupational licensing board may issue a temporary practice permit to a military service member or military spouse applicant who meets the requirements of paragraph (b)(i) of this section and who has applied for a professional or occupational license under this section. The military service member or military spouse applicant may practice under the temporary permit for a period not to exceed three (3) years provided the military service member or military spouse is making progress toward satisfying the unmet licensure requirements, or until the professional or occupational license for which they have applied has been either granted or denied, whichever first occurs. A board shall not charge a military service member or military spouse any fees for a temporary permit under this subsection.

(f) Professional or occupational licensing boards shall adopt rules necessary to implement this section, including the implementation of online applications for licensure and professional or occupational licensing by reciprocity for military service members or military spouses.

(g) On each licensure application or renewal form, a professional or occupational licensing board shall inquire and maintain a record of whether an applicant is a member of the military or is a military spouse. If an applicant self-identifies as and provides the board with satisfactory proof that the applicant is a military service member or military spouse, the board shall immediately commence the process of issuing a license or temporary permit and shall issue the license or temporary permit within thirty (30) days of receiving an application.

(h) In determining whether a military service member applicant's education and training meet a professional or occupational licensing board's respective educational and training requirements, the board shall consider any relevant education, training and experience received by the applicant as a member of the armed forces or reserves of the United States, the national guard of any state, the military reserves of any state or the naval militia of any state.

(j) Any emergency medical service license sought under W.S. 33-36-110 through 33-36-113 by a veteran of military service, by a military service member except a member of the national guard, by a national guard member separating from an active duty tour or by the spouse of any of these persons shall

be processed and considered pursuant to the requirements of the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202.

(k) Except as otherwise provided in this section, military service member and military spouse applicants shall be subject to the other provisions of this title and to any requirements properly adopted by the professional or occupational licensing board to which the applicant has applied.

(m) A professional or occupational licensing board shall issue a temporary license to a military service member or military spouse after receiving a completed application under this section, but while the application is pending review by the board, if the applicant holds a relevant, active occupational or professional license in good standing from another jurisdiction for not less than three (3) consecutive years. The military service member or military spouse applicant may practice under the temporary license for a period not to exceed ninety (90) days. A board shall not charge a military service member or military spouse any fees for a temporary license under this subsection.

33-1-118. Health care licensing boards; authority to discipline licensees for sexual misconduct.

(a) A board which licenses health care providers may refuse to issue or renew, or may suspend or revoke the license, certificate or temporary permit of any licensee or certificate holder, or otherwise discipline a licensee or certificate holder, upon clear and convincing evidence that the licensee or certificate holder has committed sexual misconduct.

(b) As used in this section:

(i) "Health care provider" means an individual who is licensed, certified or otherwise authorized or permitted by the laws of this state to provide care, treatment, services or procedures to maintain, diagnose or otherwise treat a patient's physical or mental condition;

(ii) "Sexual misconduct" means:

(A) Any behavior by a licensee that involves offers of exchange of medical services for some form of sexual gratification; or

(B) Sexual contact or sexual intrusion, as defined in W.S. 6-2-301(a), that occurs while the patient is under the care of the licensee.

33-1-119. Applicability of Medical Digital Innovation Sandbox Act.

The Medical Digital Innovation Sandbox Act shall apply to the chapters within this title listed in W.S. 40-28-102(a).

33-1-120. Professional and occupational licensure for qualified individuals licensed in other jurisdictions.

(a) As used in this section:

(i) "Active" means a status of occupational or professional licensure which has not been suspended, revoked or terminated and which is not otherwise inactive;

(ii) "Applicant" means a natural person seeking licensure from a professional or occupational licensing board of this state;

(iii) "Good standing" means a status of occupational or professional licensure which is in compliance with all requirements imposed by the issuing licensing, certification or registration authority;

(iv) "License" means any license, certificate or registration required to practice an occupation or profession.

(b) A professional or occupational licensing board shall issue a license to an applicant to allow the applicant to lawfully practice a profession or occupation requiring licensure in this state if the Wyoming licensing board determines that the applicant:

(i) Holds a relevant, active occupational or professional license in good standing from another state that mandates substantially equivalent or more stringent educational, training, examination and experience requirements for licensure than the licensing entity in this state. Substantial equivalency shall be determined pursuant to rules adopted by the licensing board in Wyoming provided that:

(A) The educational equivalency shall be determined by whether the degree required is a doctorate, master, bachelor, associate or other degree with curriculum deemed substantially equivalent by the licensing board;

(B) If the Wyoming licensing board requires an examination for licensure, the substantially equivalent examination requirement may be met by passing the same or an earlier version of the exam. The Wyoming licensing board shall waive this requirement if the individual has been licensed for more than ten (10) years;

(C) In evaluating any work experience requirements the provisions of subsection (c) of this section shall apply;

(D) In addition to any exam required under subparagraph (B) of this paragraph the Wyoming licensing board may require an examination relating to the specifics of Wyoming law and regulations regardless of the length of time the individual has been licensed.

(ii) Demonstrates competency in the occupation or profession for which the applicant seeks licensure. Competency shall be determined pursuant to rules that shall be adopted for that purpose and may include consideration of continuing education credits, recent work experience, prior licensing examinations, disciplinary actions taken against the applicant in other states and other appropriate factors;

(iii) Has not engaged in any act that would constitute grounds for refusal, suspension or revocation of the occupational or professional license sought in this state; and

(iv) Has completed all required application procedures and paid any required fee.

(c) All relevant work experience of an applicant, including full-time or part-time experience, regardless of whether in a paid or volunteer capacity, may be credited in any work experience requirement adopted by an occupational or professional licensing board.

(d) This section shall apply to all applications for licensure under W.S. 21-2-802 or under title 33 of the Wyoming statutes except for the following:

(i) An application to be an attorney at law under chapter 5 of title 33;

(ii) An application to any board which represents a profession with prescriptive drug authority, but only with respect to the profession with the prescriptive drug authority.

(e) Nothing in this section shall be held to limit the rights or privileges of a military service member under W.S. 33-1-116.

ARTICLE 2 - FEES

33-1-201. Fees generally.

(a) Except as otherwise specifically provided by statute, a board or commission authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under title 23 shall establish those fees in accordance with the following:

(i) Fees shall be established by rule or regulation promulgated in accordance with the Wyoming Administrative Procedure Act;

(ii) Fees shall be established in an amount to ensure that, to the extent practicable, the total revenue generated from the fees collected approximates, but does not exceed, the direct and indirect costs of administering the regulatory provisions required for the profession or occupation under this title;

(iii) The board or commission shall maintain records sufficient to support the fees charged.

33-1-202. Disposition of fees and interest.

(a) Except as otherwise specifically provided by statute:

(i) All fees and monies received and collected by the boards or commissions under this title and under W.S. 11-25-201(d), 21-2-802(d) and 23-2-414(d) shall be deposited into the state treasury and credited to each board's or commission's respective account as created by statute;

(ii) The interest on all fees and monies collected by the boards or commissions under this title and under W.S. 11-25-

201(d), 21-2-802(d) and 23-2-414(d) shall be credited as follows:

(A) An amount equal to the first fifty percent (50%) of the interest earned from the previous year shall be deposited into an account within the enterprise fund to be used to fund legal services provided to the boards and commissions by the attorney general; and

(B) The remainder of the interest shall be deposited in each board's or commission's respective account as created by statute.

ARTICLE 3 - GENERAL PROCEDURES FOR LICENSURE BOARDS

33-1-301. Purpose and scope.

(a) The purpose of this article is to establish procedures for the operation of boards authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under W.S. 11-25-201, 21-2-802 and 23-2-414.

(b) The provisions of this article supplement the statutes related to the specific board and profession regulated. If the statutes governing a board or regulated profession are silent or unclear the provisions of this article shall be applied. The statutes governing the operation or creation of a specific board or commission are effective and controlling to the extent they conflict with a provision of this article.

33-1-302. Duties of licensure boards.

(a) Except as otherwise specifically provided by statute, a board authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under W.S. 11-25-201, 21-2-802 or 23-2-414 shall:

(i) Prescribe and enforce rules, regulations and policies for its own government consistent with the laws of the state and rules and regulations;

(ii) Keep minutes of all meetings at which official action is taken and a record of all official acts;

(iii) Fix the time and place of regular meetings, provided, that there shall be at least one (1) meeting per year;

(iv) Require adequate internal control structures to ensure the processing and accounting of all financial transactions and, at a minimum, conduct periodic audits of internal controls and financial transactions. Periodic audits conducted under this paragraph may be performed by the department of audit or an independent audit firm retained by the board. The audits shall be performed at intervals as designated by the department of audit in consultation with the board. The audit shall determine:

(A) Whether expenditures are made for the benefit of the state;

(B) Repealed by Laws 2016, ch. 58, § 2.

(C) Whether expenditures are made in compliance with applicable statutes, rules and regulations which govern the specific board or profession; and

(D) Whether revenue transactions and cash handling procedures are reasonable for the volume and manner in which revenues are received.

(v) Provide a copy of the audit required by paragraph (iv) of this subsection to the department of audit and the state auditor. In the event the audit was conducted by the department of audit, a copy of the audit shall be retained by the department of audit and a copy shall be provided to the state auditor;

(vi) Prohibit members from receiving compensation as an employee of the board or commission including but not limited to positions of executive director, administrative assistant or other employee serving in a similar capacity;

(vii) Compensate each member for per diem and mileage for attending and traveling to and from meetings, hearings and other activities necessary in the performance of the duties of the office in the same manner and amount as members of the Wyoming legislature. Members who are state employees that receive compensation from their employers for activities performed pursuant to this title or under W.S. 11-25-201, 21-2-802 or 23-2-414 shall not receive additional compensation but shall receive mileage and per diem as provided under this paragraph if they are not reimbursed by their employers;

(viii) Receive budget, fiscal, administrative and clerical service from the department of administration and information as provided in W.S. 9-2-3202(b) and 9-2-1707(b)(iii), except as provided hereinafter. The licensure board or commission shall pay a reasonable rate established by rule and regulation of the department of administration and information for services necessary to support the operation of the licensure board or commission. A board or commission may terminate services described herein upon demonstration to the department of administration and information, in the manner and form determined sufficient by the department of administration and information, that the board or commission is financially independent and able to secure staff to perform the functions necessary for independent operation;

(ix) If applicable, pay the amount determined appropriate for any cost allocation program supporting licensure boards as determined by the state budget department as provided in W.S. 9-2-1004(c).

33-1-303. Powers of licensure boards.

(a) Except as otherwise specifically provided by statute, a board authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under W.S. 11-25-201, 21-2-802 or 23-2-414 may:

(i) Enter into agreement with any public or private agency, institution, person or corporation for the performance of acts or furnishing of services or facilities by or for the board or commission;

(ii) Delegate temporary licensure authority to licensure board members or staff to be reviewed and approved by the full board;

(iii) Seek injunctive relief to prevent individuals from practicing without a license;

(iv) Adopt rules and regulations allowing the practice of telemedicine/telehealth and the use of telemedicine/telehealth technologies within an applicable profession or occupation consistent with the profession's or occupation's duties and obligations. For purposes of this paragraph, telemedicine/telehealth shall be defined within each promulgated rule in a manner applicable to the individual profession or occupation and in a manner which facilitates the

development and promotion of uniform, system wide standards for the practice of telemedicine/telehealth and the use of telemedicine/telehealth technologies. Any board promulgating rules under this paragraph shall first confer with the office of rural health for the purpose of promoting the goals established by W.S. 9-2-117(a)(vi) through (viii).

(b) A board authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under W.S. 21-2-802 or 23-2-414 may waive or modify statutory examination or continuing education requirements or other statutory requirements for licensure or permitting if:

(i) The examination is not being given or is not practicably available;

(ii) Continuing education opportunities are not practicably available; or

(iii) The statutory requirement could not be met due to public health orders or weather conditions.

(c) The relevant licensing or certifying authority may impose reasonable or necessary restrictions or requirements on a license, certification or practice authority affected by a waiver or modification granted pursuant to subsection (b) of this section.

(d) If the duration of a waiver or modification granted pursuant to subsection (b) of this section exceeds two (2) years, the relevant licensing or certifying authority shall report the matter to the appropriate legislative committee and recommend any appropriate related statutory amendments. For health related occupations the relevant committee shall be the joint labor, health and social services interim committee and for all other matters the relevant committee shall be the joint corporations, elections and political subdivisions interim committee. No waiver or modification granted under subsection (b) of this section shall have a duration of more than four (4) years.

33-1-304. Considering criminal convictions; pre-application determinations.

(a) Except as specifically required by its licensure, certification or registration statutes, every board, commission,

commissioner or authority authorized to establish examination, inspection, permit, license, certification or registration requirements or fees for any profession or occupation regulated under this title or under W.S. 7-4-211, 11-25-201, 15-5-103, 17-4-406, 21-2-802, 23-2-414, 26-4-101 or 40-22-109 and who considers criminal convictions as part of its regulatory duties shall not consider prior convictions that do not affect the practice of the profession or occupation or the ability to practice the profession or occupation regulated by the board, commission, commissioner or authority. Specifically, the board, commission, commissioner or authority may cite as state policy the following:

(i) It is public policy to reduce recidivism by addressing barriers to employment and encouraging appropriate employment and licensure of persons with arrest and conviction records;

(ii) It is public policy to consider whether the elements of an offense are directly related to the specific duties and responsibilities of that profession or occupation;

(iii) It is public policy to consider whether the profession or occupation offers the opportunity for the same or a similar offense to occur;

(iv) It is public policy to consider the relationship of the offense to the purposes of regulating the profession or occupation; and

(v) It is public policy to consider whether there is ample opportunity for a person denied a license due to a prior criminal conviction to appeal the denial.

(b) A board or commission licensing, certifying or registering a person to practice or perform a profession or occupation that heals or treats humans:

(i) May always determine that a crime of violence or sexual misconduct is relevant to the ability to practice the profession or occupation, but in making a licensing, certification or registration decision may consider the circumstances of the offense;

(ii) Shall refuse to issue or shall permanently revoke a license of any person convicted under W.S. 6-2-502(a)(v).

(c) No board, commission, commissioner or authority authorized to regulate through licensure, certification or registration a profession or occupation under this title, or under W.S. 7-4-211, 11-25-201, 15-5-103, 17-4-406, 21-2-802, 23-2-414, 26-4-101 or 40-22-109, shall consider evidence of any conviction more than twenty (20) years old, or for a lesser period of time if expressly provided by statute, when analyzing a person's criminal history pursuant to the board's, commission's, commissioner's or authority's regulatory duties, except when:

(i) The sentence, including all incarceration, parole and probation, for the conviction is incomplete or has been completed within fewer than the last ten (10) years; or

(ii) The conviction is related to the duties and responsibilities of the profession or occupation or as otherwise permitted by licensure, certification or registration statutes.

(d) Any board, commission, commissioner or authority shall be immune from civil liability for acting in accordance with this section with regard to licensing, certifying or registering a person to practice or perform a profession or occupation.

(e) Any person who has been previously convicted of a crime may at any time apply to a board, commission, commissioner or authority authorized to establish examination, inspection, permit, license, certification or registration requirements for any profession or occupation regulated under this title or under W.S. 7-4-211, 11-25-201, 15-5-103, 17-4-406, 21-2-802, 23-2-414, 26-4-101 or 40-22-103 for a determination as to whether one (1) or more of the person's criminal convictions will prevent the person from receiving a license, certification or registration. Each board, commission, commissioner or authority may by rule establish a procedure by which an application submitted under this subsection is reviewed and may by rule delegate the authority to review an application to a staff member of the board, commission, commissioner or authority. A board, commission, commissioner or authority may request criminal history background information for purposes of reviewing an application under this subsection in accordance with W.S. 7-19-106(a)(xxxix). The board, commission, commissioner or authority may by rule establish and charge a reasonable fee to recover the costs of researching and developing a determination under this subsection, provided that any fee shall not exceed the costs of providing the determination under this subsection. A

determination made by a board, commission, commissioner or authority under this subsection shall not be binding upon the board, commission, commissioner or authority.

ARTICLE 4 - PRESCRIBING AND DISPENSING DRUGS FOR OFF-LABEL INDICATION

33-1-401. Definitions.

(a) As used in this article:

(i) "Disciplinary action" means any action taken by a health related licensing board against a licensee, including but not limited to revocation, limitation, suspension or denial of a license or any other disciplinary action taken by a health related licensing board against a licensee;

(ii) "Off-label indication" means drug treatments for conditions other than those stated in the labeling approved by the United States food and drug administration;

(iii) "Pharmacist" means any person licensed by the board of pharmacy under title 33, chapter 24 of the Wyoming statutes to practice pharmacy;

(iv) "Prescriber" means a physician or a physician assistant licensed under title 33, chapter 26 of the Wyoming statutes, a dentist licensed under title 33, chapter 15 of the Wyoming statutes, an optometrist licensed under title 33, chapter 23 of the Wyoming statutes or an advanced practice registered nurse licensed under title 33, chapter 21 of the Wyoming statutes.

33-1-402. Prescribing drugs for off-label indication; exception.

(a) Notwithstanding any other law, a prescriber may lawfully prescribe a United States food and drug administration approved prescription drug for off-label indication, and a pharmacist is authorized to dispense a prescribed drug for off-label indication within their scope of practice pursuant to a valid prescription order.

(b) This section shall not apply to prescriptions for substances that are:

(i) Listed as schedule I or schedule II controlled substances under federal law or the Wyoming Controlled Substances Act of 1971;

(ii) Intended to transition a minor's biological sex as determined by the sex organs, chromosomes and endogenous profiles of the minor or affirm the minor's perception of the minor's sex if that perception is inconsistent with the minor's biological sex;

(iii) Intended to induce an abortion.

33-1-403. Professional conduct.

(a) Notwithstanding any other law, a prescriber or pharmacist shall not face any adverse action from a health related licensing board, including disciplinary action, solely on the basis that a prescriber prescribed a United States food and drug administration approved prescription drug for off-label indication, or a pharmacist dispensed a prescription drug prescribed for off-label indication pursuant to a valid prescription order pursuant to this article.

(b) Notwithstanding any other law, any recommendation, prescription, use or opinion of a prescriber or pharmacist related to medical treatment that is not regulated by a health related licensing board, the department of health, a professional association or the United States food and drug administration, shall not be considered unprofessional conduct.

CHAPTER 2 - ABSTRACTORS

33-2-101. Abstractor to have complete set of abstracts and give bond.

Hereafter no person, company or corporation shall engage in or carry on the business of making or furnishing abstracts of title to any real estate within this state, without first having a full and complete set of abstract records of title of all the real estate situated in the county in which such business is carried on; or, in case such abstract business is limited to furnishing abstracts of real estate situated in an incorporated city or town, in such case a complete set of abstracts of all real estate in such city or town shall be kept, and such person, company or corporation shall also first enter into bond to the people of the state of Wyoming for the use of any person who shall sustain loss or damage by reason of the failure of any

such person, company or corporation in the performance of his or their duty as such abstractor. Said bond shall be in the penal sum of ten thousand dollars ($10,000.00), with sufficient sureties, to be approved by and filed with the county clerk of such county, and conditioned for the faithful performance of his or their duty as such abstractor.

33-2-102. Penalty.

Any person, company or corporation who shall carry on or attempt to carry on any business mentioned in section one of this act and who shall fail, neglect or refuse to fully comply with the provisions of this act shall, upon conviction thereof, be fined in the sum of five hundred dollars ($500.00), for each and every offense.

CHAPTER 3 - ACCOUNTANTS

ARTICLE 1 - IN GENERAL

33-3-101. Citation.

This act may be cited as the "Certified Public Accountant's Act of 2005". This act applies only to certified public accountants and certified public accountant firms and those who hold themselves out to be a certified public accountant or a certified public accountant firm.

33-3-102. Definitions.

(a) As used in this act:

(i) "Board" means the Wyoming board of certified public accountants created by W.S. 33-3-103;

(ii) "State" means any state of the United States excluding Wyoming, any territory or insular possession of the United States or the District of Columbia;

(iii) Masculine terms when used in this act shall include the feminine;

(iv) "Permit" means a permit to engage in the practice of public accounting as a "certified public accountant firm" issued by the board under W.S. 33-3-118 and 33-3-120 which has not expired, been revoked or suspended;

(v) "Examination" means a written examination described in W.S. 33-3-109(a)(iv);

(vi) "Attest service" means any of the financial statement services described in the following subparagraphs. The statements on standards specified in the following subparagraphs shall be adopted by reference by the board pursuant to the Wyoming Administrative Procedure Act and shall be those developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants and the public company accounting oversight board:

(A) Any audit or other engagement performed in accordance with the statements on auditing standards;

(B) Any review of a financial statement to be performed in accordance with the statements on standards for accounting and review services;

(C) Any examination of prospective financial information to be performed in accordance with the statement on standards for attestation engagements;

(D) Any engagement to be performed in accordance with the auditing standards of the public company accountancy oversight board;

(E) Any examination, review or agreed upon procedures engagement to be performed in accordance with the statement on standards for attestation engagements other than examinations described in subparagraph (C) of this paragraph.

(vii) "Certificate" means a certificate as "certified public accountant" issued under this act or corresponding provisions of prior law, or a corresponding certificate as certified public accountant issued after examination under the law of any other state;

(viii) "Certified public accountant firm" means any form of organization allowed by state law that has been issued a permit under this act;

(ix) "Compilation service" means providing a service to be performed in accordance with the statements on standards for accounting and review services the objective of which is to assist management in the presentation of financial statements

and to report on that information without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements in order for them to be in accordance with the applicable financial reporting framework;

(x) "Home office" means the location specified by the client as the address to which a service described in W.S. 33-3-116(a)(iv) is directed;

(xi) "License" means an active certified public accountant certificate or any other comparable document issued by any other state based on completing education, examination and experience requirements;

(xii) "NASBA" means the national association of state boards of accountancy;

(xiii) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity;

(xiv) "Substantial equivalency" is a determination by the board or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements of W.S. 33-3-116(c)(i) or that an individual certified public accountant's education, examination and experience are comparable to or exceed the education, examination and experience requirements of W.S. 33-3-116(c)(i). In ascertaining substantial equivalency the board shall take into account the qualifications without regard to the sequence in which experience, education or examination requirements were attained;

(xv) "This act" means W.S. 33-3-101 through 33-3-201.

33-3-103. Wyoming board of certified public accountants; creation; members; vacancies; removal; reappointment.

There is created a Wyoming board of certified public accountants. The board shall consist of five (5) members appointed by the governor. Members of the board shall be citizens of the United States and residents of Wyoming. Four (4) members of the board shall be persons who hold certified public accountant certificates issued under the laws of Wyoming and are in good standing as certified public accountants. One (1) member

of the board shall be a member of the general public. The members of the board first to be appointed shall hold office, one (1) for one (1) year, two (2) for two (2) years and two (2) for three (3) years from July 1, 1975, the term of each to be designated by the governor. Their successors shall be appointed for terms of three (3) years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and qualified. The governor shall remove any member from the board whose certificate has been revoked or suspended, and may remove any member of the board as provided in W.S. 9-1-202. No person, who has served two (2) successive complete terms of one (1), two (2) or three (3) years is eligible for reappointment until after the lapse of one (1) year. An appointment to fill an unexpired term is not considered a complete term.

33-3-104. Board chairman; board secretary; regulations; quorum; seal; records.

The board shall elect annually a chairman and a secretary from its members. The secretary shall report to the board regarding revenue receipts and review reports of all fees and other money received by the board. A majority of the board shall constitute a quorum for the transaction of business. The board shall have a seal which shall be judicially noticed. The board shall keep records of its proceedings. The board may employ personnel and arrange for any assistance it may require in the performance of its duties.

33-3-105. Register; contents.

The board shall maintain on its website a register that contains the names of all certified public accountants, the names of the members of the board and other matters deemed proper by the board.

33-3-106. Compensation of board members; expenses.

Each member of the board shall receive as salary the sum paid each day to members of the state legislature, for each day spent in the discharge of his official duties and mileage and per diem allowance as provided in W.S. 33-1-302(a)(vii). Compensation, reimbursement of expenses and all other obligations incurred by the board shall be paid from the certified public accountant's account.

33-3-107. Fees; collection; certified public accountant's account; disbursements; transfer of existing funds.

All fees collected under the provisions of this act shall be remitted by the board to the state treasurer according to policy set by the state treasurer. The state treasurer shall deposit all collections and other funds of the board in a separate account. All funds of any organization of certified public accountants held by the Wyoming state treasurer on the effective date of this act shall be transferred to and become a part of the certified public accountant's account.

33-3-108. Rules and regulations; procedure.

(a) The board shall prescribe rules and regulations not inconsistent with the provisions of this act as it deems consistent with, or required by, the public welfare. The rules and regulations shall include:

(i) Rules of procedure for governing the conduct of matters before the board;

(ii) Rules of professional conduct for establishing and maintaining high standards of competence and integrity for certified public accountants in the profession of public accountancy;

(iii) Regulations governing educational and experience requirements for issuance of the certificate of certified public accountant, and further educational requirements, and not exceeding one hundred twenty (120) hours for each three (3) year period, to be met from time to time by certificate holders in order to maintain their professional knowledge and competence, as a condition to continuing in the practice of public accountancy as a certified public accountant;

(iv) Regulations governing certified public accountant firms practicing public accounting which use the title "certified public accountant", including but not limited to rules concerning style, name, title and affiliation with any other organization;

(v) Rules governing the determination of substantial equivalence for practice privileges or the issuance of certificates;

(vi) Rules exempting certificate holders from maintaining active, inactive or retired status as determined by the board;

(vii) Rules establishing miscellaneous fees and fee collection relating to licensing and enforcement operations in accordance with W.S. 33-1-201.

(b) All rules and regulations of the board shall be promulgated in compliance with the Wyoming Administrative Procedure Act.

33-3-109. Certified public accountant; qualifications.

(a) An active certificate of "certified public accountant" shall be granted by the board to any person:

(i) Who is a resident of Wyoming or has a place of business in Wyoming, or as an employee, is regularly employed in Wyoming; and

(ii) Who has attained the age of majority in Wyoming; and

(iii) Repealed by Laws 2005, ch. 1, § 2.

(iv) Who has passed a written examination in accounting and auditing and other related subjects the board determines to be appropriate; and

(v) Who, prior to January 1, 2012, meets the requirements of subparagraphs (A) and (B) or subparagraphs (C) and (D) of this paragraph or, on or after January 1, 2012, meets the requirements of subparagraphs (C) and (D) of this paragraph:

(A) Earned a baccalaureate degree conferred by a college or university recognized by the board, with a total education program to include an accounting concentration or equivalent as determined to be appropriate by the rules and regulations of the board, or what the board determines to be substantially the equivalent of the foregoing;

(B) Completed at least four (4) years of full-time experience in the practice of public accounting. The experience shall include providing any type of service or advice involving the use of accounting skills, any auditing, review or compilation service, any management advisory or financial

advisory service, or any tax or consulting service. Experience shall be verified by an active certified public accountant or the equivalent as determined by the board, or by providing representative samples of work as determined by the board. The experience shall be acceptable if it is gained through employment in government, industry, academia or public accounting;

(C) Completed at least one hundred fifty (150) semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined to be appropriate by the rules and regulations of the board;

(D) Completed at least one (1) year of full-time experience in the practice of public accounting. The experience shall include providing any type of service or advice involving the use of accounting skills, any auditing, review, or compilation service, any management advisory or financial advisory service, or any tax or consulting service. Experience shall be verified by an active certified public accountant or the equivalent as determined by the board, or by providing representative samples of work as determined by the board. The experience shall be acceptable if it is gained through employment in government, industry, academia or public accounting.

(b) Repealed by Laws 1993, ch. 77, § 2.

(c) As used in this act, "the practice of certified public accounting" means holding oneself out to the public or otherwise in such a manner as to state or imply that one is:

(i) Skilled in the practice of accounting and auditing;

(ii) Qualified to express any form of assurance on financial statements;

(iii) Qualified to express opinions on financial statements for credit purposes, for use in the courts or for other purposes involving third party reliance on these financial statements; or

(iv) Skilled in the provision of any accounting service including recording and summarizing financial

transactions, analyzing and verifying financial information, reporting financial results to an employer, clients or other parties and rendering tax or management advisory services to any employer, clients or other parties.

(d) There shall be a reasonable annual certificate fee to be established by board rules in accordance with W.S. 33-1-201. All certificates shall expire on the last day of December of each year and may be renewed annually for a period of one (1) year by certificate holders and registrants who meet the requirements specified in subsection (e) of this section and upon payment of the annual fee. In accordance with W.S. 33-1-201 the board may by rule establish a fee in addition to the annual certificate fee to reactivate an expired certificate.

(e) Applications for renewal of an active certificate shall be accompanied by evidence of satisfaction of the continuing education requirements during the three (3) years preceding the application. Failure by an individual applicant to furnish this evidence shall constitute grounds for nonrenewal under W.S. 33-3-121, unless the board determines the failure is due to reasonable cause or excusable neglect. The board may renew a certificate despite the failure to furnish evidence of satisfaction of the requirements of continuing education upon the condition that the applicant follow a particular future program or schedule of continuing education. In issuing rules, regulations and individual orders regarding requirements of continuing education, the board may use and rely upon guidelines and pronouncements of recognized educational and professional associations, may prescribe the content, duration and organization of courses, shall take into account the applicant's access to continuing education courses and any impediments to the interstate practice of certified public accounting which may result from differences in these requirements in other states and may provide for relaxation or suspension of the requirements for applicants who certify that they do not intend to engage in the practice of certified public accountancy or for instances of individual hardship.

(f) Persons holding a certificate issued under W.S. 33-3-109 or 33-3-116 but who do not practice public accounting in Wyoming and have not lost the right to active status may place the certificate on an inactive status. A person with a certificate on inactive status shall pay an annual inactive fee not exceeding one-half (1/2) the annual fee charged to active certificate holders. All inactive status certificates shall expire on the last day of December of each year and may be

renewed annually for a period of one (1) year. If the fee is not paid by December 31, a late fee as set by board rule in accordance with W.S. 33-1-201, may be added to the annual fee. A person classified as inactive may assume or use the title or designation "certified public accountant" or the abbreviation "CPA" and shall use the words "inactive" adjacent to the designation "CPA" or "certified public accountant".

(g) The board by regulation may allow persons to retire the certificate. A person classified as retired shall pay a fee to be established by board rule in accordance with W.S. 33-1-201. A person classified as retired may assume or use the title or designation "certified public accountant" or the abbreviation "CPA" and shall use the words "retired" adjacent to the designation "CPA" or "certified public accountant".

(h) Any individual certificate holder or individual with practice privileges who is responsible for supervising attestation services or compilation services or who signs or authorizes someone to sign the accountant's report on the financial statements shall meet the experience or competency requirements set forth in the professional standards for such services.

(j) Nothing in subsection (c) of this section shall be construed to prohibit public accountants from providing the services listed in subsection (c) of this section as long as the public accountant does not hold himself out to be a certified public accountant.

(k) The board shall issue a certificate to a holder of a substantially equivalent foreign designation who meets the requirements of paragraphs (a)(i) and (ii) of this section provided that:

(i) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain the foreign authority's comparable designation; and

(ii) The foreign designation:

(A) Was issued by a foreign authority that regulates the practice of certified public accountancy and the foreign designation has not expired or been revoked or suspended;

(B) Entitles the holder to issue reports upon financial statements; and

(C) Was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law; and

(iii) The applicant:

(A) Received the designation based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted;

(B) Completed an experience requirement substantially equivalent to the requirements of subparagraph (a)(v)(D) of this section in the jurisdiction which granted the foreign designation or has completed four (4) years of professional experience in this state or meets equivalent requirements within the ten (10) years immediately preceding the application as prescribed by board rule; and

(C) Passed a uniform qualifying examination in national standards acceptable to the board.

(m) An applicant for a certificate under subsection (k) of this section shall list in the application all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy. Each holder of a certificate issued under subsection (k) of this section shall notify the board in writing within thirty (30) days after its occurrence of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

(n) The board has sole authority to interpret the application of the provisions of subsections (k) and (m) of this section.

(o) An active certificate of "certified public accountant" shall be granted by the board to any person who makes application and demonstrates eligibility under the substantial equivalency standard when the person establishes a principal place of business in this state. Qualifications may be established through a designee as provided in board rule.

(p) An active certificate of "certified public accountant" may be granted by the board to any person who makes application but does not meet the eligibility under the substantial equivalency standard upon a showing:

(i) The applicant passed the uniform certified public accountant examination; and

(ii) The applicant had four (4) years of experience of the type set forth in subparagraph (a)(v)(D) of this section within the ten (10) years immediately preceding the application as prescribed by board rule.

33-3-110. Examinations and special tests; when held; use of prepared questions and grading service.

The examination shall be held not less frequently than once each year. The board may make use of any part of the uniform certified public accountant examination and advisory grading service as the board deems appropriate to assist it in performing its duties. The board may administer a special test designed to test skills of foreign accountants. The special test shall be administered in conjunction with the examination as often as may be necessary.

33-3-111. Candidate for examination; eligibility.

A candidate is eligible to take the examination when he has met the requirements of W.S. 33-3-109(a)(i) and (ii) and has completed a baccalaureate or higher degree conferred by a college or university acceptable to the board, with a total educational program that includes an accounting concentration or its equivalent as determined to be appropriate by the rules and regulations of the board.

33-3-112. Reexamination; waiting period; credit for parts passed in other states.

(a) The board may by regulation prescribe the terms and conditions under which a candidate who passes one (1) or more of the subjects of the examination may be reexamined in only the remaining subjects, with credit for the subjects previously passed. It may also provide by regulation for a reasonable waiting period for a candidate's reexamination in any subject he has failed.

(b) The board may provide by regulation for granting credit to a candidate for his satisfactory completion of any subject of the examination given by the licensing authority in any state. The regulations shall include the requirements the board determines to be appropriate in order that any examination approved as a basis for any credit shall be at least as thorough as the most recent examination given by the board at the time of the granting of the credit.

33-3-113. Examination, reexamination and test fees.

(a) The board shall establish fees for all examinations as determined by rules and regulations of the board in accordance with the requirements of the Wyoming Administrative Procedure Act, as follows:

(i) In an amount sufficient to ensure funds adequate to administer the examination required by W.S. 33-3-110;

(ii) In an amount sufficient to ensure funds adequate to administer the special test to foreign applicants authorized by W.S. 33-3-110.

(iii) Repealed by Laws 1993, ch. 77, § 2.

33-3-114. Repealed By Laws 2005, ch. 1, § 2.

33-3-115. Certified public accountants; certificates under prior law.

Persons who hold certified public accountant certificates issued under prior laws of Wyoming are not required to obtain additional certificates or register under the provisions of this act, but are subject to all other provisions of this act. Certificates issued under prior law shall be considered certificates issued under the provisions of this act. All certificate holders who maintained the certificate on inactive status under prior law may continue to hold the certificate pursuant to the terms of this act without meeting additional experience requirements under W.S. 33-3-109(a)(v). All certificate holders whose principal place of business is in this state and who provide services in Wyoming as defined in W.S. 33-3-109(c) shall maintain the certificate on active status. All certificate holders whose principal place of business is not in this state and who are not eligible for practice privileges as provided in W.S. 33-3-116 and who provide service in this state as defined in W.S. 33-3-109(c) shall maintain the

certificate on active status. Certificate holders who are eligible for practice privileges as provided in W.S. 33-3-116 may elect to maintain the Wyoming certificate pursuant to W.S. 33-3-109(d) through (f).

33-3-116. Certified public accountant; holders of certificates in sister states.

(a) The board may allow practice privileges as follows:

(i) An individual whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state which the board, or its designee as determined by board rule and as provided in W.S. 33-3-109(o), has determined to be in substantial equivalence with subsection (c) of this section shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate holders of this state without the need to obtain a certificate under W.S. 33-3-109. Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone or electronic means, under this subsection shall be granted practice privileges in this state and no notice, fee or other submission shall be required of the individual. Any individual practicing under this paragraph shall be subject to the requirements of paragraph (a)(iii) of this section;

(ii) An individual whose principal place of business is not in this state and who holds a valid license as a certified public accountant from any state which the board, or its designee as determined by board rule and as provided in W.S. 33-3-109(o), has not determined to be in substantial equivalence with the certified public accountant licensure requirements of subsection (c) of this section shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate holders of this state without the need to obtain a certificate under W.S. 33-3-109 if the individual obtains from the board or its designee verification that the individual's certified public accountant qualifications are substantially equivalent to the certified public accountant licensure requirements of subsection (c) of this section. Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone or electronic means, under this subsection shall be granted practice privileges in this state and no notice, fee or other submission shall be

required of the individual. Any individual practicing under this paragraph shall be subject to the requirements of paragraph (a)(iii) of this section;

(iii) An individual licensee of another state exercising the privileges afforded under this subsection and the firm which employs that licensee simultaneously consents as a condition of the grant of this privilege:

(A) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(B) To comply with this act and any board rules;

(C) That in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this state individually and on behalf of a firm; and

(D) To the appointment of the state board which issued their license as their agent upon whom process may be served in any action or proceeding by the board against the licensee.

(iv) An individual who qualifies for practice privileges under this subsection shall only provide services through a firm which has obtained a permit issued under W.S. 33-3-118 when performing the following services for any entity with its home office in this state:

(A) Providing any financial statement audit or other engagement to be performed in accordance with statements on auditing standards;

(B) Providing any examination of prospective financial information to be performed in accordance with statements on standards for attestation engagements; or

(C) Providing any engagement to be performed in accordance with public company accounting oversight board auditing standards.

(b) A licensee of this state offering or rendering services or using his certified public accountant title in another state shall be subject to disciplinary action in this state for any act committed in another state for which the

licensee would be subject to discipline. Notwithstanding W.S. 33-3-123, the board shall investigate any complaint made by the board of accountancy of another state.

(c) An individual shall be deemed to meet the substantial equivalency requirements of this state if he meets the requirements of paragraph (i) or (ii) of this subsection:

(i) The individual holds a valid license as a certified public accountant from any state that requires as a condition of licensure that the individual:

(A) Completes at least one hundred fifty (150) semester hours of college education including a baccalaureate or higher degree conferred by a college or university;

(B) Achieves a passing grade on the uniform certified public accountant examination; and

(C) Possesses at least one (1) year experience including providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills, which may be obtained through government, industry, academic or public practice verified by a licensee or the equivalent of a licensee as determined by the board.

(ii) The individual holds a valid license as a certified public accountant from any state that does not meet the requirements of paragraph (i) of this subsection but the individual has otherwise met the requirements of paragraph (i) of this subsection or substantially similar requirements. Any individual who passed the uniform certified public accountant examination prior to January 1, 2012 may be exempted from the educational requirements in subparagraph (c)(i)(A) of this subsection for purposes of this paragraph.

(d) Nothing in this section shall be interpreted to prohibit an individual who qualifies for practice privileges under this section from applying for a Wyoming certified public accountant certificate.

33-3-117. Repealed By Laws 2005, ch. 1, § 2.

33-3-118. Certified public accountant firms.

(a) A certified public accounting firm that has been issued a permit under this act may practice in any form of organization allowed by state law.

(i) Repealed By Laws 2005, ch. 1, § 2.

(ii) Repealed By Laws 2005, ch. 1, § 2.

(iii) Repealed By Laws 2005, ch. 1, § 2.

(b) The board shall grant or renew a permit to a certified public accounting firm demonstrating its qualifications in accordance with this section:

(i) Repealed By Laws 2005, ch. 1, § 2.

(ii) Repealed By Laws 2005, ch. 1, § 2.

(iii) Repealed By Laws 2005, ch. 1, § 2.

(iv) Repealed By Laws 2005, ch. 1, § 2.

(v) Repealed By Laws 2005, ch. 1, § 2.

(vi) Repealed By Laws 2005, ch. 1, § 2.

(vii) Repealed By Laws 2005, ch. 1, § 2.

(viii) Repealed By Laws 2005, ch. 1, § 2.

(ix) Repealed By Laws 2009, Ch. 99, § 2.

(x) Repealed By Laws 2009, Ch. 99, § 2.

(xi) Repealed By Laws 2009, Ch. 99, § 2.

(xii) Repealed By Laws 2009, Ch. 99, § 2.

(xiii) Except as otherwise provided in this section, the following shall be required to hold a permit issued under this section:

(A) Any firm with an office in this state performing any attest services as defined in W.S. 33-3-102(a)(vi) or any compensated public accounting services described in W.S. 33-3-109(c) for members of the general public

provided by certified public accountants who are subject to the jurisdiction of the board under this act;

(B) Any firm with an office in this state that uses the title "CPA" or "CPA firm".

(C) Repealed by Laws 2019, ch. 2, § 2.

(xiv) A firm which does not have an office in this state may perform attest services described in W.S. 33-3-102(a)(vi) or compilation services described in W.S. 33-3-102(a)(ix) for a client having its home office in this state and may use the title "CPA" or "CPA firm" without a permit issued under this section if:

(A) The firm has the qualifications described in paragraph (xvi) of this subsection and W.S. 33-3-132; and

(B) The firm performs the services through an individual with practice privileges under W.S. 33-3-116(a).

(xv) A firm which is not subject to the requirements of paragraph (xiii) or (xiv) of this subsection may perform other professional services while using the title "CPA" or "CPA firm" without a permit if:

(A) The firm performs the services through an individual with practice privileges under W.S. 33-3-116(a); and

(B) The firm can lawfully perform those services in the state where the individual with practice privileges has his principal place of business.

(xvi) Notwithstanding any other provision of law, at least a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, shall belong to holders of a certificate who are licensed in some state and those partners, officers, shareholders, members or managers whose principal place of business is in this state and who perform professional services in this state shall hold a valid certificate issued under W.S. 33-3-109 or the corresponding provision of prior law. Firms may include noncertificate holder owners but the firm and its ownership shall comply with rules promulgated by the board;

(xvii) Any firm may include nonlicensed owners provided that:

(A) The firm designates a certificate holder of this state, or in the case of a firm which is required to have a permit pursuant to W.S. 33-3-116(a)(iv) a licensee of another state who meets the requirements of W.S. 33-3-116(a), who is responsible for the proper registration of the firm and the firm identifies that individual to the board;

(B) All nonlicensed owners shall be active individual participants in the firm or the firm's affiliated entities;

(C) The firm complies with any other requirements imposed by board rules;

(D) Any firm which is not in compliance with the requirements of this paragraph due to changes in firm ownership or personnel after receiving or renewing a permit shall take corrective action to bring the firm back into compliance. The board, through rule and regulation, shall specify a period of time for firms to take corrective action. Failure to take corrective action may be grounds for suspension or revocation of the permit issued under this section.

(c) Repealed By Laws 2005, ch. 1, § 2.

(d) This section shall not be applied to prohibit any officer or employee of the state or federal government or political subdivision thereof from performing his official duties.

33-3-119. Accounting offices; registration.

An applicant for initial issuance or renewal of a permit to practice under W.S. 33-3-118 shall register the firm and provide a list of all offices of the firm within the state to the board and shall provide evidence that all attest and compilation services rendered in the state are under the charge of a person holding a valid license issued under W.S. 33-3-109 or the corresponding provision of prior law or the laws of some other state. The board shall by regulation prescribe the procedure to be followed in effecting these registrations.

33-3-120. Permits; annual fee; renewal; requirements.

(a) Permits to engage in the practice of public accounting as a certified public accountant firm in Wyoming shall be issued by the board to certified public accountant firms registered under this act if all offices of the registrant in Wyoming are maintained and registered as required under W.S. 33-3-119.

(b) There shall be an annual permit fee to be determined by the board in accordance with W.S. 33-1-201. All permits shall expire on the last day of December of each year and may be renewed annually for a period of one (1) year by registrants who meet the requirements specified in subsection (a) of this section and upon payment of the annual permit fee. In accordance with W.S. 33-1-201 the board may by rule establish a fee in addition to the annual permit fee to reactivate an expired firm permit.

(c) Repealed By Laws 2005, ch. 1, § 2.

(d) Repealed By Laws 2005, ch. 1, § 2.

(e) Repealed By Laws 2005, ch. 1, § 2.

(f) Repealed By Laws 2005, ch. 1, § 2.

(g) Repealed By Laws 2005, ch. 1, § 2.

33-3-121. Certificates and permits; disciplinary action; grounds.

(a) After notice and hearing, the board may revoke, refuse to renew, reprimand, censure, limit the scope of practice, place on probation with or without terms, conditions or limitations, or may suspend for a period not to exceed two (2) years, any certificate issued under this act or practice privilege or may revoke, suspend, limit the scope of practice, or refuse to renew any permit issued under this act or may censure the holder of a permit for any of the following causes:

(i) Fraud or deceit in obtaining a certificate as certified public accountant or in obtaining a permit under this act;

(ii) Dishonesty, fraud or gross negligence by a certificate holder or individual granted practice privileges:

(A) In the practice of public accounting; or

(B) In the filing or failure to file the holder's or the individual's own income tax return.

(iii) Violation of any of the provisions of this act;

(iv) Violation of any rule promulgated by the board under the authority granted by this act;

(v) Conviction of a felony that relates to the practice of accounting or to the ability to practice accounting under the laws of Wyoming or any other state or of the United States;

(vi) Conviction of any crime, an element of which is dishonesty or fraud, under the laws of Wyoming or any state or of the United States;

(vii) Cancellation, revocation, suspension or refusal to renew the authority to practice as a certified public accountant by any other state for any cause other than failure to pay a fee;

(viii) Permanent revocation of the right to practice before any state or federal agency;

(ix) Repealed By Laws 2005, ch. 1, § 2.

(x) Failure of a certificate holder to furnish evidence showing the satisfaction of the requirements of continuing education required by the board;

(xi) Failure of a certificate or permit holder to show compliance with W.S. 33-3-132 regarding practice monitoring programs;

(xii) Making any false or misleading statement or verification in support of an application for a license filed by another;

(xiii) Performance of any fraudulent act while holding a license or privilege issued under this act or prior version of this act.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a certificate or permit issued by the board or a practice privilege, the board shall notify the party

named in the court order of the withholding, suspension or restriction of the certificate, practice privilege or permit in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a certificate, practice privilege or permit withheld, suspended or restricted under this subsection.

(c) In lieu of or in addition to any disciplinary action specifically provided in subsection (a) of this section, the board may require a certificate, practice privilege or permit holder to complete such continuing professional education programs as the board may specify or undergo peer review or preissuance review as the board may specify.

(d) The board may recover from a disciplined person any of the following:

(i) Reasonable costs associated with an investigation that leads to disciplinary action including a reasonable hourly rate for the time devoted by board members, expert witnesses or attorneys investigating or prosecuting the matter and all reasonable related travel costs;

(ii) Direct costs to the board of conducting a disciplinary hearing that leads to disciplinary action.

33-3-122. Repealed By Laws 2005, ch. 1, § 2.

33-3-123. Initiation of disciplinary proceedings; conduct of proceedings.

The board may initiate proceedings under this act on its own motion or on the written complaint of any person. All proceedings before the board shall be conducted under the rules and regulations adopted by the board and in accordance with the provisions of the Wyoming Administrative Procedure Act.

33-3-124. Reinstatement of certificate or permit for good cause shown.

(a) Upon written application and after a hearing attended by the applicant or the applicant's legal representative and for good cause shown, the board may do any of the following:

(i) Issue a new certificate to the applicant whose certificate has been revoked;

(ii) Reissue or modify the suspension of any certificate;

(iii) Restore an applicant's scope of practice, practice privilege or permit which has been revoked or suspended.

(b) If the applicant or the applicant's legal representative fails to appear at the hearing, the board may proceed to hear evidence against the applicant and may enter an appropriate order, which shall be final.

(c) A certificate, practice privilege or permit suspended or restricted under W.S. 33-3-121(b) may be reissued without the hearing required under this section if the department of family services provides notice that the applicant has complied with the terms of the court order that resulted in the suspension or restriction of the certificate, practice privilege or permit.

(d) The applicant shall bear all costs related to a reinstatement hearing before the board.

33-3-125. Certified public accountant; use of designation; requirements.

(a) Except as permitted by the board under W.S. 33-3-109(f) and (g), no person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the person is a certified public accountant unless the person has received a certificate as a certified public accountant under the provisions of this act or has a practice privilege under W.S. 33-3-116(a).

(b) No organization shall use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the organization is composed of certified public accountants unless the organization is registered as a certified public accountant firm under the provisions of this act and the certified public accountant firm holds a permit or is exempt from registration under W.S. 33-3-118(b)(xiv) or (xv).

(c) Repealed by Laws 2019, ch. 2, § 2.

(d) Repealed by Laws 2019, ch. 2, § 2.

(e) Notwithstanding any other provision of law, it shall not be a violation of this act for a firm which does not hold a valid permit under W.S. 33-3-118 and which does not have an office in this state to provide its professional services and practice public accounting in this state if it complies with the requirements of W.S. 33-3-118(b)(xiv) or (xv).

33-3-126. Use of misleading terms or abbreviations prohibited.

No person or organization shall use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "registered accountant", "accredited accountant" or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CA", "RA", or "AA", or similar abbreviations likely to be confused with "CPA". This section shall not prohibit the use of the term "public accountant" or the initials "PA".

33-3-127. Certified public accountant firm; wording used; requirements.

No person shall assume or use the title or designation "certified public accountant" in conjunction with names indicating or implying that there is an organization, or in conjunction with the designation "and Company" or "and Co." or a similar designation if there is in fact no bona fide organization registered under the provisions of this act or under the provisions of a similar state act.

33-3-128. Repealed By Laws 2005, ch. 1, § 2.

33-3-129. Unlawful act or practice; injunction or other order.

Whenever any person has engaged in any acts or practices which constitute or will constitute a violation of any provision of W.S. 33-3-125 through 33-3-127, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the board that the person has engaged in any illegal acts or practices, an injunction, restraining order or other appropriate order shall be granted by such court without bond.

33-3-130. Violation; penalty.

Any person who violates any provision of W.S. 33-3-125 through 33-3-127 is guilty of a misdemeanor, and upon conviction shall be fined not more than one thousand dollars ($1,000.00) or be imprisoned not more than twelve (12) months, or both.

33-3-131. Unlawful use of terms; advertising; prima facie evidence of violation.

The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device bearing a person's name in conjunction with the words "certified public accountant" or the abbreviation "CPA" is prima facie evidence in any action brought under W.S. 33-3-129 or 33-3-130 that the person whose name is so displayed caused or procured the display or uttered the card, sign, advertisement or other printed, engraved or written instrument or device and that the person is holding himself out to be a certified public accountant. In any action, evidence of the commission of a single act prohibited by this act is sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

33-3-132. Practice monitoring program.

(a) As used in this article:

(i) "Peer review" means a study, appraisal or review of one (1) or more aspects of the professional work of a person or firm in the practice of certified public accountancy by a person who holds certificates and who is not affiliated with the person or firm being reviewed;

(ii) "Practice monitoring program" means a program consisting of peer reviews which are conducted in conformity with standards promulgated by the peer review committees of the American Institute of Certified Public Accountants or successor organization;

(iii) "Reviewer" means a certified public accountant active in public practice and fulfilling requirements for peer reviewers as established by the American Institute of Certified Public Accountants or successor organization.

(b) The board may require, on a uniform basis, that certificate and permit holders undergo practice monitoring

conducted in a manner the board may specify by rule and regulation.

(c) Except in any action before the board to enforce its rules and regulations regarding the practice monitoring program, any report, statement, memorandum, transcript, finding, record or working paper prepared and any opinion formulated in connection with any practice monitoring program, which is in the possession of the board or the reviewer, shall be considered privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for release to any person or entity or be admissible as evidence in any judicial or administrative proceeding.

ARTICLE 2 - ACCOUNTANT LIABILITY

33-3-201. Accountants; liability; definitions.

(a) As used in this article, "accountant" means:

(i) Any individual holding a certificate as a certified public accountant under W.S. 33-3-109;

(ii) Any individual holding a practice privilege under W.S. 33-3-116;

(iii) Any certified public accountant firm registered with the state board of certified public accountants under W.S. 33-3-118;

(iv) Any firm that is exempt from registration pursuant to W.S. 33-3-118(b)(xiv) or (xv); or

(v) Any employee, agent, partner, manager, member, officer or shareholder of any partnership, corporation or any other allowable form of organization registered with the state board of certified public accountants.

(b) This section governs any action based on an act, error or omission occurring on or after July 1, 1995 brought against any accountant or firm of accountants practicing in this state by any person claiming to have been injured as a result of financial statements or other information examined, compiled, reviewed, certified, audited or in the course of an engagement to provide other public accountancy services.

(c) No action may be brought under this section unless:

(i) The plaintiff:

(A) Is the issuer, or his successor, of the financial statements or other information examined, compiled, reviewed, certified, audited or otherwise reported or opined on by the defendant; and

(B) Engaged the defendant accountant to examine, compile, review, certify, audit or otherwise report or render an opinion on such financial statements or to provide other public accountancy services; or

(ii) The defendant accountant or firm:

(A) Was aware at the time the engagement was undertaken with the accountant's client that the financial statements or other information were to be made available for use in connection with a specified transaction by the plaintiff and the transaction was specifically identified to the defendant; and

(B) Was aware that the plaintiff intended to rely upon such financial statements or other information in connection with the specified transaction.

(d) In order to be entitled to the limitation on liability contained in this article, an accountant shall:

(i) Identify the purpose of the document and the persons or entities that are entitled to receive and rely upon the financial statement or other information examined, compiled, reviewed, certified, audited or otherwise reported or opined on by the accountant in the document prepared by the accountant; and

(ii) Include thereon a statement in a prominent place that advises users of the document that the liability of the accountant to third parties who use the document may be limited pursuant to this article.

CHAPTER 4 - ARCHITECTS

33-4-101. Definitions.

(a) As used in this act:

(i) "Building" means a structure, including all the components which a structure comprises, including structural, mechanical and electrical systems, intended for use as shelter for man and his possessions;

(ii) "Practice of architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services; advice, consultation, planning, architectural design, drawings and specifications; general administration of the contract as the owner's representative during the construction phase, wherein expert knowledge and skill are required in connection with the erection, enlargement or alteration of any building or buildings, or the equipment, or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health or property is concerned or involved;

(iii) "Architect" means anyone licensed to practice architecture under this act;

(iv) "Practice of landscape architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services; advice, consultation, planning, landscape architectural design, drawings and specifications; general administration of the contract as the owner's representative during the construction phase, wherein expert knowledge and skill are required in connection with landscape enhancement or landscape development, including the formulation of graphic or written criteria to govern the planning or design of land construction projects, production of overall site plans, landscape grading and landscape drainage plans, planting plans, irrigation plans, and construction details wherein in the safeguarding of life, health or property is concerned;

(v) "Landscape architect" means anyone licensed to practice landscape architecture under this act;

(vi) "Board" means the Wyoming state board of architects and landscape architects;

(vii) "This act" means W.S. 33-4-101 through 33-4-117.

33-4-102. Board of architects and landscape architects; created; composition; qualifications of members.

There is hereby created and established a board to be known as the Wyoming state board of architects and landscape architects, which shall be composed of three (3) practicing architects, one (1) practicing landscape architect and one (1) member of the public of integrity and ability, who shall be residents of the state of Wyoming. The architects and landscape architect shall have practiced architecture or landscape architecture continuously in the state of Wyoming for a period of at least five (5) years prior to their appointment.

33-4-103. Board of architects and landscape architects; appointment and term of members; vacancies; removal.

The governor shall appoint the members of the board of architects and landscape architects as provided in W.S. 33-4-102. Each member shall serve a term of three (3) years or until his successor has been appointed. The governor shall fill all vacancies occurring in the board. The governor may remove any board member as provided in W.S. 9-1-202.

33-4-104. Board of architects and landscape architects; meetings and officers; powers and duties.

(a) The board shall elect a president, vice-president, and secretary-treasurer. The board shall hold regular meetings at least once each year, with the date and place to be set by the board. The board may meet as designated by a majority of the board. A majority of the board shall constitute a quorum. The board shall have authority to administer oaths, take affidavits, summon witnesses and take testimony as to matters coming within the scope of its duties. The board shall have the authority to enter into interstate or intrastate agreements and associations with other boards of licensure for the purpose of establishing reciprocity, developing examinations, evaluating applicants or other activities to enhance the services of the board to the state, the licensee and the public. The board shall adopt a seal to be affixed to all licenses issued and shall adopt rules and regulations in accordance with the Wyoming Administrative Procedure Act. The board shall establish minimum educational requirements which shall be without prejudice, partiality or discrimination. The board may appoint or contract an executive secretary and other individuals deemed necessary to administer the affairs of the board and shall furnish necessary support and clerical services. Costs related to these services shall be paid from the account as provided in W.S. 33-4-109. The secretary of

the board shall keep a record of the proceedings of the board, which shall at all times be open to public inspection.

(b) All meetings of the board shall be conducted in accordance with W.S. 16-4-403, except that the board may hold executive sessions as provided by W.S. 16-4-405.

33-4-105. Application for licensure; qualifications.

(a) Any person wishing to practice architecture or landscape architecture in this state who is not a licensed architect or landscape architect shall make application for licensure as prescribed by the board.

(b) Each applicant shall:

(i) Be an adult;

(ii) Have a good reputation for honesty, trustworthiness, integrity and competence in the practice of architecture or landscape architecture;

(iii) Provide documentation of successful completion of either a professional degree in architecture or landscape architecture from an accredited school of architecture or landscape architecture with practical experience and examination, or an education alternative with practical experience and examination in accordance with standards set forth by the national council of architectural registration boards or the council of landscape architectural registration boards, as the board deems appropriate.

(c) Repealed By Laws 2011, Ch. 129, § 202.

(d) Any person currently practicing landscape architecture in this state who holds a degree from an accredited school of landscape architecture and has at least five (5) years experience as a landscape architect prior to July 1, 1991 shall be exempt from taking the examination and shall be awarded a license to practice landscape architecture after meeting the other requirements of this act.

(e) The board shall provide by rules and regulations requirements for practical experience.

33-4-106. Issuance of license; reexamination.

If the applicant is qualified, the board shall issue his license to practice architecture or landscape architecture. Any applicant who fails to pass an examination may be reexamined in the subjects which he failed at the next regularly scheduled examination date, upon the payment of an additional examination fee.

33-4-107. License fee and renewal fee set by board; notice of expiration; failure to renew.

Persons practicing architecture or landscape architecture within this state shall pay initial and renewal license fees as set by the board pursuant to W.S. 33-1-201. Initial licenses shall expire on the thirty-first day of December of the year following the date of issuance. A renewal license shall be issued by the board upon application and payment of the renewal fee, and shall be for a two (2) year period. Application for renewal shall be accompanied by evidence satisfactory to the board of compliance with this act and participation in continuing education activities as established by rules and regulations of the board, provided that requirements for renewal shall be no more stringent than the requirements recommended by the national council of architectural registration boards or the council of landscape architectural registration boards. The board may waive the continuing education requirement for the first renewal of a license. The board shall notify each registrant at least two (2) months prior to the date of the expiration of his license. Failure of a licensee to secure renewal of his license prior to the date of its expiration shall forfeit his license to practice architecture within the state, provided, however, that the board shall again notify the registrant at least two (2) weeks before the expiration date. Any licensee on active duty in the armed forces of the United States, or who shall establish his residence elsewhere, upon returning to the state may apply for a renewal if the license was not revoked for any cause.

33-4-108. Licensing decisions of board.

Except as provided in W.S. 33-4-115(c), all decisions of the board involving the granting, denial, renewal, revocation, suspension or withdrawal of a license shall be conducted pursuant to the provisions of the Wyoming Administrative Procedure Act.

33-4-109. Disposition of money collected; compensation for members of board.

(a) All money shall be received and deposited to a separate account and payments made according to regulations established by the department of administration and information. The members of the board shall receive per diem and mileage allowance as provided in W.S. 33-1-302(a)(vii), for each official board meeting. The total expense for every purpose incurred by the board shall not exceed the total of revenue collected.

(b) The board may use up to one-half (1/2) of its annual renewal fees for the purpose of contracting with institutions of higher education, professional organizations or qualified persons to provide educational programs that meet the board's continuing education requirements promulgated under W.S. 33-4-107. The board may also treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis to implement programs of continuing education.

33-4-110. Interstate reciprocity.

Persons licensed to practice architecture or landscape architecture under the laws of any other state having requirements substantially equal to those provided for in this act may, in the discretion of the board, be issued a license to practice in this state without examination upon payment of the license fees as herein provided.

33-4-111. Persons not required to comply with provisions.

All officers and employees of the United States government while engaged in governmental work in this state shall not be required to comply with the provisions of this act. Landscape architecture as applied in this act shall not restrict the practice of architecture, or engineering; nor shall it restrict the customary services normally rendered by landscape nurseries and landscape contractors.

33-4-112. Persons required to qualify or register as "architect"; exceptions.

All persons shall register as an architect in order to make architectural plans and specifications for buildings except those buildings which are specifically exempted in W.S. 33-4-117.

33-4-113. Use of title "architect" or "landscape architect".

No person shall use the title "architect" or any title, sign, card or device to indicate that the person is practicing architecture or is an architect unless the person is licensed as an architect under the provisions of this act. No person shall use the title "landscape architect" or any title, sign, or card to indicate such person is practicing landscape architecture, unless the person is licensed as a landscape architect under the provisions of this act. Nothing in this act shall be construed to permit a person licensed as a landscape architect to use the title "architect" or to practice architecture.

33-4-114. Prohibited acts; penalty for violations.

(a) It is a misdemeanor for any person to:

(i) Sell, fraudulently obtain or furnish any license or renewal license to practice architecture or landscape architecture; or

(ii) Without being licensed under this act:

(A) Advertise, represent or in any manner hold himself out as an architect or landscape architect;

(B) Engage in the practice of architecture or landscape architecture;

(C) Use in connection with his business or name, or otherwise assume, use or advertise any title or description, or engage in any other conduct which reasonably might be expected to mislead another to believe the person is an architect or landscape architect; or

(D) Without being an officer of the corporation, to engage in the practice of architecture or landscape architecture as a corporation.

(b) A person convicted under subsection (a) of this section shall be punished by a fine of not more than seven hundred fifty dollars ($750.00) or by imprisonment for not more than six (6) months, or both.

(c) The board may, through the attorney general, seek to enjoin any person from committing any act in violation of this

section. The board shall not be required to prove irreparable injury to enjoin any violation of this section.

33-4-115. Grounds for refusal, suspension or revocation of license; notice; hearing; counsel at hearing.

(a) The board may take disciplinary actions, singularly or in combination, against a licensee upon a finding of:

(i) Fraud, deceit or material misstatement of fact in applying for a license or in passage of the examination provided for in this act;

(ii) Untrustworthiness, incompetency or misconduct in the practice of architecture as evidenced by conduct which endangers life, health, property or the public welfare;

(iii) Mental incompetency;

(iv) Fraud or deceit in the practice of architecture or landscape architecture;

(v) Affixing, or permitting to be affixed, a seal upon a document which the architect or landscape architect was not responsible for preparing;

(vi) Violating this act or a rule or regulation of the board promulgated pursuant to this act;

(vii) Suspension or revocation of licensure by another state; or

(viii) Conviction under W.S. 33-4-114, or conviction in another state of any crime which would constitute a violation of W.S. 33-4-114 had the actions been taken in this state. A copy of the judgment of conviction certified by the rendering court shall be presumptive evidence of the conviction in any hearing under this section. For purposes of this paragraph "conviction" includes a plea of nolo contendere or its equivalent.

(b) Except as provided in subsection (c) of this section, before refusing to issue a license, suspending or revoking a license for any reason set forth in this section the board shall notify the person as required in the Wyoming Administrative Procedure Act. If the applicant or licensee requests a hearing

before the board, the board shall hold a hearing in accordance with the Wyoming Administrative Procedure Act.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-4-116. Documents, plans and designs; seal required.

An architect or landscape architect shall affix his seal to all documents, plans or designs he provides.

33-4-117. Exemptions.

(a) Nothing in this act prohibits any person from preparing plans and specifications, designing, planning or administering the construction contracts for the construction, alteration, remodeling or repair of any of the following:

(i) Private residences;

(ii) Garages, commercial or industrial buildings, office buildings, preengineered metal buildings and buildings for the marketing, storage or processing of farm products and warehouses, which do not exceed two (2) stories in height, exclusive of a one (1) story basement, and which under applicable building code or codes, are not designed for occupancy by more than ten (10) persons;

(iii) Farm buildings;

(iv) Nonstructural alterations of any nature to any building if the alterations do not affect the safety of the occupants of the building.

(b) Nothing in this act shall be construed:

(i) As curtailing or extending the rights of any other legally recognized profession;

(ii) As prohibiting the practice of architecture by any legally qualified architect of this state or another state

who is employed by the United States government while in the discharge of his official duties;

(iii) To prevent the independent employment of a registered professional engineer for any professional service related solely to civil, structural, mechanical or electrical engineering in connection with any building or building project.

(c) This act in no way supersedes, overrides or amends the provisions of chapter 29 of this title regarding registration of professional engineers and professional land surveyors.

CHAPTER 5 - ATTORNEYS-AT-LAW

33-5-101. State board of law examiners; appointment.

The state board of law examiners shall be appointed by the supreme court and shall hold office pursuant to rules promulgated by the supreme court.

33-5-102. State board of law examiners; date, rules and quorum for meetings; election of officers; supreme court to prescribe rules.

The state board of law examiners shall hold at least two (2) regular meetings each year for the examination of applicants, at times and places as prescribed by rules of the supreme court. Special meetings may be held as determined by the board from time to time. At all meetings, a majority of the board constitutes a quorum. The board shall select a chairman from its membership. The supreme court shall prescribe rules not inconsistent with this act to carry out the purposes of this act for admission to the bar of this state.

33-5-103. State board of law examiners; compensation.

The members of the state board of law examiners shall be compensated and reimbursed for expenses incurred in the performance of their duties as determined by the supreme court.

33-5-104. Applications for admission to bar; generally.

All applications for admission to the bar of this state shall be made by petition to the supreme court. The same shall be referred to the state board of law examiners, who shall examine the applicant vouching his qualification for admission to the bar. The said board shall report its proceedings in the

examination of applicants to the supreme court with their recommendation in the premises. If the court shall then find the applicant to be qualified to discharge the duties of an attorney and to be of good moral character, and worthy to be admitted, an order shall be entered admitting him to practice in all the courts of this state.

33-5-105. Applications for admission to bar; qualifications of applicants.

No one shall be admitted to the bar of this state who shall not be an adult of good moral character who has been awarded a juris doctor degree from a law school accredited by the American Bar Association.

33-5-106. Applications for admission to bar; fees; disposition of fees.

Every applicant for admission to the bar of this state shall pay a fee as set by the supreme court. On payment of one (1) fee by applicants for admission by examination the applicant shall be entitled to two (2) examinations when the second is applied for not later than one (1) year after having taken the first. All money shall be received and collected as provided by law. The state treasurer shall place the money to the credit of a separate account. Interest earned by the account shall be retained in the account. All money within the account is continuously appropriated to the state board of law examiners and shall be applied to the direct and indirect costs of administering attorney admissions and other regulatory functions pursuant to rules promulgated by the supreme court. Except as otherwise required in this chapter, itemized vouchers shall be submitted to the board's executive director or chairman for approval. Upon approval, a warrant for the payment of each voucher shall be issued by the state auditor for payment from the account.

33-5-107. Applications for admission to bar; fraudulent application cause for revocation.

Any fraudulent act or presentation by an applicant in connection with his application, or examination, shall be sufficient cause for the revocation of the order admitting him to practice.

33-5-108. Bar examinations; generally.

The examination of any applicant to the bar of this state shall be conducted pursuant to rules of the supreme court.

33-5-109. Bar examinations; no assistance or advice except as permitted.

At any examination of applicants for admission to the bar, it shall be unlawful to permit the person being examined to receive, during the examination and after the questions have been submitted to the person, any assistance or advice from any other person or persons, book or memorandum except as provided by rules of the supreme court to accommodate persons with disabilities.

33-5-110. Admission of foreign attorneys on motion.

Any person who may have been admitted to practice as an attorney in the highest court of any other state or territory may be admitted to the bar of this state pursuant to the rules of the supreme court for admission on motion.

33-5-111. Attorneys admitted pro hac vice to try pending case.

Members of the bar of any other state, district or territory of the United States, who may be employed as counsel in any case pending before any of the courts of this state, may be admitted pro hac vice for all the purposes of the case in which they are so employed, by the court before which said case is pending, pursuant to rules of the supreme court.

33-5-112. Oath of attorney.

No person shall be deemed admitted to the bar until he shall have taken and filed an oath as provided in this section. The oath shall be to the effect that he will support, obey, and defend the constitution of the United States, and the constitution and laws of this state, and that he will faithfully and honestly and to the best of his ability discharge the duties of an attorney and counselor-at-law. The oath may be administered by the clerk or one (1) of the justices of the supreme court, a district judge in his district or the clerk of court in his county. The oath may be administered in another state or territory of the United States by a judge or justice of a court of general jurisdiction or an appellate court. The oath shall be reduced to writing, signed by the person taking, and

certified to by the officer administering the same and filed in the office of the clerk of the supreme court.

33-5-113. Disbarment or power of courts to punish not affected.

(a) Nothing in this act contained shall be construed to deprive the courts of this state, or any of them, of the power as at present existing, of disbarring or otherwise punishing members of the bar.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license to practice law for failure to pay child support, the Wyoming state bar shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. The order shall be forwarded to the Wyoming supreme court for final action. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-5-114. Penalty for deceit or collusion.

An attorney and counselor who is guilty of deceit or collusion, or consents thereto, with intent to deceive a court or judge, or a party to an action or proceeding, or brings suit or commences proceedings without authority therefor, shall forfeit to the injured party treble damages, to be recovered in a civil action.

33-5-115. Repealed by Laws 2015, ch. 162, § 2.

33-5-116. Payment of annual license fee; fiscal year of state bar.

(a) All members of the state bar shall pay to the treasurer of the state bar, as a license fee for the ensuing year, an annual license fee in an amount to be established by the board of commissioners of the Wyoming state bar pursuant to the bylaws of the state bar. Honorary and retired members may be exempted completely from the payment of any fees or allowed to pay less than the regular license fee in the discretion of the board of commissioners. Fees shall constitute a fund to be held and disbursed by the treasurer upon order of the board.

(b) The fiscal year of the state bar shall be from October 1 through September 30.

33-5-117. Unauthorized practice.

It shall be unlawful, and punishable as contempt of court, for any person not a member of the Wyoming state bar to hold himself out or advertise by whatsoever means as an attorney or counselor-at-law.

CHAPTER 6 - CARNIVALS, CIRCUSES, PAWNBROKERS, POOLROOMS AND

33-6-101. Carnivals and circuses; license required; safety inspection.

(a) No person shall open any circus or carnival entertainment if any entrance fee or fee for carnival or circus rides is charged or collected, without first obtaining a license as required by this act provided that nothing in this act shall prohibit a licensing authority from refusing to issue any license authorized by this act in the sole discretion of the governing body.

(b) Before issuing any license under this act to any circus or carnival specified under subsection (a) of this section, the board of county commissioners for any county and the governing body of any city or town may require and provide for the inspection of the safety of the applicant's facilities, equipment, rides or other structures which are for public use. Public use of any facility, equipment, ride or other structure determined unsafe following inspection is prohibited until the unsafe condition is corrected, repaired or otherwise modified. Failure of the applicant to make necessary corrections, repairs or modifications pursuant to this subsection shall be grounds for disapproval of the license application under this act.

(c) As used in this act:

(i) "Carnival" means any traveling enterprise offering a variety of rides and amusements to the public for a fee;

(ii) "Circus" means a tent-covered or open air arena used for providing public entertainment at a charge and generally featuring feats of physical skill and daring, wild animal acts and performances by clowns;

(iii) "This act" means W.S. 33-6-101 through 33-6-104.

(d) The issuance of a license pursuant to this act shall not relieve any licensee from acting with reasonable care in the operation or maintenance of a circus or carnival. The licensing authority as a condition of issuing a license under this section, shall require a licensee to provide proof of liability insurance coverage of a minimum amount of five hundred thousand dollars ($500,000.00) at the time of issuing the license and to indemnify, defend and save harmless the city, town or county from any and all claims, demands, actions or causes of action arising from the negligent acts or omission of the carnival or circus. All licensees must maintain liability insurance while operating within the state of Wyoming.

33-6-102. Carnivals and circuses; application for licenses; fees.

Any person or persons, company or corporation opening an exhibition as provided in W.S. 33-6-101, shall first be required to make application for a license therefor to the board of county commissioners of the county in which such exhibition is sought to be opened, and if allowed, such license shall be issued, upon receipt of such license fee as the board shall have deemed proper, to be not less than ten dollars ($10.00) nor more than two hundred dollars ($200.00) for each day of such exhibition.

33-6-103. Carnivals and circuses; penalty.

Any person or persons, company or corporation opening or maintaining such an exhibition as specified in W.S. 33-6-101, without having complied with W.S. 33-6-102, shall be deemed guilty of a misdemeanor and fined not less than two hundred dollars ($200.00), nor more than four hundred dollars ($400.00). Each day of the continuance of such violation shall constitute a separate offense.

33-6-104. Carnivals and circuses; local ordinances.

It shall be lawful for any incorporated city or town in this state to provide by ordinance that any person or persons, company or corporation, opening within the confines of such city or town, any exhibition as provided in W.S. 33-6-101, shall first be required to make application for a license therefor, to the council of said city or town, in which such exhibition is sought to be opened, and if allowed, such license shall be issued upon the receipt of such license fee as the council shall

have deemed proper, to be not less than five dollars ($5.00), nor more than two hundred dollars ($200.00) for each day of such exhibition; provided, that such license obtained from such city or town shall be in addition to that obtained from the county in which such city or town is situated.

33-6-105. Repealed by Laws 1983, ch. 62, § 2.

33-6-106. Records of pawnbrokers.

Every pawnbroker engaged in the business of accepting pawns or pledges shall keep an accurate record showing a complete description of all articles pawned or purchased, the date of the pawn or purchase, the name and address, or names and addresses of the persons pawning, selling or pledging any article, the amount for which same is pledged or purchased by the pawnbroker and the date upon which the pledge expires. This record shall be available at all times to any peace officer of the city, county or state.

33-6-107. Penalty for violation of section 33-6-106.

Any pawnbroker failing to comply with the requirements of W.S. 33-6-106 shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed one hundred dollars ($100.00) or by imprisonment in the county jail not to exceed six (6) months or by both fine and imprisonment, together with costs of prosecution.

33-6-108. Repealed By Laws 2009, Ch. 138, § 2.

CHAPTER 7 - BARBERS

ARTICLE 1 - GENERAL PROVISIONS

33-7-101. Definitions.

(a) As used in this act:

(i) "Barbering" means the practice upon any person or persons of any of the following acts (when done for cosmetic purposes, and not for the treatment of disease or physical or mental ailments, and when done for payment, either directly or indirectly, or without payment except for the immediate family); provided, any person or persons operating a beauty salon or practicing cosmetology and its related fields exclusively shall be exempt from the provisions of this act: shaving or treating

the beard or cutting the hair, singeing, shampooing or dyeing the hair, permanent waving or applying hair tonics, massaging, applying cosmetic preparations, antiseptics, powder, oil, clay or lotions, to the scalp, face or neck;

(ii) "Board" means the state board of barber examiners;

(iii) "School of barbering" means a place licensed under this act where barbering is taught to students;

(iv) "Student" means a person duly enrolled and regularly attending a licensed school of barbering for the purpose of receiving instruction on and learning the practices of barbering;

(v) "Unprofessional" means acting in an extreme manner not conforming to current standards of the barbering industry;

(vi) "Instructor" means a person licensed to teach barbering or any practices thereof in a school of barbering as defined by this act and rules of the board;

(vii) "This act" means W.S. 33-7-101 through 33-7-211.

33-7-102. State board of barber examiners; created; designation; composition; appointment, qualifications and term of members.

(a) There is created the "state board of barber examiners", which shall consist of three (3) persons, each of whom shall be a resident citizen of the state of Wyoming and the holder of a valid registration certificate as a registered barber which has been annually renewed for the period of not less than five (5) years immediately preceding the date of his appointment and shall not be either directly or indirectly connected with any barber school or college. The members of the board shall be appointed by the governor. The governor may remove any member of the board as provided in W.S. 9-1-202. The term of office for each member appointed hereafter shall be three (3) years. Each term shall terminate on March 1 of the last calendar year of that term.

(b) Effective July 1, 1979, appointments and terms shall be in accordance with W.S. 28-12-101 through 28-12-103.

33-7-103. State board of barber examiners; election of officers; duties of secretary-treasurer; disposition of money received.

(a) The board shall elect a president, vice-president and a secretary-treasurer at the first annual meeting from its members. The secretary-treasurer shall keep the books, temporary funds and records of the board.

(b) Each fee required shall be paid in advance and shall be received and collected as provided by law. The board shall remit all fees and money received to the state treasurer. The state treasurer shall place the money in a separate account. The money so received and placed in the account may be used by the members of the board in defraying their actual expenses and per diem allowance as hereinafter provided in carrying out the provisions of this act.

33-7-104. State board of barber examiners; powers and duties; compensation.

The board shall furnish suitable quarters and adopt and use a common seal for the authentication of its orders and records. To assist in implementing this act, the board may employ personnel as it deems necessary and fix their duties and remuneration. Each member of the board shall receive as salary the sum paid each day to legislators, or an equivalent hourly wage, together with per diem and mileage as provided in W.S. 33-1-302(a)(vii). The entire costs and expenses of carrying out this act shall be paid only out of the fees collected in the administration of this act.

33-7-105. State board of barber examiners; meetings.

One (1) annual meeting shall be held at a time and place designated by the president of the board. Other meetings shall be held as called by the president of the board, or by the president upon the written request of two (2) members of the board.

33-7-106. State board of barber examiners; to furnish printed matter.

All certificates of registration, permits, licenses or other printed matter necessary to carry out the provisions of this act

shall be provided and issued by the board, and at no expense to the state.

33-7-107. Repealed by Laws 1985, ch. 136, § 2.

33-7-108. Shop license; barber school license; fee; renewal; application; inspection fees; nontransferable.

(a) No person, association, partnership or corporation shall operate or conduct a barbershop or barber school without a valid, unexpired license. Licenses shall be issued by the secretary of the board of barber examiners or the board's designee. The annual license fee shall be set by the board pursuant to W.S. 33-1-201 for each shop or school, payable in advance, but if not paid on or before July 31 of each year, a late fee set by board rule and regulation shall be assessed. The licenses shall be conspicuously displayed at all times, and no license shall be issued until all sanitary regulations required by W.S. 33-7-101 through 33-7-211 or prescribed by the board have been complied with. Applications for new shops or schools or for shops or schools changing locations shall be made in writing on forms furnished by the board, and shall contain information required by the board. An inspection fee for a new shop or school or for a shop or school changing location shall be set by the board pursuant to W.S. 33-1-201. A shop or school license is not transferable.

(b) Registered barbers, cosmetologists, manicurists or nail technicians, estheticians and hair stylists licensed under W.S. 33-12-119 through 33-12-140 may engage in the practice for which they are licensed in the same shop if the shop is licensed under subsection (a) of this section and under W.S. 33-12-119 through 33-12-140.

33-7-109. Persons addicted to intoxicating liquors or narcotics.

(a) No person addicted to the use of intoxicating liquors or drugs to an extent to render him unfit to practice or teach barbering shall be entitled to any license, nor shall any such person work or be employed in any barbershop.

(b) Repealed By Laws 2005, ch. 42, § 2.

33-7-110. Sanitary inspection.

(a) The board of barber examiners shall make a sanitary inspection of each barbershop and school at least annually.

(b) Barbershops in the state of Wyoming shall be open to such county health officers, members of the board, its inspectors or representatives at any time during business hours.

33-7-111. Sanitary requirements; rules.

(a) Repealed By Laws 2005, ch. 42, § 2.

(b) Repealed By Laws 2005, ch. 42, § 2.

(c) The board may promulgate rules regarding the operation of barbershops and schools to prevent the spread of infectious and contagious diseases.

33-7-112. Penalty.

Any violation of this act constitutes a misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00), imprisonment for not more than ninety (90) days, or both.

ARTICLE 2 - CERTIFICATE OF REGISTRATION

33-7-201. Certificates required; license required for shops and schools.

(a) No person shall practice or attempt to practice barbering without a certificate to practice as a registered barber. No person shall operate a barbershop or school unless it is at all times under the direct supervision and management of a registered barber. No person shall employ another as a barber unless the person so employed holds an unexpired certificate of registration or permit issued by the board.

(b) No person, association, partnership, or corporation shall establish or operate a barbershop or school of barbering in the state without first securing and holding a license from the board. Application for a license shall be made in writing on forms furnished by the board. The board may require to be furnished information reasonably necessary for its purposes. The board shall establish by rule and regulation standards for licensing barbershops and schools.

33-7-202. Repealed by Laws 1985, ch. 136, § 2.

33-7-203. When granted without examination.

(a) An applicant for a registered barber certificate, who is qualified and currently holds a registered barber certificate in another state or country, upon submitting an application to the board, with proof that he meets or exceeds the requirements to receive a registered barber certificate in this state as prescribed by board rule and regulation, and upon payment of the required fee, may receive a registered barber certificate by endorsement without examination in this state subject to the following:

(i) An applicant from another state or country which does not require a board examination or who has not graduated from a state approved program shall not obtain a certificate by endorsement; and

(ii) An applicant who holds a valid, unexpired barbers license or certificate from another state that does not require a board examination and who has graduated from a barber school or college, upon application and payment of the required fee may be issued a temporary permit to practice as a barber under the supervision of a registered barber in this state until the next examination scheduled by the board. Each applicant may receive only one (1) temporary permit.

(b) Repealed By Laws 2005, ch. 42, § 2.

(c) Repealed By Laws 2005, ch. 42, § 2.

33-7-204. Fees.

(a) The board shall establish and collect fees pursuant to W.S. 33-1-201 for the certificates, licenses, permits and examinations indicated:

(i) Registered barber's examination;

(ii) Certificate of registration, initial or renewal;

(iii) Duplicate certificate;

(iv) Temporary permit to practice;

(v) Restoration fee, certificate of registration;

(vi) Barbershop license;

(vii) Barber school license.

(b) Certificates of registration for barbers and barbershop and barber school licenses expire on July 1 following their issuance. Any person who qualifies for a certificate under W.S. 33-7-209 or a barbershop or barber school license as prescribed by board rule and regulation and pays required fees shall be issued a certificate or renewal.

(c) Repealed by Laws 1985, ch. 136, § 2.

(d) The board may declare forfeit the examination fee of any applicant who fails to appear for examination at two (2) successive meetings of the board for the examination of applicants.

(e) Repealed By Laws 2005, ch. 42, § 2.

(f) Repealed By Laws 2005, ch. 42, § 2.

(g) The board shall establish and collect fees to recover costs for publication and distribution of registers, lists and booklets, for records and affidavits processed, and for educational programs.

33-7-205. Restoration following expiration or retirement.

Any formerly registered barber whose certificate of registration has expired may within five (5) years of the date of expiration have his certificate restored immediately upon payment of the restoration fee in addition to other renewal fees. Any registered barber who retires from the practice of barbering for more than five (5) years may not renew his certificate of registration. Any registered barber whose certificate has expired and who does not qualify for a certificate by endorsement as provided in W.S. 33-7-203 shall be required to pass the board administered examination and pay all related examination and certification fees as set forth in board rule and regulation.

33-7-206. Display.

Every holder of a certificate of registration shall display it in a conspicuous place adjacent to or near his work chair. Every

holder of a barbershop or barber school license shall display it in a conspicuous place for public viewing.

33-7-207. Refusal to issue or renew; revocation; suspension; denial.

(a) The board may revoke, suspend, deny, or refuse to issue or renew any certificate of registration or barbershop or barber school license, or may otherwise censure the holder of a certificate of registration or barbershop or barber school license for any of the following causes:

(i) Making a false statement on an application to the board;

(ii) Gross malpractice or gross incompetency;

(iii) Repealed By Laws 2005, ch. 42, § 2.

(iv) Advertising by means of knowingly false or deceptive statements;

(v) Advertising, practicing, or attempting to practice, under a trade name other than one's own;

(vi) Repealed By Laws 2005, ch. 42, § 2.

(vii) Unprofessional conduct; and

(viii) Violation of any of the provisions of this act or board rule and regulation.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-7-208. Notice and hearing for revocation.

(a) Except as provided in W.S. 33-7-207(b), the board may refuse to renew or may revoke, deny or suspend any license or certificate of registration issued under this act as provided in W.S. 33-7-107 after twenty (20) days written notice and an

opportunity for a hearing pursuant to the provisions of W.S. 16-3-101 through 16-3-115.

(b) Hearing and notice requirements shall be conducted pursuant to the Wyoming Administrative Procedure Act, W.S. 16-3-101 through 16-3-115.

33-7-209. Qualifications for registration as barber; examination.

(a) A certificate of registration to practice barbering shall be issued upon passage of a board administered or board approved examination, and upon meeting all requirements set forth by board rule and regulation, to any person who files a completed application, accompanied by the required fees and documentation and who:

(i) Has graduated from an approved barber school or college, has an education equivalent to the completion of the second year of high school and is at least seventeen (17) years of age;

(ii) Has a valid, unexpired license as a barber from another state or country which has licensing requirements for barbers that meet or exceed the requirements for certification in Wyoming; or

(iii) Is a cosmetologist or hair stylist licensed under W.S. 33-12-119 through 33-12-140, has completed training at an approved barber school or college as set forth in board rules and regulations and passed an examination conducted by the board to determine his fitness for practice.

(b) Repealed By Laws 2005, ch. 42, § 2.

(c) An applicant for a certificate of registration to practice as a registered barber who fails to pass an examination conducted by the board, may be examined at the next examination.

33-7-210. Application for examination.

Each applicant for an examination shall make application to the board on blank forms prepared and furnished by the board and shall submit proper credentials and all required fees as required by the board no less than fifteen (15) days before the examination is to be given.

33-7-211. Time and character of examinations.

The examination required under W.S. 33-7-209(a) shall be conducted at a time and place chosen by the board and given at least once every six (6) months. Examinations shall not be confined to any specific method or system, may consist of oral, written and performance examinations, and shall be of the scope and character to disclose that any person passing the examination is qualified to receive a registered barber certificate. Examinations shall be held in the presence of at least one (1) member of the board or a qualified examiner as determined by board rule and regulation.

ARTICLE 3 - SCHOOLS OF BARBERING AND INSTRUCTORS

33-7-301. Repealed By Laws 2005, ch. 42, § 2.

33-7-302. Repealed By Laws 2005, ch. 42, § 2.

33-7-303. Repealed By Laws 2005, ch. 42, § 2.

33-7-304. Repealed By Laws 2005, ch. 42, § 2.

33-7-305. Repealed By Laws 2005, ch. 42, § 2.

33-7-306. Repealed By Laws 2005, ch. 42, § 2.

33-7-307. Repealed By Laws 2005, ch. 42, § 2.

33-7-308. Repealed By Laws 2005, ch. 42, § 2.

33-7-309. Repealed By Laws 2005, ch. 42, § 2.

33-7-310. Repealed By Laws 2005, ch. 42, § 2.

33-7-311. Repealed By Laws 2005, ch. 42, § 2.

33-7-312. Repealed By Laws 2005, ch. 42, § 2.

33-7-313. Repealed By Laws 2005, ch. 42, § 2.

33-7-314. Repealed By Laws 2005, ch. 42, § 2.

CHAPTER 8 - BOXING

33-8-101. Repealed by Laws 1989, ch. 191, § 1.

33-8-102. Repealed by Laws 1989, ch. 191, § 1.

33-8-103. Repealed by Laws 1989, ch. 191, § 1.

33-8-104. Repealed by Laws 1989, ch. 191, § 1.

33-8-105. Repealed by Laws 1989, ch. 191, § 1.

33-8-106. Repealed by Laws 1989, ch. 191, § 1.

33-8-107. Repealed by Laws 1989, ch. 191, § 1.

33-8-108. Repealed by Laws 1989, ch. 191, § 1.

33-8-109. Repealed by Laws 1989, ch. 191, § 1.

33-8-110. Repealed by Laws 1989, ch. 191, § 1.

33-8-111. Repealed by Laws 1989, ch. 191, § 1.

33-8-112. Repealed by Laws 1989, ch. 191, § 1.

33-8-113. Repealed by Laws 1989, ch. 191, § 1.

33-8-114. Repealed by Laws 1989, ch. 191, § 1.

33-8-115. Repealed by Laws 1989, ch. 191, § 1.

33-8-116. Repealed by Laws 1989, ch. 191, § 1.

33-8-117. Repealed by Laws 1989, ch. 191, § 1.

33-8-118. Repealed by Laws 1989, ch. 191, § 1.

33-8-119. Repealed by Laws 1989, ch. 191, § 1.

33-8-120. Repealed by Laws 1989, ch. 191, § 1.

CHAPTER 9 - PODIATRISTS

33-9-101. Definitions.

(a) As used in this act:

(i) "Podiatry" means the diagnosis or the medical, mechanical or surgical treatment of the ailments of the human foot, ankle and tendons that insert into the foot. Surgical

treatment of the ankle and tendons that insert into the foot shall be limited to licensed podiatrists who have completed a podiatric surgical residency training program as approved by the board through rule and regulation. Podiatry also includes the fitting or the recommending of appliances, devices or shoes for the correction or relief of minor foot ailments. The practice of podiatric medicine shall include the amputation of the toes or other parts of the foot but shall not include the amputation of the foot or leg in its entirety. A podiatrist may not administer any anesthetic other than local. A general anesthesia shall be administered in a hospital by an anesthesiologist or certified nurse anesthetist authorized under the laws of this state to administer anesthesia. Podiatrists are permitted to use and to prescribe drugs and controlled substances as may be necessary in the practice of podiatry.

33-9-102. Board of registration in podiatry.

(a) There is created and established the state board of registration in podiatry which shall be composed of three (3) practicing podiatrists of integrity and ability, who shall be residents of the state of Wyoming and who shall have practiced podiatry continuously in the state for a period of two (2) years immediately prior to their appointment. The members of the board shall be appointed by the governor. Annually, the governor shall appoint one (1) member who shall be a licensed podiatrist possessing the qualifications above specified, who shall serve for a period of three (3) years or until his successor has been appointed. The governor may remove any board member as provided in W.S. 9-1-202.

(b) Any vacancy which occurs on the board shall be filled by an appointment of the governor and the podiatrist so appointed shall hold office until the expiration of the term. Members of the board shall elect one (1) member as president and one (1) member as secretary-treasurer.

33-9-103. License required to practice.

It is unlawful for a person to profess to be a podiatrist, to practice or assume the duties incident to podiatry or to advertise in any form or hold himself out to the public as a podiatrist, or in a sign or advertisement to use the word "podiatrist", "foot correctionist", "foot expert", "foot specialist", "chiropodist" or any other term or designation indicating to the public that he is holding himself out as a podiatrist or foot correctionist in any manner, without first

obtaining from the board a license authorizing the practice of podiatry in this state under this act.

33-9-104. Applications for licenses.

Persons who wish to practice podiatry in this state shall make application on a form authorized and furnished by the board for a license to practice podiatry. This application shall be granted to an applicant after he has furnished satisfactory proof that he has satisfactorily completed two (2) years in a recognized college of liberal arts or of the sciences, and that he is a graduate of a regularly established school of podiatry recognized by the American Podiatric Medical Association or its successor and the board which requires as a prerequisite to graduation the completion of at least three thousand three hundred sixty (3,360) scholastic hours of classroom work. A school of podiatry shall not be accredited by the board if it does not require for graduation at least four (4) years of instruction in the study of podiatry. Every applicant for a license to practice podiatry shall have successfully completed a residency approved by the board through rules and regulations. This requirement applies only to applicants who graduate from podiatric college after July 1, 2005. After the application has been accepted by the board, together with the payment of the license fee, the applicant must pass a satisfactory examination as prepared under the rules and regulations of the board.

33-9-105. Examinations.

Examinations of applicants for a license to practice podiatry shall be in the English language and shall include both clinical and written tests as the board shall determine. The examinations shall embrace the subjects of histology, surgery, hygiene, dermatology, anatomy, physiology, chemistry, bacteriology, pathology, diagnosis and treatment, pharmacology, therapeutics, clinical podiatry and such other subjects as the board may prescribe, a knowledge of which is commonly and generally required by the practitioners of podiatry. This section shall not be construed to require of the applicant a medical or surgical education. The minimum requirements for a license to practice under W.S. 33-9-101 through 33-9-114 is a general passing grade average of seventy-five percent (75%) in all of the subjects involved and not less than sixty percent (60%) in any one (1) subject. At the time of making application to practice, an examination and license fee in amounts established by the board pursuant to W.S. 33-1-201 shall be paid to the board. An applicant failing in the examination and being refused

a license is entitled, within six (6) months of the refusal, to a reexamination, but only two (2) such reexaminations shall be granted to any one (1) applicant. The board may make such rules and regulations governing the conduct of the examinations as shall be necessary, and willful violation of such rules and regulations shall subject the applicant to the cancellation of the examination and loss of the fee.

33-9-106. Registration with county clerk.

Every person to whom a certificate of registration and license has been issued under this act, within one (1) month from the date of receipt of the certification of registration and license, shall deliver the certificate to the county clerk of the county in which the person has his legal residence or usual place of business, and pay a recording fee of two dollars ($2.00). The county clerk to whom such certificate is presented shall register the name and address of the person designated in the certificate together with the date and number inscribed thereon, and this record shall be open to public inspection.

33-9-107. Licensing matters.

A license issued under W.S. 33-9-101 through 33-9-114 shall be designated a "registered podiatrist's license" and may not contain any abbreviations thereof nor any other designation or title except that a statement of limitation shall be contained in the license referring to the licensee as a "registered podiatrist - practice limited to the foot and ankle", so as not to mislead the public with respect to their right to treat other portions of the body. A renewal license fee in an amount established by the board pursuant to W.S. 33-1-201 shall be due to the board annually on July 1 each year, and if not paid within three (3) months the license shall be revoked and may be reissued only upon an additional application and payment of a fee in an amount established by the board pursuant to W.S. 33-1-201. Application for renewal shall be accompanied by evidence satisfactory to the board of compliance with participation in continuing education activities as established by rules and regulations of the board. The board shall require three (3) hours of continuing education related to the responsible prescribing of controlled substances every two (2) years. The board may waive the continuing education requirement for the first renewal of a license. Licenses shall be conspicuously displayed by podiatrists at their offices or other places of practice.

33-9-108. Disposition of fees.

All fees and money shall be received and collected as provided by law. The board shall remit all fees and money received to the state treasurer. The state treasurer place the money in a separate account which shall be subject at all times to warrant of the state auditor drawn upon vouchers issued and signed by the president and the secretary-treasurer of the board.

33-9-109. Exemptions.

(a) This act does not apply to the commissioned podiatrists of the United States armed services in the actual performance of their official duties, to physicians or surgeons, to osteopathic physicians and surgeons regularly licensed under the laws of Wyoming, nor to any visiting podiatrist called into consultation in this state from another state where he is duly qualified under the laws of that state to practice podiatry.

(b) This act shall not prohibit the fitting, recommending, advertising, adjusting or sale of corrective shoes, arch supports or similar mechanical appliances or foot remedies by retail dealers or manufacturers.

33-9-110. Revocation of license.

(a) After notice and opportunity for hearing under the terms of the Wyoming Administrative Procedure Act, the board may revoke or refuse to renew a license granted under this act to any person otherwise qualified who is guilty of any of the following violations:

(i) Obtaining a license by fraudulent representation;

(ii) Incompetency in practice;

(iii) Use of untruthful or improbable statements to patients or in his advertisements;

(iv) Alcoholism or habitual use of controlled substance;

(v) Unprofessional conduct;

(vi) Selling or giving away alcohol or controlled substances for illegal purposes, but the board may reissue a

license after six (6) months if in its judgment the act, acts or conditions of disqualification have been remedied; or

(vii) Failure to furnish evidence showing the satisfaction of the requirements of continuing education required by the board.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-9-111. Reciprocal licenses.

The applicant may be registered and given a certificate or registration and license if he presents satisfactory proof of the endorsement from his state board of having practiced podiatry, and the possession of a certificate of podiatry qualification or license issued to the applicant at least one (1) year prior to filing of application for reciprocal privileges. The certificate upon which reciprocity is requested shall have been issued in the United States or within any foreign country where the requirements for the certificate of qualification or license of the applicant at the date of application are deemed by the board to be equivalent to those of this act, and the state or country from which the applicant has received a license has like reciprocal privileges with the state of Wyoming, and the applicant has passed that state or country's examination in clinical podiatry. The fee for registration of applicants for reciprocity and for the endorsement of reciprocity to another state shall be in amounts established by the board pursuant to W.S. 33-1-201.

33-9-112. Compensation of board.

Each member of the board shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii). Any incidental expenses necessarily incurred by the board or any member, if approved by the board, shall be paid from the state treasury, but only from the fees received under the provisions of this act that are paid into the state treasury by the board.

33-9-113. Penalties.

Any person violating any of the provisions of this act is guilty of a misdemeanor and upon conviction, shall be punished by a fine of not more than one hundred dollars ($100.00) or imprisonment for not more than six (6) months, or both, for each offense.

33-9-114. Education and training standards for unlicensed podiatric personnel exposing ionizing radiation; mandatory machine inspections; exemptions.

(a) Any person employed by or assisting a podiatrist licensed under this chapter shall in addition to any other requirements imposed by rule and regulation of the board of registration in podiatry, successfully complete minimum safety education and training requirements specified under this section prior to operating any machine source of ionizing radiation or administering radiation to any patient.

(b) Education and training required under subsection (a) of this section shall consist of not less than twenty (20) hours of educational instruction or supervised training in the following areas:

(i) Podiatric nomenclature;

(ii) Machine operation exposure factor;

(iii) Operator and patient safety;

(iv) Practical or clinical experience in the following:

(A) Foot and ankle techniques for exposing radiographs;

(B) Film handling and storage;

(C) Processing procedures; and

(D) Patient record documentation for radiographs.

(c) Education and training required under this section shall be obtained from board approved programs only. Written verification of required educational curricula and training protocol shall be in a form prescribed by rule and regulation of

the board. Nothing in this subsection prohibits on the job training by a licensed podiatrist.

(d) Any licensed podiatrist using an x-ray machine shall have that machine inspected by a qualified radiation expert periodically as determined by the board.

(e) The board shall promulgate reasonable rules and regulations necessary to implement and administer this section.

(f) Subsection (a) of this section shall not apply to any person licensed as a radiologic technologist or radiologic technician under W.S. 33-37-101 through 33-37-113.

CHAPTER 10 - CHIROPRACTORS

33-10-101. Chiropractic defined.

Chiropractic is the system of specific adjustment or manipulation of the joints and tissues of the body and the treatment of the human body by the application of manipulative, manual, mechanical, physiotherapeutic or clinical nutritional methods for which those persons licensed under this chapter are trained and may include venipuncture, acupuncture and the use of diagnostic x-rays with rights for referral for advanced diagnostic imaging. A chiropractor may examine, diagnose and treat patients provided, however, chiropractors shall not perform surgery, direct the use of or administer drugs required by law to be dispensed on prescription only, practice obstetrics or prescribe or administer x-ray therapy. For purposes of this act, "venipuncture" means the puncture of the vein for the withdrawal of blood.

33-10-102. Board of chiropractic examiners; established; composition; qualifications of members.

There is hereby created and established a board to be known as the state board of chiropractic examiners, which shall be composed of one (1) member of the public at large and four (4) practicing chiropractors of integrity and ability, who shall be residents of the state of Wyoming, who shall have practiced chiropractic continuously in the state of Wyoming for a period of at least three (3) years and who shall have a diploma from an accredited chiropractic school or college.

33-10-103. Board of chiropractic examiners; appointment; term; qualifications; vacancies; removal.

The governor shall appoint four (4) practicing chiropractors, who shall possess the qualifications specified in W.S. 33-10-102, and one (1) citizen from the public at large to constitute the membership of the board. Members shall be appointed to a term of four (4) years, except that initial terms of chiropractor members shall be staggered so that annually thereafter the governor shall appoint one (1) chiropractor member. The governor shall fill all vacancies occurring in the board. The governor may remove any board member as provided in W.S. 9-1-202.

33-10-104. Board of chiropractic examiners; meetings; procedure; records; members to be licensed.

(a) The board of examiners shall convene within thirty (30) days after the appointment of its members and shall elect from its membership a president, vice-president, a treasurer and a secretary and the board may appoint a person who is not a member of the board to fulfill the functions of treasurer or secretary. The board shall hold a regular meeting once each year at the capitol of the state, the date to be set by the board at its first meeting. The board shall hold special meetings at such times and places as a majority of the members thereof may designate. A majority of the board shall constitute a quorum. The board shall have authority to administer oaths, take affidavits, summon witnesses and take testimony as to matters coming within the scope of its duties. It shall adopt a seal, which shall be affixed to all licenses issued by it and shall from time to time adopt rules and regulations as are proper and necessary for the performance of its duties. It shall adopt a schedule of minimum educational requirements not inconsistent with the provisions of this law, which shall be without prejudice, partiality or discrimination as to the standard schools of chiropractic. The secretary of said board shall keep a record of the proceedings of the board, which shall at all times be open to public inspection. The board shall also have on file with the secretary of state for public inspection a copy of its rules and regulations.

(b) Repealed By Laws 2013, Ch. 185, § 2.

33-10-105. License required.

(a) It shall be unlawful for any person to practice chiropractic in this state without first obtaining a license, as provided for in this act.

(b) Nothing in this chapter shall prevent the activities and services of a person pursuing a course of study leading to a degree in chiropractic at an accredited college or university, if the activities and services constitute a part of a supervised course of study and the person is a designated chiropractic intern or preceptor appropriate to his level of training and as authorized by rules and regulations of the board.

(c) The board pursuant to its rules and regulations may issue a temporary license to an applicant who is licensed or certified by a board of chiropractic of another United States state or territory, or of a foreign country or province whose standards are equal to or exceed the requirements for licensure as a chiropractor in this state.

(d) No business entity organized under title 17 of the Wyoming statutes shall employ or contract with a chiropractor to provide chiropractic services unless fifty-one percent (51%) of the equity in the entity is owned by persons, and the spouses of persons, licensed pursuant to title 33, chapter 9, 10 or 26 of the Wyoming statutes. This subsection shall not apply to:

(i) A health care facility as defined in W.S. 35-2-901(a)(x);

(ii) Clinical facilities affiliated with a college of chiropractic which provides training for chiropractic students and which is accredited by a nationally recognized accreditation organization;

(iii) A public or private university or college;

(iv) Any agency of federal, state or local government;

(v) Any partnership or other business entity authorized to be formed under title 17 of the Wyoming statutes and which is owned with other health care providers.

33-10-106. Application for license; educational requirements; fees; criminal history record background check.

(a) Any person wishing to practice chiropractic in this state shall make application to the board of chiropractic examiners, upon such form and in such manner as may be prescribed and directed by the board. Each applicant shall be a

graduate of a recognized school of chiropractic having an accredited program which is professional in content and which meets the academic and training standards established by the board. There shall be paid by each applicant a license fee in an amount established by the board pursuant to W.S. 33-1-201 which fee shall accompany the application.

(b) Beginning July 1, 2026, the board shall request criminal history background information as authorized under W.S. 7-19-106(a)(xlii) for all initial applicants for licensure under this chapter.

(c) Each initial applicant for licensure under this chapter shall provide the board fingerprints and other information necessary for a criminal history record background check as provided under W.S. 7-19-201.

33-10-107. Time, place and subjects for examinations; reexamination.

(a) Examinations for license to practice chiropractic shall be given by the board at such times and places as it shall determine.

(b) All examinations shall be made in writing and shall include those subjects identified by the board in its rules and regulations.

(c) A license shall be granted to all applicants who achieve an overall passing grade and a passing grade in each subject area as determined by the board in its rules and regulations. An applicant who fails to pass the examination may take a second examination at any time within one (1) year from and after his first failure without the payment of any additional fees.

33-10-108. Duties and authority of practitioners.

Chiropractic practitioners shall observe and be subject to all state and municipal regulations relating to the control of contagious and infectious diseases and shall, as to any and all matters pertaining to public health, report to the proper health officers the same as other practitioners.

33-10-109. Title of practitioners.

Chiropractors licensed under this act shall have the right to practice chiropractic in accordance with the method taught in the chiropractic schools and colleges recognized by the chiropractic board of examiners of this state. If a chiropractor chooses to use the prefix "Dr." or "doctor" on any display sign before the name of the practitioner, the display shall also include the title "doctor of chiropractic," "chiropractor," "D.C." or the equivalent.

33-10-110. Prohibited acts; refusal, revocation or suspension of license; appeals.

(a) The board may deny, refuse to renew, suspend, revoke or otherwise restrict a license under this act for any of the following acts:

(i) To knowingly submit false or misleading information to the board;

(ii) To perform or attempt to perform an unlawful abortion or assist or advise the performance of any unlawful abortion;

(iii) To commit or be convicted of a felony that relates to the practice of chiropractic or to the ability to practice chiropractic;

(iv) To become addicted to a drug or intoxicant to such a degree as to render the licensee unsafe or unfit to practice chiropractic;

(v) To practice chiropractic while having any physical or mental disability which renders the practice of chiropractic dangerous;

(vi) To be guilty of any dishonest, unethical or unprofessional conduct likely to deceive, defraud or harm the public;

(vii) To use willfully any false or fraudulent statement in any document connected with the practice of chiropractic;

(viii) To knowingly perform any act which in any way assists an unlicensed person to practice chiropractic;

(ix) To violate or attempt to violate, directly or indirectly or assist in or abet the violation or conspiring to violate any provision or terms of the Chiropractic Practice Act;

(x) To practice chiropractic while adjudged mentally incompetent or insane;

(xi) To practice chiropractic under a false or assumed name;

(xii) To advertise the practice of chiropractic in any unethical or unprofessional manner;

(xiii) To obtain a fee as personal compensation or gain to an employer or for a person on fraudulent representation that a manifestly incurable condition can be permanently cured;

(xiv) To willfully violate any privileged communication;

(xv) To aid or abet the practice of chiropractic by a person who is not licensed by the board;

(xvi) To violate any code of ethics or disciplinary rules established by the board.

(b) Repealed By Laws 2013, Ch. 185, § 2.

(c) Repealed By Laws 2013, Ch. 185, § 2.

(d) Repealed By Laws 2013, Ch. 185, § 2.

(e) Repealed By Laws 2013, Ch. 185, § 2.

(f) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

(g) Unless the board and the licensee have agreed to the relinquishment of or imposition of restrictions or conditions on a license, the board shall conduct a proceeding to deny, refuse to renew, suspend, revoke or otherwise restrict a license on the

grounds set forth in subsection (a) of this section as a contested case under the Wyoming Administrative Procedure Act.

(h) The board may request criminal history background information as authorized under W.S. 7-19-106(a)(xlii) for purposes of investigation of complaints and disciplinary action against licensees of the board.

(j) Upon written request from the board, a licensee shall provide the board fingerprints and other information necessary for a criminal history record background check as provided under W.S. 7-19-201 as part of an ongoing investigation of or disciplinary action against the licensee.

33-10-111. Appeal from decision of board.

Any person aggrieved by the decision of the board may petition for judicial review pursuant to the Wyoming Administrative Procedure Act.

33-10-112. Repealed By Laws 2013, Ch. 185, § 2.

33-10-113. Prerequisite for renewal of license; board's power to make regulations; fees.

(a) Each chiropractor shall, as a prerequisite to annual license renewal, submit as a part of the renewal application satisfactory evidence of having completed the continuing education requirements established by the board in its rules and regulations.

(b) The board shall also adopt rules and regulations authorizing the board to grant exceptions to the educational requirements.

(c) All persons practicing chiropractic within this state shall pay on or before August 1 of each year, a renewal license fee in an amount established by the board pursuant to W.S. 33-1-201. If any practicing chiropractor fails to pay the renewal license fee imposed by W.S. 33-10-101 through 33-10-117 within thirty (30) days after the due date, the license shall lapse. A lapsed license shall only be restored within one (1) year of expiration upon written application and payment to the board of a fee of twice the amount of the renewal fee in effect at the time the restoration application is filed.

33-10-114. Disposition of money collected; expenses of board; compensation of members.

(a) All money shall be received and collected as provided by law. All money received or collected under this chapter shall be remitted to the state treasurer by the board for deposit in a separate account. The money in the account is subject at all times to the warrant of the state auditor drawn upon written requisition attested by the executive director of the board for the payment of any board expenses.

(b) The members of the board shall receive as salary the sum paid each day to legislators, or an equivalent hourly wage, together with per diem and mileage as provided in W.S. 33-1-302(a)(vii).

(c) Repealed By Laws 2013, Ch. 185, § 2.

33-10-115. Repealed By Laws 2013, Ch. 185, § 2.

33-10-116. Violation of W.S. 33-10-101 through 33-10-117.

(a) Any person, corporation or association who shall practice, or attempt to practice, chiropractic, or any person who shall buy, sell, or fraudulently obtain any diplomas or licenses to practice chiropractic, or who shall use the title "doctor of chiropractic", or any word or title to influence belief that he is engaged in the practice of chiropractic, without first complying with the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment in the county jail for not more than one (1) year, or by both fine and imprisonment.

(b) The attorney general, the state board of chiropractic examiners or any county attorney may obtain an injunction in the name of the state of Wyoming upon the relation of such complainant enjoining any person, corporation or association and the officer and directors and employees of such corporation or association from engaging in the practice of chiropractic without a license and certificate or violation of any of the provisions of this chapter. The district court of the district in which the offending party resides or the district court of Laramie county shall have original jurisdiction of any such injunction proceedings. Any defendant who has been so enjoined who shall violate such injunction shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by

imprisonment for not more than one (1) year, or both. An injunction may be issued without proof of actual damage sustained and upon proof of one (1) or more acts constituting practice of chiropractic without a license or in violation of any provision of this chapter.

33-10-117. Restrictions.

Nothing contained in this act shall be construed to restrain or restrict licensed or certified members of other legally recognized professions from performing services consistent with the laws of this state, provided they do not represent themselves as practicing the profession regulated under this act and do not represent themselves to be chiropractors. Nothing contained in this act shall be construed to restrain or restrict the practice of venipuncture or acupuncture.

CHAPTER 11 - COLLECTION AGENCIES

33-11-101. Definitions.

(a) As used in this act:

(i) "Board" means the collection agency board created by W.S. 33-11-103;

(ii) "Business debt" means the obligation arising from a credit transaction between business or commercial enterprises for goods or services used or to be used primarily in a commercial or business enterprise and not for personal, family or household purposes;

(iii) "Collection agency" means any person who:

(A) Engages in any business, the purpose of which is the collection of any debts for Wyoming creditors;

(B) Regularly collects or attempts to collect for Wyoming creditors, directly or indirectly, debts owed or due or asserted to be owed or due another;

(C) Takes assignment of debts for the purpose of collecting such debts;

(D) Directly or indirectly, solicits for collection debts owed or due or asserted to be owed or due a Wyoming creditor;

(E) Uses a fictitious name or any name other than their own name in the collection of their own accounts receivable;

(F) Collects debts incurred in this state from debtors located in this state by means of interstate communications, including telephone, mail or facsimile or any other electronic method, from the debt collector's location in another state; or

(G) Operates as a debt buyer.

(iv) "Communication" means conveying information regarding a debt in written or oral form, directly or indirectly, to any person through any medium;

(v) "Consumer" means any natural person obligated or allegedly obligated to pay any debt;

(vi) "Creditor" means any person who offers or extends credit creating a debt or to whom a debt is owed, but "creditor" does not include:

(A) Any person or collection agency, to the extent that the person or agency receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of the debt for another; or

(B) Any person whose principal office is located outside the state of Wyoming and who only maintains a branch or satellite office in this state.

(vii) "Debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family or household purposes, whether or not the obligation has been reduced to judgment;

(viii) "Debt collector" means any person employed or engaged by a collection agency to perform the collection of debts owed or due or asserted to be owed or due to another, including any owner or shareholder of the collection agency business who engages in the collection of debts;

(ix) "Location information" means a consumer's place of abode and his telephone number at that place or his place of employment;

(x) "Revocation" means withdrawal or termination of the license and authority to conduct a collection agency in this state, and disqualification to renew the license, permanently or for an indefinite period of time;

(xi) "Solicitor" means any person employed or engaged by a collection agency, including an owner or shareholder of the agency, who solicits or attempts to solicit debts, accounts, notes or other evidence of indebtedness for collection by the person or any other person;

(xii) "Suspension" means withdrawal or termination of the license and authority to conduct a collection agency in this state, and disqualification to renew the license, for a period not to exceed one (1) year;

(xiii) "Channeling agent" means the third party licensing system that gathers the application information and distributes it to Wyoming for review and for use in the approval or denial decision;

(xiv) "Registry" means the nationwide multistate licensing system and registry maintained by the State Regulatory Registry, LLC;

(xv) "Debt buyer" means any person that is regularly engaged in the business of purchasing charged-off consumer debt for collection purposes, whether the person collects the debt, hires a third party for collection of the debt or hires an attorney for collection litigation;

(xvi) "This act" means W.S. 33-11-101 through 33-11-116.

(b) The term "collection agency" does not include:

(i) Any officer or employee of a creditor while collecting debts for and in the name of the creditor;

(ii) Any officer or employee of the United States or of any state, to the extent that collecting or attempting to collect a debt is in the performance of his official duties;

(iii) Any person while serving or attempting to serve legal process on another person in connection with the judicial enforcement of any debt;

(iv) Any person whose principal business is the making of loans or the servicing of debt, and who acts as a loan correspondent, seller or servicing agent for the owner or holder of a debt which is secured by a mortgage on real property, whether or not the debt is also secured by an interest in personal property;

(v) Any person whose collection activities are carried on in the true name of the creditor, and are confined to the operation of a business other than a collection agency, including but not limited to banks, trust companies, savings and loan associations, abstract companies doing an escrow business, real estate brokers, attorneys, insurance companies, credit unions or loan or finance companies;

(vi) Any person whose business is the servicing of credit card debt;

(vii) Any person engaged solely in the collection of one (1) or more business debts; or

(viii) Any licensed attorney acting in an attorney-client relationship with the creditor, and who conducts the collection in the true name of the client.

(c) Repealed by Laws 1993, ch. 21, § 2.

33-11-102. Licenses required.

No person shall conduct a collection agency or act as a debt collector or solicitor within this state without first having obtained a license as provided in this act, except that a debt collector or solicitor acting in the course of his employment for a collection agency licensed in Wyoming is not required to have an individual license.

33-11-103. Collection agency board created; membership; appointment; term; qualifications; chairman.

(a) The collection agency board is created. The board shall consist of five (5) members appointed by the governor. One (1) member shall be an attorney-at-law who is actively engaged in collection work. Two (2) members shall be officers, partners,

owners or resident managers of licensed collection agencies but not from the same or affiliated collection agency, and who are not attorneys-at-law. One (1) member shall be a member of the public at large who is neither an attorney-at-law nor affiliated with a collection agency, but who is or has been a user of credit or collection services. One (1) member shall be an officer, partner or owner of a grantor of credit operating in the state that engages or has engaged the services of a Wyoming licensed collection agency. Members of the board shall be appointed for a term of four (4) years and shall serve until their successors are duly appointed and qualified.

(b) No person shall be appointed as a member of the board who has not been a bona fide resident of the state of Wyoming for at least five (5) years immediately prior to his appointment. The attorney and the officers, partners, owners or resident managers of the collection agencies shall have been engaged in the collection business within the state of Wyoming for a period of five (5) years immediately prior to appointment. The member of the public at large shall have at least five (5) years experience as a user of credit or collection services.

(c) Upon the death, resignation or removal of any member of the board, the governor shall appoint a member to serve the remaining unexpired term. Any member of the board may be removed by the governor as provided in W.S. 9-1-202.

(d) Members of the board shall elect one (1) of their members chairman to serve for a term of two (2) years.

33-11-104. Collection agency board; compensation.

All members of the collection agency board shall be paid salary in the same manner and amount as members of the Wyoming legislature when attending any regular or called meeting of the board and receive per diem and mileage as provided in W.S. 33-1-302(a)(vii). Salary, per diem and travel expense for all board members shall be paid solely from the account containing the license fees established and payable under this act.

33-11-105. Powers and duties of collection agency board.

(a) The board shall have charge of the administration of this act. All applications for licenses under this act shall be referred to the board for consideration. The board shall investigate the qualifications of the applicant. If the board finds the applicant fails to meet the required qualifications,

the board shall reject the application; otherwise the application shall be approved and a license granted on payment of license fees and filing of a bond as required by this act.

(b) The board shall refuse to issue or renew a license:

(i) If an individual applicant or licensee is not an adult;

(ii) If an applicant or licensee is not authorized to do business in this state;

(iii) If the licensee does not have an established office in Wyoming with a bona fide resident of Wyoming as a resident manager, or in the case of an applicant, the application does not disclose the proposed office location in Wyoming and the name of the proposed resident manager;

(iv) If an applicant, or an owner, officer, director, partner or resident manager of an applicant or licensee:

(A) Knowingly made a false statement of a material fact in any application for a collection agency license or renewal thereof, or in any documentation provided to support the application or renewal;

(B) Has had a license to conduct a collection agency denied, not renewed, suspended or revoked by this state or any other state for any reason other than the nonpayment of licensing fees or failure to meet bonding requirements;

(C) Has been convicted in any court of a felony involving forgery, embezzlement, obtaining money under false pretenses, larceny, theft, extortion, fraud or conspiracy to commit fraud;

(D) Has had a judgment entered against him in any civil action involving forgery, embezzlement, obtaining money under false pretenses, larceny, theft, extortion, fraud or conspiracy to commit fraud;

(E) Has failed to pay or satisfy any judgment debt or penalty imposed by any court; or

(F) Has knowingly failed to comply with or violated any provision of this act or the rules and regulations of the board adopted pursuant to this act.

(c) In addition to other powers granted by this act, the board may:

(i) Require a licensee or an applicant for a license to submit to a background investigation including fingerprint checks for state, national and international criminal history record checks. In exercising its authority under this paragraph, the board may utilize background checks completed by the division of criminal investigation, other government agencies in this state or in other states, the federal bureau of investigation, the registry or another entity designated by the registry;

(ii) Determine the content of application forms and the means by which an applicant applies for, renews or amends a license under this act.

(d) The board may require applicants to utilize the registry or an entity designated by the registry for the processing of applications and fees.

33-11-106. Authority to make rules and regulations; violations; penalties.

The board shall make reasonable rules and regulations for the administration of this act, and for prescribing acceptable professional standards of conduct of licensees. Any violation of the rules and regulations of the board shall be grounds for the imposition of a civil penalty not to exceed one thousand dollars ($1,000.00) or suspension, revocation or refusal to renew any license issued under this act, or any combination thereof.

33-11-107. Application for license; qualifications; financial statement.

(a) A person desiring to conduct a collection agency business in this state shall apply in writing on forms approved by the board. The application shall be signed and verified by the applicant and filed in the office of the board. The application shall state:

(i) The name and place of residence of the person making the application;

(ii) Whether the business is organized as a corporation, partnership or sole proprietorship;

(iii) The name or names under which the business will be conducted;

(iv) The street address of the office where the business will be conducted;

(v) The name of the person who will be the resident manager of the office;

(vi) Other information as the board may require to determine the qualifications of the applicant and the resident manager to be licensed to conduct a collection agency business.

(b) The application shall be accompanied by a financial statement of the applicant, showing the applicant to be financially sound.

(c) All applicants shall have an established office in Wyoming with a bona fide resident of Wyoming as a resident manager of the office. All resident managers shall pass an examination as prescribed by the board to determine the fitness of the resident manager to conduct a collection agency business.

(d) The board may collect an examination fee not to exceed one hundred dollars ($100.00) for each examination given. The board shall establish by rule the amount and method of payment of the examination fee. All fees collected shall be credited to the account and used as provided by W.S. 33-11-111.

(e) The board may establish relationships or contract with the registry or any other entity designated by the registry to collect and maintain records and process transaction fees or other fees related to applicants, licensees or other persons subject to this act.

(f) In addition to the other requirements of this section, in connection with an application for licensure the applicant may be required to furnish to the board or the registry information concerning the identity of the applicant, the owners or persons operating or managing the applicant and individuals designated as operators or managers of the applicant's places of business, including:

(i) Fingerprints for submission to the federal bureau of investigation or any governmental agency or entity authorized

to receive fingerprints for a state, national and international criminal history background check; and

(ii) Personal history, including the submission of authorization for the board, registry or designee to obtain:

(A) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the federal Fair Credit Reporting Act; and

(B) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(g) For the purposes of this section and to reduce the points of contact that the federal bureau of investigation may have to maintain for purposes of subsection (f) of this section, the board may use the registry as a channeling agent for requesting information from and distributing information to the United States department of justice or any governmental agency.

(h) For the purposes of this section and to reduce the points of contact that the board may have to maintain for purposes of subsection (f) of this section, the board may use the registry as a channeling agent for requesting and distributing information to and from any source as directed by the board.

33-11-108. Bond required for license; terms, conditions and execution; amount; notice to surety; new bond.

(a) The applicant shall be notified when the application is approved. Within twenty (20) days after notification, the applicant shall file and thereafter maintain a deposit with the state treasurer or a bond as required by this act. The license shall be issued upon approval of the bond by the board and the attorney general. The bond shall be issued by a surety company licensed and authorized to do business in Wyoming, in the sum of ten thousand dollars ($10,000.00) and shall run to the state of Wyoming and to any party who may be a claimant. The bond shall be executed and acknowledged by the applicant as principal. The applicant may satisfy the bond requirement of this section by depositing with the state treasurer ten thousand dollars ($10,000.00) cash.

(b) The bond shall be conditioned that the principal, as a licensee under this act, shall pay and turn over to or for the use of any claimant from whom any debt is taken or received for

collection, the proceeds of such collection less the charges for collection in accordance with the terms of the agreement made between the principal and the claimant.

(c) The bond shall cover all debts placed with the licensee for collection. Any claim under the bond shall be presented to the board. The board shall promptly notify the surety. If the surety fails to pay or settle the claim within thirty (30) days after notice from the board, the claimant may bring suit on the bond in the claimant's own name. The aggregate liability of the surety for any and all claims which may arise under the bond shall in no event exceed the amount of the penalty of the bond.

(d) A licensee may file a new bond with the board at any time. A surety company may file with the board notice of its withdrawal as surety of any licensee. Upon the filing of a new bond or a notice of withdrawal, the liability of the former surety for all future acts of the licensee shall terminate except as provided in W.S. 33-11-109.

(e) Upon filing notice with the board by any surety company of its withdrawal as the surety of any licensee, or upon the revocation by the insurance commissioner of the authority of any surety company to transact business in this state, the board shall immediately give notice to the licensee of the withdrawal or revocation. Within thirty (30) days from the date of notification the licensee shall file a new bond with the board. If a licensee fails to file a new bond satisfactory to the board within the time allowed, the right of the licensee to conduct a collection agency shall terminate.

33-11-109. Bond of agency; limitation of actions.

No action shall be brought upon any bond required to be given under this act after the expiration of two (2) years from the revocation or expiration of the license issued to the licensee and principal under the bond. Except for any action commenced upon the bond prior to expiration of the two (2) year period, all liability of the surety upon the bond shall cease on the expiration date.

33-11-110. License; renewals; fee; license nontransferable; display.

(a) Fees for the licensing of collection agencies shall be set by the board. All fees shall be established in accordance

with W.S. 33-1-201. Each office or place of business shall be licensed separately.

(b) Each collection agency license shall expire on December 31 of each year. The licensee shall submit all required renewal application information not later than December 1 of each year. A collection agency license is not transferable. Each collection agency license shall be displayed in a conspicuous place in licensee's place of business.

33-11-111. Disposition of fees.

All fees and money received and collected by the board, except the amount paid for data processing by the registry or any other entity designated by the registry, shall be deposited with the state treasurer, who shall credit the money to a separate account. All monies paid into the state treasury and credited to the account are appropriated to the use of the collection agency board for the payment of all necessary expenses incurred in administering this act, including the payment of per diem, salary and mileage to members of the board.

33-11-112. Action upon complaints; records of proceedings.

(a) Any interested person may file a verified written complaint charging any collection agency licensee with the violation of this act or the rules adopted by the board, or with conduct that shows the licensee is unworthy to continue to operate a collection agency within this state. The complaint shall be filed with the board which shall investigate the complaint if necessary or refer the complaint to appropriate staff for investigation and referral back to the board for proper disposition.

(b) The board, on its own motion, may make, or cause to be made, an investigation of the conduct of any licensee. As a part of an investigation, the board may audit the books and accounts of a licensee. The audit may be conducted by an auditor from the state department of audit or by a certified public accountant contracted by the board.

(c) Repealed by Laws 1981, ch. 25, § 2.

(d) For the purpose of an investigation or for hearing a complaint, the board may hold a hearing in accordance with the Wyoming Administrative Procedure Act. The hearing may be conducted by a hearing examiner. The chairman may subpoena

witnesses and books, records and documents relative to the inquiry. Witnesses may be required to testify under oath. If the board finds the licensee has violated the provisions of this act or the rules promulgated by the board, the licensee may be sanctioned by a civil penalty not to exceed one thousand dollars ($1,000.00) or refusal to renew, suspension or revocation of his license or any combination thereof. Any civil penalties collected pursuant to this section shall be paid to the state treasurer and credited as provided in W.S. 8-1-109.

(e) A copy of the complaint and a complete record of the investigation and the disposition made shall be retained by the board in the office of the board.

33-11-113. Records of license and bond actions; confidentiality.

(a) The board shall keep a record of all applications for licenses and all bonds filed. The record shall state whether or not a license has been issued under the application and bond. If a bond is withdrawn, replaced or revoked, or the license to operate a collection agency is temporarily terminated because of the failure of the surety on the bond, the facts shall be reflected in the record with the date of filing any order of suspension, revocation or reinstatement. The application form and bond, and records relating thereto shall be open for inspection as a public record in the office of the board.

(b) Financial statements, credit reports and other financial information required by the board in support of a license application or in an investigation, and unresolved complaints or complaints found to be without merit are confidential and are not subject to inspection as a public record.

(c) Except as prohibited by law, the board or board's designee may furnish information to or receive information from the registry for the purpose of regulation of the debt collection industry. Information furnished by the board to any third party which is confidential or privileged in the board's possession remains confidential or privileged in the possession of the third party. Information received by the board from any third party which is confidential or privileged in the third-party's possession remains confidential or privileged in the board's possession.

33-11-114. Furnishing or advertising legal services; scope of authority to solicit, acquire or collect claims.

No licensee, under the terms of this act, shall render legal services or advertise directly or indirectly, that it will render legal services, but any licensee can solicit claims exclusively for the purpose of collection, take assignments thereof for the purpose of collection by suit or otherwise, and for such purpose, shall be deemed to be the real party in interest in any suit brought upon such assigned claim.

33-11-115. Prohibited acts; penalty for violations; injunctive relief.

(a) In addition to other penalties, any person who carries on the business of a collection agency without first having obtained a license, or who carries on a collection agency business after the termination, suspension, revocation or expiration of a license, is guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars ($50.00) nor more than seven hundred fifty dollars ($750.00), imprisoned in the county jail not more than six (6) months, or both.

(b) When it appears to the board that any person is violating any of the provisions of this act, the board may, in its own name, bring an action in a court of competent jurisdiction for an injunction, and courts of this state may enjoin any person from violating this act regardless of whether proceedings have been or may be instituted before the board or whether proceedings have been or may be instituted under subsection (a) of this section. The proceedings shall be prosecuted by the attorney general, or if approved by the attorney general, by private counsel engaged by the board.

33-11-116. Prosecution of violations.

The district attorney shall prosecute all violations of this act occurring within his district.

CHAPTER 12 - COSMETOLOGY

33-12-101. Repealed by Laws 1985, ch. 97, § 2.

33-12-102. Repealed by Laws 1985, ch. 97, § 2.

33-12-103. Repealed by Laws 1985, ch. 97, § 2.

33-12-104. Repealed by Laws 1985, ch. 97, § 2.

33-12-105. Repealed by Laws 1985, ch. 97, § 2.

33-12-106. Repealed by Laws 1985, ch. 97, § 2.

33-12-107. Repealed by Laws 1985, ch. 97, § 2.

33-12-108. Repealed by Laws 1985, ch. 97, § 2.

33-12-109. Repealed by Laws 1985, ch. 97, § 2.

33-12-110. Repealed by Laws 1985, ch. 97, § 2.

33-12-111. Repealed by Laws 1985, ch. 97, § 2.

33-12-112. Repealed by Laws 1985, ch. 97, § 2.

33-12-113. Repealed by Laws 1985, ch. 97, § 2.

33-12-114. Repealed by Laws 1985, ch. 97, § 2.

33-12-115. Repealed by Laws 1985, ch. 97, § 2.

33-12-116. Repealed by Laws 1985, ch. 97, § 2.

33-12-117. Repealed by Laws 1985, ch. 97, § 2.

33-12-118. Repealed by Laws 1985, ch. 97, § 2.

33-12-119. Citation.

This act shall be known and may be cited as the "Wyoming Cosmetology Act".

33-12-120. Definitions.

(a) As used in this act:

(i) "Applicant" means the person, persons or entity applying for a license, examination or appointment;

(ii) "Application" means a form prescribed by the board used for making a request for licensure, examination or appointment;

(iii) "Board" means the state board of cosmetology;

(iv) "Cosmetologist" means a person who engages in the practice of cosmetology as defined by this act and rules of the board and who is licensed as a cosmetologist under this act;

(v) "Practice of cosmetology" means any single practice or service or a combination of practices or services performed for others for the improvement and beautification of the hair, skin and nails of the human body for cosmetic purposes;

(vi) "Esthetician" means a person who engages in the practice of esthetics as defined by this act and rules of the board and who is licensed as an esthetician under this act;

(vii) "Practice of esthetics" means any single practice or service or a combination of practices or services performed for others for the improvement and beautification of the skin of the human body for cosmetic purposes;

(viii) "Hair stylist" means a person who engages in the practice of hair styling as defined by this act and rules of the board and who is licensed as a hair stylist under this act;

(ix) "Practice of hair styling" means any single practice or service or a combination of practices or services performed for others for the improvement and beautification of the hair for cosmetic purposes;

(x) "Instructor" means a person licensed to teach cosmetology or any practices thereof in a school of cosmetology as defined by this act and rules of the board;

(xi) "License" means a current document recognizing the cosmetologist, manicurist or nail technician, esthetician, hair stylist, instructor, salon or school has met the qualifications required for doing business in this state;

(xii) "Manicurist or nail technician" means a person who engages in the practice of manicuring or nail technology as defined by this act and rules of the board and who is licensed as a manicurist or nail technician under this act;

(xiii) "Practice of manicuring or nail technology" means any single practice or service or a combination of practices or services performed for others for the improvement and beautification of the nails and for cosmetic purposes;

(xiv) "Model" means a person who volunteers to allow a licensed cosmetologist, manicurist or nail technician, esthetician, hair stylist or student enrolled in a cosmetology school to perform cosmetology services without cost;

(xv) "Patron" means a paying customer in a cosmetology salon or school;

(xvi) "Salon" means any place licensed under this act in which cosmetology is practiced;

(xvii) "School" means any place licensed under this act where cosmetology is taught to students;

(xviii) "Student" means a person enrolled in a school licensed under this act;

(xix) "Unprofessional" means acting in an extreme manner not conforming to current standards of the cosmetology industry;

(xx) "Braiding device" means a clip, comb, crochet hook, curlers, hairpin, rollers, scissors, blunt-tipped needles, thread and hair binders;

(xxi) "Practice of natural hair braiding" means the service of twisting, wrapping, weaving, extending, locking or braiding a person's hair by hand or with a braiding device decorative beads or other hair accessories, the minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking or braiding hair and the making and lacing of wigs from natural hair, natural fibers, synthetic fibers or hair extensions. "Practice of natural hair braiding" includes the use of topical agents including conditioners, gels, moisturizers, oils or pomades. "Practice of natural hair braiding" shall not include the application of dyes, reactive chemicals or other preparations to alter the color of a person's hair or to straighten, curl or alter the structure of a person's hair or the use of chemical hair joining agents including synthetic tape, keratin bonds or fusion bonds;

(xxii) "This act" means W.S. 33-12-119 through 33-12-140.

33-12-121. Board; membership; appointment; qualifications; term of office; vacancies; removal.

(a) The board shall consist of five (5) members appointed by the governor. Each member shall be a cosmetologist licensed in Wyoming, and at least one (1) shall be an instructor licensed in Wyoming. Each member of the board shall be a resident of Wyoming with at least five (5) years experience as a cosmetologist in Wyoming immediately preceding the appointment. Appointments shall represent various geographical areas of Wyoming. The term of each appointee shall be three (3) years, unless sooner removed from the board, or until a successor is appointed. The terms shall be staggered so that the terms of not more than two (2) members expire each year. The members of the board holding office on the effective date of this act shall serve as members for the remainder of their respective terms.

(b) No member of the board shall be affiliated with or hold interest in any cosmetology school while serving as a member of the board.

(c) Vacancies shall be filled for the unexpired term. The governor shall remove any board member whose cosmetology license has been suspended or revoked. The governor may remove any board member as provided in W.S. 9-1-202.

33-12-122. Election of board officers.

The board shall meet after each appointment and elect one (1) of their members as president, one (1) vice-president, and one (1) recording secretary.

33-12-123. Duties of board members.

(a) Within the limitations and authority granted by this act, the board shall:

(i) Develop rules setting uniform and reasonable standards of competency for the practice and teaching of cosmetology, manicuring or nail technology, esthetics or hair styling, for the operation of salons and schools, and procedures for its own conduct;

(ii) Administer examinations to determine competency for licensure of cosmetologists, manicurists or nail technicians, estheticians, hair stylists and instructors;

(iii) Initiate and conduct investigations, hearings and proceedings concerning alleged violations of this act and board rules;

(iv) Determine and administer appropriate disciplinary action against all individuals found to have violated this act or rules promulgated hereunder as provided by W.S. 33-12-135;

(v) Annually inspect, or appoint persons to inspect, all salons and schools for proper licensure of the salon, school and all cosmetologists, manicurists or nail technicians, estheticians, hair stylists whether practicing as a proprietor, employee or independent contractor, or instructors practicing or teaching and for the purpose of determining compliance with the provisions of this act and board rules;

(vi) Determine fees as authorized by W.S. 33-12-139;

(vii) Employ an executive director and approve such additional staff as may be necessary to administer and enforce the provisions of this act and board rules.

33-12-124. Meetings.

A majority of the board constitutes a quorum for meetings and the transaction of business. The act of the majority of members of the board shall be the act of the board. The board shall meet as often as needed, but not less than four (4) times a year. The meetings shall be held in accordance with W.S. 16-4-401 through 16-4-407. The board shall keep permanent records of its meetings.

33-12-125. Assistants; inspectors; compensation.

(a) The board may employ and fix the duties and remuneration of inspectors, clerical or administrative assistants as deemed necessary to implement this act or the rules of the board.

(b) Board members shall receive as salary the sum paid each day to legislators, or an equivalent hourly wage, together with per diem and mileage allowance as provided in W.S. 33-1-302(a)(vii), when actually engaged in official board duties.

33-12-126. Executive director; duties; accountability; compensation.

The board shall employ an executive director who shall be responsible for the administration of this act and rules of the board, and other duties as the board may direct. The executive director shall be a cosmetologist licensed in Wyoming and qualified by education and experience. The executive director may act in the board's behalf during the period between meetings on matters of licensure, applications for examination and other administrative functions. The executive director shall be responsible for the coordination and security of board examinations, shall assist the board members with adoption of rules and regulations, shall assist in legislative matters, shall attend board meetings and assist in implementation of board decisions. The annual salary of the executive director shall be determined by the state personnel division. The executive director shall receive mileage and per diem allowance for expenses incurred in the performance of official duties as provided for other state employees.

33-12-127. Licenses required; failure to comply; fines.

(a) From and after the effective date of this act, no person shall engage in the practice or instruction of cosmetology, manicuring or nail technology, esthetics or hair styling and no place shall be maintained and operated for the practice or teaching of cosmetology, manicuring or nail technology, esthetics or hair styling except under a license issued in compliance with this act and the rules adopted pursuant to this act.

(b) No school or salon shall employ, hire or in any manner allow any individual to practice or teach cosmetology, manicuring or nail technology, esthetics or hair styling unless that individual has a current license to practice or teach the applicable specific practice of cosmetology, manicuring or nail technology, esthetics or hair styling.

(c) The licenses required in subsections (a) and (b) of this section shall:

(i) Be issued in the name of the licensed cosmetologist, manicurist or nail technician, esthetician, hair stylist, instructor, owner of the salon or owner of the school;

(ii) State the licensing and expiration dates; and

(iii) Be displayed at all times in a conspicuous place in the principal office, place of business or employment of the licensee.

(d) Any person who practices or teaches cosmetology, manicuring or nail technology, esthetics or hair styling for compensation, or who carries on any business, practice or operation governed by this act, without the applicable license when a license is required, is guilty of a misdemeanor punishable, upon conviction, by a fine of not more than seven hundred fifty dollars ($750.00).

(e) Upon request of a licensee, the board may issue a certificate to the licensee to practice activities authorized under the license as an independent contractor within a salon. The board may charge an additional fee for the issuance of the certificate as established pursuant to W.S. 33-12-139.

33-12-128. Form; expiration; renewal of license.

The board shall prescribe the form and expiration date of licenses. Licenses may be renewed by submitting the required application for renewal and fee to the board before the license expiration date. If a cosmetologist, manicurist or nail technician, esthetician, hair stylist or instructor license is allowed to expire, the license may be renewed within a period of ninety (90) days after the expiration date, but after the expiration of ninety (90) days from the date the license expired the license shall lapse.

33-12-129. Expired and lapsed licenses; relicensure.

If a salon or school license is allowed to expire a reinstatement fee for late renewal shall be imposed. A cosmetologist, manicurist or nail technician, esthetician, hair stylist or instructor license which has lapsed may be reinstated subject to payment of a reinstatement fee in addition to license fees for the lapsed period. Any person whose license has lapsed for five (5) years or more, and who does not qualify for licensure by endorsement, shall be required to complete a refresher course of one hundred (100) hours at a licensed school before applying for examination and shall then be required to take the board examination.

33-12-130. Licensure by examination.

(a) An applicant for admission to board examination shall meet the following requirements:

(i) Be a graduate of a cosmetology, manicuring or nail technology, esthetics or hair styling school and have met training requirements comparable to those set forth in board rules;

(ii) Submit proper credentials as required by the board no less than fifteen (15) days before the examination is to be given;

(iii) Pay the required fee for examination.

(b) The board shall issue a license to persons successfully passing the board licensing examination.

33-12-131. Time, place and scope of examinations.

(a) Examinations shall be held at least six (6) times a year at a time and place designated by the board.

(b) The examinations shall not be confined to any specific method or system, may consist of written, oral and performance examinations and shall be of such scope and character as to disclose that any person passing the examination is qualified to receive a cosmetologist, manicurist or nail technician, esthetician, hair stylist or instructor license.

33-12-132. Licensure by endorsement.

An applicant for a license to practice or instruct cosmetology, manicuring or nail technology, esthetics or hair styling in Wyoming who is a qualified and currently licensed cosmetologist, manicurist or nail technician, esthetician, hair stylist or instructor in another state, upon submitting an application to the board, a certification from the board or licensing agency of the state in which the applicant is licensed, proof of meeting the requirements of this section and payment of the required fee, may receive a cosmetologist, manicurist or nail technician, esthetician, hair stylist or instructor license by endorsement without examination in this state. An applicant from another state which does not require a board examination for licensure, or an applicant who did not attend a cosmetology, manicuring or nail technology, esthetics or hair styling school meeting requirements of the rules of the board and the licensing entity of the state in which the school is located, shall not obtain a

Wyoming license by endorsement. An applicant from another state who has not practiced cosmetology, manicuring or nail technology, esthetics or hair styling full time for at least one (1) year prior to application shall obtain a Wyoming license by endorsement only if he was licensed under requirements which the board determines to be at least equal to those established pursuant to this act.

33-12-133. Foreign applicants.

Applicants licensed or trained in a foreign country shall present an English translation of the requirements they met in that country. The credentials shall be presented to the board for consideration, and a determination as to what requirements are necessary to obtain a license in Wyoming shall be made.

33-12-134. Promulgation of rules.

(a) The board shall prescribe rules to implement this act in accordance with the Wyoming Administrative Procedure Act.

(b) The board shall prescribe sanitation rules necessary to prevent the spread of infectious and contagious diseases. All sanitation rules shall be subject to approval of the department of health.

(c) Notwithstanding any other provision of this act, the board may adopt rules which prescribe reduced qualifications and examination requirements for persons seeking to engage solely in services for the improvement and beautification of the hair, skin or nails. The license issued shall state the limited nature of services which may be performed by the licensee.

(d) In adopting rules defining the professions licensed under this act the board may clarify definitions provided in statute and address new practices but shall not otherwise expand those activities which constitute the practice of a profession licensed under this act.

33-12-135. Powers to revoke, refuse, suspend, refuse to renew licenses; grounds; procedures.

(a) The board may refuse to issue a license under this act or censure, revoke, suspend or refuse to renew a license issued pursuant to this act after not less than twenty (20) days notice and a hearing, held pursuant to the provisions of W.S. 16-3-101 through 16-3-115, for any of the following acts:

(i) Any violation of this act or any rule of the board;

(ii) Any infection control violation as defined by this act or rules of the board;

(iii) Unprofessional or dishonest conduct as defined by this act or rules of the board;

(iv) A judicial disposition of guilt or a plea of nolo contendere relative to a criminal offense which adversely relates to the practice or instruction of cosmetology, nail technology, esthetics or hair styling;

(v) Use of any prohibited product as defined by this act or rules of the board;

(vi) Use of intoxicating liquor or drugs to such an extent as to render the individual unfit to practice or teach cosmetology, manicuring or nail technology, esthetics or hair styling;

(vii) Fraud, cheating or unfair practices in passing an examination;

(viii) Advertising by means of statements known to be false or deceptive; or

(ix) Failure of any person, salon or school to display required licenses and inspection certificates.

(b) Repealed by Laws 2005, ch. 98, § 2.

(c) The board may require the attendance of witnesses and the production of books, records or papers it determines necessary for any investigation of any violation of this act or rule of the board. Any member of the board may administer oaths to witnesses appearing to testify before the board or before any board member.

(d) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under

the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-12-136. Right of entry.

Any member of the board, its agents or assistants may enter into and inspect any school or salon at any time during business hours.

33-12-137. Annual report to governor.

The board shall report to the governor respecting all receipts, expenditures and activities of the board as required by W.S. 9-2-1014.

33-12-138. Publications.

(a) The board shall:

(i) Provide a copy of appropriate statutes and rules to every licensed cosmetologist, manicurist or nail technician, esthetician, hair stylist, salon and school. Additional copies shall be made available upon payment of a fee for the publication;

(ii) Prepare and maintain a current list of the names and addresses of all cosmetologists, manicurist or nail technicians, estheticians, hair stylists, salons and schools licensed in Wyoming, the names and addresses of the members of the board and their terms of office. The list shall be available for inspection and copying and for reproduction in whole or in part upon payment of the cost of reproduction.

33-12-139. Fees; disposition of fees.

(a) Fees for the following shall be determined by the board pursuant to W.S. 33-1-201:

(i) Examinations;

(ii) Cosmetologist license;

(iii) Instructor license;

(iv) Salon license;

(v) School license;

(vi) Endorsement fee;

(vii) License reinstatement;

(viii) Online testing;

(ix) Manicurist or nail technician license;

(x) Esthetician license;

(xi) Temporary location license;

(xii) Independent contractor certificate; and

(xiii) Hair stylist license.

(b) The board shall set fees sufficient to recover costs for the publication and distribution of registers, lists and booklets, for records and affidavits processed, and for educational programs.

(c) Each fee required shall be paid in advance and shall be received and collected as provided by law. The board shall remit all fees and money received to the state treasurer. The state treasurer shall place the money in a separate account.

33-12-140. Exemptions.

(a) Nothing in this act shall prohibit services rendered by licensed physicians, nurses, dentists, podiatrists, chiropractors, physical therapists, morticians or barbers when exclusively engaged in the practice of their respective professions.

(b) The provisions of this act shall not apply to employees, volunteers and residents of hospitals, health care facilities, nursing homes, senior citizen centers, convalescent or boarding homes or other similar facilities who render services to residents or members of these facilities on the premises.

(c) The provisions of this act shall not apply to persons engaged in demonstrating the use of any cosmetic or beauty aid or equipment for the purpose of offering for sale to the public such cosmetic or beauty aid or equipment, or to a person engaged

in the business of or receiving compensation for facial makeup applications only.

(d) This act shall not apply to a person solely engaged in the practice of natural hair braiding. The practice of natural hair braiding is not regulated under this title and is separate and distinct from barbering, the practice of hair styling and the practice of cosmetology.

(e) Nothing in subsection (d) of this section shall prohibit the owner of a salon from requiring private certification of a person engaged in the practice of natural hair braiding at the owner's salon.

CHAPTER 13 - DANCE HALL OPERATORS

33-13-101. Repealed By Laws 2009, Ch. 138, § 2.

33-13-102. Repealed By Laws 2009, Ch. 138, § 2.

33-13-103. Repealed By Laws 2009, Ch. 138, § 2.

33-13-104. Repealed By Laws 2009, Ch. 138, § 2.

33-13-105. Repealed By Laws 2009, Ch. 138, § 2.

CHAPTER 14 - DEBT ADJUSTERS

33-14-101. Definitions.

(a) As used in this act:

(i) "Person" means an individual, corporation, partnership, trust, firm, association or other legal entity excluding a tax exempt nonprofit consumer credit counseling service, a person admitted to the bar in this state or a copartnership or professional corporation all members of which are admitted to the bar in this state;

(ii) "Debt adjusting" shall mean doing business in debt adjustments, budget counseling, debt management, or debt pooling service or holding oneself out, by words of similar import, as providing services to debtors in the management of their debts and contracting with a debtor for a fee to:

(A) Effect the adjustment, compromise, or discharge of any account, note, or other indebtedness, of the debtor; or

(B) Receive from the debtor and disburse to his creditors any money or other thing of value.

33-14-102. Prohibited; exception.

(a) It shall be unlawful for any person to engage in the business of debt adjusting.

(b) Nothing in this act shall apply to those situations involving debt adjusting as herein defined incurred in the practice of law in this state.

33-14-103. Penalty.

Whoever, either individually or as an officer, director or employee of any person, firm, association, partnership, corporation or other legal entity, violates any of the provisions of this act shall upon conviction, be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100.00) or by confinement in the county jail of not more than six (6) months or both, for each such violation.

CHAPTER 15 - DENTISTS AND DENTAL HYGIENISTS

33-15-101. Board of dental examiners; generally.

(a) The board shall carry out the purposes and enforce the provisions of this act. The board shall consist of six (6) members appointed by the governor with the advice and consent of the state senate. Appointments made between sessions of the legislature shall be made in accordance with W.S. 28-12-101. The interim appointments are not considered a term for the purposes of subsection (c) of this section, relating to reappointment to the board.

(b) The term for board members is four (4) years, and expires on March 1. Effective July 1, 1979, appointments and terms shall be in accordance with W.S. 28-12-101 through 28-12-103.

(c) No person is eligible to membership on the board who is not legally qualified to practice; who has not engaged in the

active practice of dentistry in the state of Wyoming for at least five (5) continuous years immediately prior to appointment; who does not at the time of his appointment hold a certificate entitling him to practice dentistry in the state of Wyoming; and who is not a resident of the state of Wyoming. One (1) appointed member of the board shall be a dental hygienist who has the qualifications provided in this act. No member shall succeed himself in office for more than two (2) successive terms.

(d) Any vacancy upon the board caused by the resignation, death or removal of a member shall be filled by the governor by appointment for the unexpired term of that member. Any appointment to fill a vacancy shall be made within ninety (90) days after the vacancy occurs.

(e) Appointments by the governor to the board shall be made from a list of recommended names submitted by the Wyoming Dental Association and Wyoming Dental Hygiene Association as follows:

(i) The Wyoming Dental Association shall, through its secretary, present to the governor within fifteen (15) days after its regular annual meeting a list of the names of not less than ten (10) candidates from which appointments for vacancies on the board occurring during the ensuing year shall be made; and

(ii) The Wyoming Dental Hygiene Association shall, through its secretary, present to the governor within fifteen (15) days after its regular annual meeting a list of not less than three (3) candidates from which appointments for vacancies on the board occurring during the ensuing year shall be made.

(f) Each member of the board shall, before entering upon the duties of his office, take and subscribe an oath or affirmation that he will support the constitution and the laws of the United States and the state of Wyoming, and that he will faithfully perform the duties as a member of the board.

(g) Repealed By Laws 2007, Ch. 210, § 3.

33-15-102. Board of dental examiners; officers; seal; meetings; quorum.

(a) The board shall elect from its members a president, vice-president and a secretary-treasurer. The board shall have a

common seal. The board shall meet in June each year, and more often if necessary, at such times and places designated by the president and the board. The meeting of the board shall be at the call of the president and the secretary-treasurer. Five (5) days notice shall be given by the secretary-treasurer to all board members of the time and place of the meeting. A majority of the board constitutes a quorum.

(b) Repealed by Laws 1981, ch. 172, § 3.

33-15-103. Board of dental examiners; removal of members.

The governor may remove any member as provided in W.S. 9-1-202 or for discontinued residence in Wyoming.

33-15-104. Board of dental examiners; indebtedness; compensation.

The board shall not create any indebtedness on behalf of the state of Wyoming, except as provided in this section. Out of the funds assessed by the board, each of the members of the board shall receive compensation each day or part of a day in which they are engaged in performance of their official duties, including necessary travel, at the same rate as state legislators and shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii) incurred in the performance of their official duties. The secretary of the board shall receive compensation for his services.

33-15-105. Disposition of monies received and collected under provisions of chapter; report.

(a) All monies shall be received and collected as provided by law. The state treasurer shall place the money in a separate account, which shall only be paid out upon an authorized voucher duly verified by the board president and signed by the president and either the secretary of the board, or his designee, showing that the expenditure is a necessary expense and has been actually and properly incurred by the board. Upon presentation of the voucher, the auditor shall draw the warrant upon the treasurer but no warrant shall be drawn unless and until there are sufficient monies in the account to pay same and the expenses of the board shall not be charged upon any other state fund or account. Any money on hand at the dissolution of the board or the repeal of this act shall be paid to the credit of the common school permanent land fund account.

(b) The board shall report annually to the governor respecting all activities, as required by W.S. 9-2-1014.

33-15-106. Determination of fees.

The board shall establish fees by rule and regulation for the issuance of licenses and administration of examinations pursuant to this act.

33-15-107. Sale of license.

Any member of the board who sells or offers to sell any license, or modify scoring or grading of a test to issue a license is subject to prosecution under W.S. 6-5-102.

33-15-108. Licensing; qualifications; examinations; fees.

(a) Any person who has a background that does not evidence conduct adverse to the practice of dentistry or to the ability to practice dentistry, who has graduated and attained the degree of doctor of dental surgery or doctor of dental medicine from a college or university in the United States or Canada accredited by the commission on dental accreditation of the American Dental Association, may apply to the board to have the applicant's qualifications considered for licensure to practice dentistry. The applicant shall pass a written, clinical and state examination that follows national standards as determined by rule of the board.

(b) The board may set fees for initial examinations and reexamination. Fees shall be paid to the board office before the examination or reexamination. The fee shall be paid by any method designated by the board, and in no case shall the fee be refunded.

(c) The applicant shall be informed of the results of his examination within thirty (30) days after the examination.

(d) Repealed By Laws 2009, Ch. 181, § 2.

(e) If the applicant fails the board examination three (3) times, he shall show evidence of additional education to the satisfaction of the board before he may be reexamined.

(f) The board shall keep records of the names and addresses of all applicants and such other matters as affords a full record of the actions of the board. The records or

transcripts of the records, duly certified by the president and secretary of the board with the seal of the board attached, is prima facie evidence before all courts of this state of the entries therein.

(g) The board shall make and prescribe all reasonable rules for its governance and for the conduct of its business.

(h) The board may make and prescribe rules and regulations for the licensure and practice of dentistry in the state of Wyoming, not inconsistent with this act. For purposes of this subsection, "practice of dentistry" includes the work of dental hygienists, dental auxiliaries, dental technicians and dental laboratories.

33-15-109. Renewal license certificate.

(a) On or before December 31 of every second year, each dentist licensed to practice dentistry in this state and wishing to continue in the practice of dentistry shall submit a license renewal application with the applicable renewal fee. Any license granted by the board shall expire if the holder fails to secure the renewal certificate within three (3) months after the date that the license renewal application is required to be submitted.

(b) Any dentist whose application for renewal indicates that the dentist has not actively practiced dentistry or engaged in teaching dentistry or dental hygiene for the preceding five (5) years shall be issued a renewal certificate only after demonstrating to the board that the dentist has maintained the qualifications set forth in this act. The board may require reexamination if it finds good cause to believe that the person has not maintained the professional ability and knowledge required of an original licensee.

(c) The board may set continuing education requirements for renewal certificates and relicensure certificates. The board shall require three (3) hours of continuing education related to the responsible prescribing of controlled substances every two (2) years.

33-15-110. Certificate entitles dentist to practice in any county; lost certificates.

The certificate provided for in this act entitles the holder to practice dentistry in any county in Wyoming. The board, upon

satisfactory proof of loss of the certificate issued under this act, shall issue a new certificate. The cost of replacement shall be determined by the board and paid by the person requesting replacement.

33-15-111. List of licensees filed with board office.

The board shall annually publish a list of all dentists and dental hygienists licensed under this act. The list shall contain the name and address of each dentist and dental hygienist and such other information as the board deems advisable. The board office shall furnish copies to the public upon request or by access to the board's website.

33-15-112. Grounds and procedure for revocation or suspension of license.

(a) The board may refuse to issue or renew a license, may suspend or revoke a license, may reprimand, restrict or impose conditions on the practice of a dentist for any one (1) or more of the following causes:

(i) Conviction of, entry of a plea of nolo contendere to or entry of a deferred prosecution agreement pursuant to W.S. 7-13-301 to a felony or misdemeanor that relates adversely to the practice of dentistry or the ability to practice dentistry;

(ii) Renting or loaning to another person the dentist's license or diploma to be used as a license or diploma for the other person;

(iii) Unprofessional conduct as defined in rules and regulations of the board;

(iv) Advertising or soliciting patients, in any form of communication, in a manner that is false or misleading in any material respect;

(v) Being unfit or incompetent to practice dentistry for any reason, including but not limited to:

(A) Inability to practice dentistry with reasonable skill and safety because of physical or mental disability or the use of alcohol, prescription drugs, nonprescription drugs or other psychoactive substance;

(B) Performance of unsafe dental practice or failure to conform to the standards of acceptable professional dental practice, whether or not actual injury results.

(vi) Professional discipline by a professional licensing board in any jurisdiction;

(vii) Fraud, deceit or misrepresentation in providing any information or record to the board; or

(viii) Willful violation of any provisions of this act or rules and regulations of the board.

(b) The proceedings under this section may be taken by the board from matters within its knowledge or upon information from another. If the informant is a member of the board, the other members of the board shall judge the accused. All complaints shall be in writing, verified by some party familiar with the facts alleged or by additional information or data which supports the complaint and shall be filed with the board. Upon receiving the complaint, the board shall proceed as in a contested case under the Wyoming Administrative Procedure Act and rules and regulations of the board. Upon revocation of any license, the fact shall be noted upon the records of the board and the license shall be marked cancelled upon the date of its revocation.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-15-113. Repealed By Laws 2007, Ch. 210, § 3.

33-15-114. Persons deemed to be practicing dentistry; work authorizations from licensed dentist.

(a) Except as provided by paragraph (xii) of this subsection, any person is deemed to be practicing dentistry within the meaning of this act:

(i) Who performs, or attempts, or advertises to perform, or causes to be performed by the patient or any other

person, or instructs in the performance of any dental operation or oral surgery or dental service of any kind gratuitously or for a salary, fee, money or other remuneration paid, or to be paid, directly or indirectly, to himself or to any other person or agency;

(ii) Who is a manager, proprietor, operator or a conductor of a place where dental operations, oral surgery or dental services are performed;

(iii) Who directly or indirectly by any means or method furnishes, supplies, constructs, reproduces or repairs any prosthetic denture, bridge, appliance or other structure to be worn in the human mouth, or places such appliance or structure in the human mouth or attempts to adjust the same;

(iv) Who advertises to the public by any method to furnish, supply, construct, reproduce or repair any prosthetic denture, bridge, appliance or other structure to be worn in the human mouth;

(v) Who diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat disease, pain, deformity, deficiency, injury or physical condition of human teeth or jaws, or adjacent structure;

(vi) Who extracts or attempts to extract human teeth, or corrects or professes to correct malpositions of teeth or of the jaw;

(vii) Who gives or professes to give interpretations or readings of dental radiographs;

(viii) Who administers an anesthetic of any nature in connection with dental operations;

(ix) Who uses the words "dentist", "dental surgeon" or "oral surgeon", the letters "D.D.S.", "D.M.D." or any other words, letters, title or descriptive matter which in any way represents him as being able to diagnose, treat, prescribe or operate for any disease, pain, deformity, deficiency, injury or physical condition of human teeth or jaws, or adjacent structures;

(x) Who states or advertises or permits to be stated through any medium of communication that the licensee can

perform or will attempt to perform dental treatment or render a diagnosis in connection therewith; or

(xi) Who engages in any of the practices included in the curriculum of an approved dental college;

(xii) A dental laboratory or dental technician is not practicing dentistry within the meaning of this act when engaged in the construction, making, alteration or repairing of bridges, crowns, dentures or other prosthetic or surgical appliances, or orthodontic appliances if the casts or molds or impressions upon which the work is constructed have been made by a regularly licensed and practicing dentist, and if all crowns, bridges, dentures or prosthetic appliances, surgical appliances or orthodontic appliances are returned to the dentist upon whose order the work is constructed.

(b) Any licensed dentist who employs or engages the service of any person, firm or corporation to construct, reproduce, make, alter or repair bridges, crowns, dentures or other prosthetic, surgical or orthodontic appliances shall furnish the person with a written work authorization on forms prescribed by the board, which contain:

(i) The name and address of the person to whom the work authorized is directed;

(ii) The patient's name or identification number, but if only a number is used the patient's name shall be written upon the duplicate copy of the work authorization retained by the dentist;

(iii) The date on which the work authorization was written;

(iv) A description of the work to be done, including diagrams, if necessary;

(v) A specification of the type and quality of the material to be used;

(vi) The signature of the dentist and the number of his license to practice dentistry.

(c) The person, firm or corporation receiving a work authorization from a licensed dentist shall retain the original work authorization and the dentist shall retain the duplicate

copy for inspection at any reasonable time by the board or its authorized agents for two (2) years from date of issuance.

33-15-115. Persons to whom chapter inapplicable.

(a) Nothing in this act contained applies:

(i) To a legally qualified medical doctor;

(ii) To a legally qualified dental hygienist or dentist engaged in full-time duties with the United States armed forces, public health service, veterans administration or other federal agencies;

(iii) To a legally qualified dental hygienist or dentist of another state making a clinical demonstration before a meeting of dentists or dental auxiliaries; or

(iv) To dental and dental hygiene students actively enrolled in any American Dental Association accredited dental educational program performing services as a part of the curriculum of that program under the direct supervision of a Wyoming licensed dentist or Wyoming licensed dental hygienist instructor.

33-15-116. Certain persons prohibited from soliciting patronage of general public.

No person engaged in business of constructing, altering or repairing bridges, crowns, dentures or other prosthetic appliances, surgical appliances or orthodontic appliances shall directly or indirectly solicit the patronage of the general public.

33-15-117. Dental laboratory technicians.

Dentists may employ one (1) or more dental laboratory technicians who work only under the direction and supervision of the dentist and who shall not be permitted under any circumstances to do any work upon any patient. Dental laboratory technicians shall not be allowed to do laboratory work of any kind except at the direction of dentists duly licensed to practice, and then only upon written prescription issued by the dentists.

33-15-118. Repealed by Laws 1981, ch. 172, § 3.

33-15-119. Dental hygienists; generally.

Any dentist authorized to practice dentistry within the state may employ dental hygienists who shall be examined and possess the qualifications provided in this act. A dental hygienist may perform any services for a patient which are consistent with what dental hygienists are trained to do in accredited dental hygiene schools accredited by the commission on dental accreditation of the American Dental Association. Hygienists shall not perform any other operation on the teeth or mouth and shall be regulated by the rules and regulations promulgated by the board. The above services shall be performed under the supervision of a licensed dentist. Dental hygienists shall practice in the office of any licensed dentist, or in any public or private institution under the supervision of a licensed dentist. The board may revoke or suspend the license of any dentist who permits any dental hygienist operating under his supervision to perform any operations or functions other than those permitted under this act.

33-15-120. Dental hygienists; qualifications; examination; fees and license.

(a) Any person who has a background that does not evidence conduct adverse to the practice of dental hygiene or to the ability to practice dental hygiene who is a graduate of a dental hygiene program accredited by the commission on dental accreditation of the American Dental Association, who has passed a written, clinical and state examination as determined by rule of the board may apply to the board to have the person's qualifications considered for licensure to practice dental hygiene.

(b) If the applicant fails the board examination three (3) times, he shall show evidence of additional education to the satisfaction of the board before reexamination.

(c) If the applicant successfully completes the requirements for licensure, the applicant shall be licensed as a dental hygienist. If the expanded duties applicant has successfully met the requirements for expanded duties, the applicant shall be certified in those expanded duties. The certificate issued by the board shall list the expanded duties which the hygienist is qualified and permitted to perform. On or before December 31 of every second year, each dental hygienist licensed to practice dental hygiene and wishing to continue in the practice of dental hygiene shall submit a license renewal

application with the applicable renewal fee. The renewal certificate shall be made available to the supervising dentist. Any license granted by the board shall expire if the holder fails to secure the renewal certificate within three (3) months after the date that the license renewal application is required to be submitted. Any license that has expired may be restored by the board upon payment of a fee set by the board, if paid by December 31 of the year the license expired.

(d) Any dental hygienist whose application for renewal indicates that the hygienist has not actively practiced dental hygiene or engaged in teaching dental hygiene for the preceding five (5) years shall be issued a renewal certificate only after demonstrating to the board that the hygienist has maintained the qualifications set forth in this act. The board may require reexamination if it finds good cause to believe that the person has not maintained the professional ability and knowledge required of an original licensee under this act.

(e) The board shall promulgate reasonable rules and regulations for the licensure of dental hygienists and the practice of dental hygiene, and may prescribe continuing education requirements for renewal certificates and relicensure.

33-15-121. Grounds and proceedings for suspension of, revocation of, or refusal to renew license.

(a) The board may refuse to issue or renew, or may suspend or revoke, the license of any dental hygienist for any of the following causes:

(i) Conviction of, entry of a plea of nolo contendere to or entry of a deferred prosecution agreement pursuant to W.S. 7-13-301 to a felony or misdemeanor that relates adversely to the practice of dental hygiene or the ability to practice dental hygiene;

(ii) Unprofessional conduct, as defined in rules and regulations of the board;

(iii) Advertising or soliciting patients, in any form of communication, in a manner that is false or misleading in any material respect;

(iv) Renting or loaning to another person the hygienist's license or diploma to be used as a license or diploma for the other person;

(v) Being unfit or incompetent to practice dental hygiene for any reason, including but not limited to:

(A) Inability to practice dental hygiene with reasonable skill and safety because of physical or mental disability or the use of alcohol, prescription drugs, nonprescription drugs or other psychoactive substance; or

(B) Performance of unsafe dental hygiene practice or failure to conform to the standards of acceptable professional dental hygiene practice, whether or not actual injury results.

(vi) Professional discipline by a professional licensing board in any jurisdiction;

(vii) Fraud, deceit or misrepresentation in providing any information or record to the board; or

(viii) For willful violation of any provision of this act or rules and regulations of the board.

(b) All proceedings by the board pursuant to subsection (a) of this section shall be as set forth in W.S. 33-15-112(b) for the revocation or suspension of a dentist's license.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-15-122. Repealed By Laws 2007, Ch. 210, § 3.

33-15-123. Duties of other dental auxiliary.

Duties of all other dental auxiliary personnel not mentioned in this act shall be set and governed by the rules and regulations of the board.

33-15-124. Violations.

Any person who practices dentistry without being properly qualified and licensed, or who violates any provisions of this act is subject to a fine not to exceed one thousand dollars ($1,000.00), or imprisonment not more than two (2) years in the penitentiary, or both. Each separate violation of this act constitutes a separate offense.

33-15-125. Repealed by Laws 1981, ch. 172, § 3.

33-15-126. Regulation of proceedings relating to revocation or suspension of licenses.

All proceedings before the board relating to the revocation or suspension of licenses shall be conducted according to the Wyoming Administrative Procedure Act, except appeals under the Wyoming Administrative Procedure Act shall not be allowed for revocations, suspensions or other restrictions imposed on licenses pursuant to W.S. 33-15-112(c) or 33-15-121(c).

33-15-127. Action for injunction.

The board in its own name may bring an action for an injunction, and courts of this state may enjoin any person from violation of this act. Such proceedings shall be prosecuted by the attorney general's office or by private counsel.

33-15-128. Definitions.

(a) As used in this act:

(i) "Board" means the Wyoming board of dental examiners established by this act;

(ii) "Dentistry" means the healing art practiced by a dentist which is concerned with the examination, diagnosis, treatment, planning and care of conditions within the human oral cavity and its adjacent tissues and structures;

(iii) "Dentist" means a person who performs any intraoral and extraoral procedure required in the practice of dentistry and to whom is reserved:

(A) The responsibility for final diagnosis of conditions within the human mouth and its adjacent tissues and structures;

(B) The responsibility of the final treatment plan of any dental patient;

(C) The responsibility for prescribing drugs which are administered to patients in the practice of dentistry;

(D) The responsibility for overall quality of patient care which is rendered or performed in the practice of dentistry regardless of whether the care is rendered personally by the dentist or by a dental auxiliary; and

(E) Other specific services within the scope of the practice of dentistry.

(iv) "Dental" means pertaining to dentistry;

(v) "Dental hygienist" means a person who is supervised by a dentist and is licensed to render the educational, preventive and therapeutic dental services defined in this act, as well as any extraoral procedure required in the practice of a dental hygienist's duties;

(vi) "Dental assistant" means a person who is supervised by a dentist and renders assistance to a dentist, dental hygienist, dental technician or another dental assistant as described in this act;

(vii) "Dental laboratory" means an enterprise engaged in making, repairing, providing or altering oral prosthetic appliances and other artificial materials and devices which are returned to the dentist and inserted into the human mouth or which come into contact with its adjacent structures and tissues;

(viii) "Dental laboratory technician" means a person who, at the direction of a licensed dentist, makes, provides, repairs or alters oral prosthetic appliances and other artificial devices which are inserted into the human mouth or which come into contact with the human mouth and its adjacent tissues and structures. A dental technician is a dental prosthetic auxiliary working under the supervision of a licensed dentist;

(ix) "Dental auxiliary" means any person who works under the supervision of a dentist and who provides dental care services to a patient;

(x) "Supervision" of a dental auxiliary means the act of directing or overseeing duties performed by a dental auxiliary, as defined by rules and regulations of the board;

(xi) Repealed By Laws 2007, Ch. 210, § 3.

(xii) "Proprietor" includes any person who:

(A) Employs dentists, dental hygienists or dental auxiliaries in the operation of a dental office, except as defined in this act; or

(B) Places in the possession of a dentist, dental hygienist or dental auxiliary or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment or offices; or

(C) Retains the ownership or control of dental equipment or material or office and makes the same available in any manner for the use by dentists, dental hygienists, dental auxiliaries or any other agents, excepting that nothing in this subparagraph shall apply to bona fide sales of dental equipment or material secured by a chattel mortgage or retain-title agreement or the loan of articulators.

(xiii) "Expanded duties" means those patient's services which are beyond those regularly practiced by dental hygienists or dental technicians or other dental auxiliary functions and which require additional education which shall be approved by the board of dental examiners of Wyoming and are to be performed under the direct supervision of a licensed dentist;

(xiv) "Specialty" means a special area of dental practice for ethical specialty announcement and limitation of practice which are dental public health, endodontics, oral pathology, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, prosthodontics, oral and maxillofacial radiology and any other specialty area recognized by the board of dental examiners of Wyoming;

(xv) "Radiograph" means the film used with an x-ray machine and includes the product of a film exposed by an x-ray machine;

(xvi) "X-ray machine" means an assemblage of components for the controlled production of x-rays. It includes at a minimum an x-ray high voltage generator, an x-ray control, a tube housing assembly, a beam limiting device and the necessary supporting structures;

(xvii) "This act" means W.S. 33-15-101 through 33-15-133 and may be cited as the "Wyoming Dental Practice Act".

33-15-129. Radiograph use permits.

(a) Any dental assistant who places or exposes radiographs shall hold a radiograph use permit.

(b) Any licensed dentist using an x-ray machine shall have that machine inspected by a qualified radiation expert periodically as determined by the board.

(c) The board shall promulgate reasonable rules and regulations necessary for granting or revoking a radiograph use permit and for inspection of x-ray machines.

33-15-130. General anesthesia or parenteral sedation permit.

(a) Any dentist licensed under this act who administers general anesthesia or parenteral sedation shall apply for and receive a general anesthesia or parenteral sedation permit. The permit shall be issued to a licensed dentist who passes an appropriate examination and has the necessary equipment as defined by the board.

(b) The board shall provide for the inspection of the anesthesia and sedation equipment of permitted dentists on a regular basis to insure the equipment is of the appropriate type and is in working order.

(c) Any dentist using general anesthesia or parenteral sedation without a permit may have his license revoked or suspended.

(d) The board shall promulgate reasonable rules and regulations, including establishing examination fees, as necessary to carry out this section.

33-15-131. Dentist and dental hygienist volunteer license.

(a) As used in this section:

(i) "Low income uninsured person" means a person who meets all of the following requirements:

(A) The person's income is not greater than two hundred percent (200%) of the current poverty level as defined by federal law, as amended;

(B) The person currently is not receiving medical, disability or other assistance under any federal or state government health care program; and

(C) Either of the following applies:

(I) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary or other covered individual under a health insurance or health care policy, contract or plan; or

(II) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary or other covered individual under a health insurance or health care policy, contract or plan, but the insurer, policy, contract or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(ii) "Nonprofit health care facility" means a charitable nonprofit corporation or association organized and operated under title 17, chapter 19 or 22 of the Wyoming statutes, or any charitable organization not organized and not operated for profit, that provides health care services to low income uninsured persons, except that "health care facility" does not include a hospital, including a swing bed hospital, facility or center defined under W.S. 35-2-901 or any other medical facility that is operated for profit.

(b) For purposes of this section, a person shall be considered retired from practice if the person's license or certificate has expired.

(c) The state board of dental examiners may issue, with or without examination, a volunteer's certificate to a person who is retired from practice so that the person may provide dental services to low income uninsured persons at nonprofit health care facilities. The board shall deny issuance of a volunteer's

certificate to a person who is not qualified under this section to hold a volunteer's certificate.

(d) An application for a volunteer's certificate shall include all of the following:

(i) A copy of the applicant's dentistry or dental hygienist degree;

(ii) One (1) of the following, as applicable:

(A) A copy of the applicant's most recent license or certificate authorizing the practice of dentistry or dental hygiene issued by a jurisdiction in the United States that licenses persons to practice dentistry or dental hygiene; or

(B) A copy of the applicant's most recent license equivalent to a license to practice dentistry or dental hygiene in one (1) or more branches of the United States armed services that the United States government issued.

(iii) Evidence of one (1) of the following, as applicable:

(A) That the applicant has maintained for at least ten (10) years immediately prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice as a dentist or dental hygienist; or

(B) That the applicant has practiced for at least ten (10) years immediately prior to retirement in good standing as a dentist or dental hygienist in one (1) or more of the branches of the United States armed services; and

(iv) A notarized statement from the applicant, on a form prescribed by the board, that the applicant:

(A) Will not accept any form of remuneration for any dental or dental hygiene services rendered while in possession of a volunteer's certificate;

(B) Will devote his practice exclusively and totally to providing dental or dental hygiene services to low income uninsured persons at a nonprofit health care facility in this state; and

(C) Will provide any other documentation that the board reasonably may require.

(e) The holder of a volunteer's certificate may provide dental or dental hygiene services only on the premises of a nonprofit health care facility in this state and only to low income uninsured persons. The holder shall not accept any form of remuneration for providing dental or dental hygiene services while in possession of the certificate. The board may revoke a volunteer's certificate on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the certificate.

(f) A volunteer's certificate shall be valid for a period of one (1) year, unless earlier revoked under subsection (e) of this section or pursuant to title 33, chapter 15 of the Wyoming statutes. A volunteer's certificate may be renewed upon the application of the holder. The board shall maintain a register of all persons who hold volunteer's certificates. The board shall not charge a fee for issuing or renewing a certificate pursuant to this section.

(g) To be eligible for renewal of a volunteer's certificate, the holder of the certificate shall certify to the board completion of any continuing education required under this act as if the holder of the certificate were in active practice. The board shall not renew a certificate if the holder has not complied with the continuing education requirements. The nonprofit health care facility in which the holder provides dental or dental hygiene services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing education.

(h) The board shall issue to each person who qualifies under this section a volunteer's certificate that states the certificate holder is authorized to provide dental or dental hygiene services pursuant to the laws of this state.

(j) Except as provided in this section, any person holding a volunteer's certificate issued by the board under this section shall be subject to the requirements of this act and the jurisdiction of the board as if he were licensed to practice dentistry or dental hygiene under this act.

(k) The board shall adopt rules to administer and enforce this section.

33-15-132. Immunity from personal liability.

(a) Members, agents and employees of the board and any person reporting information to the board under oath shall be immune from personal liability with respect to acts done and actions taken in good faith without fraud or malice.

(b) The immunity provided by this section shall extend to the members of any professional review committee, investigators and witnesses appearing before the board.

33-15-133. Temporary educator's license.

(a) A temporary license may be issued to any dentist or dental hygienist who has applied for licensure and who exhibits good standing in another jurisdiction of the United States or Canada and has qualified for the requirements to be employed as an instructor at a dental hygiene school.

(b) The temporary educator's license shall be valid only until the meeting of the board at which the educator's application for standard licensure is considered.

(c) The temporary educator license does not permit the licensee to practice outside of the educational institution at which the licensee is employed as an instructor.

CHAPTER 16 - EMBALMERS, FUNERAL DIRECTORS, UNDERTAKERS AND CREMATORIES

ARTICLE 1 - IN GENERAL

33-16-101. Repealed By Laws 2014, Ch. 31, § 2.

33-16-102. Repealed By Laws 2014, Ch. 31, § 2.

33-16-103. Repealed By Laws 2014, Ch. 31, § 2.

33-16-104. Repealed By Laws 2014, Ch. 31, § 2.

33-16-105. Repealed By Laws 2014, Ch. 31, § 2.

33-16-106. Repealed By Laws 2014, Ch. 31, § 2.

33-16-107. Repealed By Laws 2014, Ch. 31, § 2.

33-16-108. Repealed By Laws 2014, Ch. 31, § 2.

33-16-109. Repealed By Laws 2014, Ch. 31, § 2.

33-16-110. Repealed By Laws 2014, Ch. 31, § 2.

33-16-111. Repealed By Laws 2014, Ch. 31, § 2.

ARTICLE 2 - STATE BOARD OF EMBALMING

33-16-201. Repealed By Laws 2014, Ch. 31, § 2.

33-16-202. Repealed By Laws 2014, Ch. 31, § 2.

33-16-203. Repealed By Laws 2014, Ch. 31, § 2.

33-16-204. Repealed By Laws 2014, Ch. 31, § 2.

33-16-205. Repealed By Laws 2014, Ch. 31, § 2.

33-16-206. Repealed By Laws 2014, Ch. 31, § 2.

33-16-207. Repealed By Laws 2014, Ch. 31, § 2.

ARTICLE 3 - FUNERAL DIRECTORS AND UNDERTAKERS

33-16-301. Repealed By Laws 2014, Ch. 31, § 2.

33-16-302. Repealed By Laws 2014, Ch. 31, § 2.

33-16-303. Repealed By Laws 2014, Ch. 31, § 2.

33-16-304. Repealed By Laws 2014, Ch. 31, § 2.

33-16-305. Repealed By Laws 2014, Ch. 31, § 2.

33-16-306. Repealed By Laws 2014, Ch. 31, § 2.

33-16-307. Repealed By Laws 2014, Ch. 31, § 2.

33-16-308. Repealed By Laws 2014, Ch. 31, § 2.

33-16-309. Repealed By Laws 2014, Ch. 31, § 2.

33-16-310. Repealed By Laws 2014, Ch. 31, § 2.

33-16-311. Repealed By Laws 2014, Ch. 31, § 2.

33-16-312. Repealed By Laws 2014, Ch. 31, § 2.

33-16-313. Repealed By Laws 2014, Ch. 31, § 2.

33-16-314. Repealed By Laws 2014, Ch. 31, § 2.

33-16-315. Repealed By Laws 2014, Ch. 31, § 2.

33-16-316. Repealed By Laws 2014, Ch. 31, § 2.

33-16-317. Repealed By Laws 2014, Ch. 31, § 2.

33-16-318. Repealed By Laws 2014, Ch. 31, § 2.

ARTICLE 4 - CREMATORIES

33-16-401. Repealed By Laws 2014, Ch. 31, § 2.

33-16-402. Repealed By Laws 2014, Ch. 31, § 2.

33-16-403. Repealed By Laws 2014, Ch. 31, § 2.

33-16-404. Repealed By Laws 2014, Ch. 25, § 2.

33-16-405. Repealed By Laws 2014, Ch. 25, § 2.

33-16-406. Repealed By Laws 2014, Ch. 25, § 2.

33-16-407. Repealed By Laws 2014, Ch. 25, § 2.

33-16-408. Repealed By Laws 2014, Ch. 25, § 2.

33-16-409. Repealed By Laws 2014, Ch. 25, § 2.

ARTICLE 5 - FUNERAL SERVICE PRACTITIONERS ACT

33-16-501. Short title.

This act may be cited as the "Funeral Service Practitioners Act".

33-16-502. Definitions.

(a) As used in this act:

(i) "Accredited program of funeral service education" means a funeral service education program accredited by the American Board of Funeral Service Education to teach mortuary science and other funeral service related curricula;

(ii) "Apprentice funeral service practitioner" means a person, who has been issued an apprentice funeral service practitioner license and is registered by the board to engage in funeral service practice, which includes all aspects of funeral directing, embalming and the final disposition of human remains, under the supervision of a funeral service practitioner licensed by the board;

(iii) "Board" means the Wyoming state board of funeral service practitioners;

(iv) "Chemical disposer" means a licensed funeral service practitioner who is also licensed by the board as a person permitted to dispose of human remains by chemical disposition;

(v) "Chemical disposition" means the process by which a deceased human body is reduced to a powder by use of materials other than heat and evaporation;

(vi) "Chemical disposition facility" means any building or facility or part thereof engaging in the chemical disposition of human remains;

(vii) "Conviction" means a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere;

(viii) "Cremated remains" means all human remains recovered after the completion of a cremation, including pulverization that leaves only bone fragments reduced to unidentifiable dimensions;

(ix) "Cremation" means a technical process, using heat, which reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation does not include other processes of disposition, chemical or otherwise;

(x) "Cremation chamber" means an enclosed space within which a cremation process takes place;

(xi) "Cremation container" means a container in which the human remains are placed in a cremation chamber for a cremation;

(xii) "Crematory" means the building or portion of a building that houses the cremation chamber and the holding facility;

(xiii) "Disposition" means the final disposal of a dead human body by:

(A) Traditional burial or earth interment;

(B) Above ground burial;

(C) Cremation;

(D) Burial at sea or in any body of water, as approved by applicable law;

(E) Delivery to a medical institution or to another legally authorized person or entity as a full body donation;

(F) Chemical disposition; or

(G) Other lawful means.

(xiv) "Embalming" means the disinfecting, preparing or preserving for final disposition of dead human bodies, in whole or in part, or any attempt to do so, by the use or application of chemical substances, fluids or gases on the body, or by the introduction of the same into the body by vascular or hypodermic injection or by direct introduction into organs or cavities, or by any other method or process. "Embalming" does not include setting features for the purpose of identification of an unembalmed dead human body or disinfecting a dead human body through non-arterial methods;

(xv) "Funeral director" means a person who assumes the responsibility for the operations of a particular funeral establishment or multiple funeral establishments, or crematory or multiple crematories, or a chemical disposition facility or multiple chemical disposition facilities, who ensures that the funeral establishment, crematory or chemical disposition facility complies with this chapter and all other laws under which the funeral establishment, crematory or chemical

disposition facility is operated, who is permitted by law to perform funeral directing and who:

(A) Has been licensed prior to July 1, 2014 by the board of embalming as a funeral director; or

(B) Is a licensed funeral service practitioner.

(xvi) "Funeral establishment," "mortuary," "funeral home" or "funeral chapel" means a place of business which has been issued a funeral establishment permit by the board to conduct business at a specific street address or location which is devoted to the embalming of dead human bodies for burial, cremation, chemical disposition, transportation or other disposition;

(xvii) "Funeral service practice," means the all-encompassing combined practice of funeral directing or undertaking, and embalming, and includes the practice of conducting and overseeing all activities related to the disposition of human remains. "Funeral service practice" includes all of the following unless exempted from this act pursuant to W.S. 33-16-529:

(A) Counseling individuals, families or next of kin about the final disposition of human remains;

(B) Directing or supervising funerals;

(C) Providing for or maintaining a funeral establishment;

(D) Making pre-need or at-need contractual arrangements for funerals, memorial services, celebrations of life, wakes or any similar service or activities;

(E) Removal and transportation of dead human bodies from the location of death or any other location for the purpose of final disposition;

(F) Preparing dead human bodies for viewing or final disposition, other than by embalming, cremation or chemical disposition;

(G) Maintaining a mortuary for the preparation, disposition or care of dead human bodies;

(H) Representing oneself as or using in connection with one's name the title of funeral director, mortician, funeral service practitioner or any other title implying that the person is engaged in the business of funeral directing; and

(J) Obtaining burial or removal permits or assuming other duties incidental to the practice of embalming.

(xviii) "Funeral service practitioner" means a person licensed under this act to practice the profession historically known as undertaking, mortuary science or embalming, including individuals formerly licensed as funeral directors or embalmers who meet the educational requirements set forth in this act required of funeral service practitioners;

(xix) "Human remains" means the body of a deceased person or part of a body or limb that has been removed from a deceased person, including the body, part of a body or limb in any stage of decomposition. The following are not "human remains":

(A) The cremated remains of any human;

(B) Powder resulting from chemical disposition of a human body;

(C) Any body part removed and held for testing, research or other medical or law enforcement purposes; or

(D) Hair or nail clippings.

(xx) "This act" means W.S. 33-16-501 through 33-16-537.

33-16-503. Privileges as to use of bodies for dissecting, demonstrating or teaching.

The board and schools for teaching embalming shall have extended to them the same privileges as to the use of bodies for dissecting, demonstrating or teaching as those granted in this state to medical colleges.

33-16-504. Created; designation; composition; appointment; qualifications of members; officers; removal.

The Wyoming state board of funeral service practitioners is created to regulate the practice of professional funeral service in Wyoming in order to safeguard life, health and property and to promote the public welfare. The board shall consist of five (5) persons to be appointed by the governor. The governor may remove from office any member of the board as provided in W.S. 9-1-202. The director of the department of health or his designee shall be a member of the board, and the other four (4) members shall be licensed funeral service practitioners and shall serve for a term of three (3) years. The members of the board shall be citizens of the United States and residents of the state of Wyoming, and except for the director of the department of health or his designee, shall each have had at least three (3) years' experience in the practice of embalming and disposition of the dead human body and who shall each have had for two (2) years previous to their appointment an unexpired funeral service practitioners' license. The board shall elect one (1) of its members to serve as president.

33-16-505. Certificate of appointment; oath.

The governor shall furnish each person appointed to serve on the board a certificate of appointment. The appointee shall qualify by taking the usual oath of office before any person authorized to administer oaths, of the county in which the person resides, within ten (10) days after the appointment has been made, and this fact shall be noted on the certificate of appointment, and shall be filed with the state board of health.

33-16-506. Meetings; quorum.

The board shall meet at least once each year and may meet as often and at such place as the proper and efficient discharge of its duties may require. Three (3) members shall constitute a quorum.

33-16-507. Compensation of board members.

The members of the board shall receive mileage and per diem allowance as provided in W.S. 33-1-302(a)(vii) when engaged in performing their duties as members of the board.

33-16-508. Board account.

All fees and other revenues received by the board shall be deposited by the state treasurer to the credit of the Wyoming board of funeral service account. All monies in the account may

be appropriated for the use of the board. The account shall be used by the board to defray costs incurred in the administration of this act. Disbursements from the account shall not exceed the monies credited to it.

33-16-509. Duties and powers of the board.

(a) The board:

(i) Shall have the authority to issue registrations, permits and licenses to qualified persons;

(ii) Shall have the authority to enter into interstate or intrastate agreements and associations with other boards of licensure for the purpose of establishing reciprocity, developing examinations, evaluating applicants or other activities to enhance the services of the board to the state, the licensee, the registrant, the permittee and the public;

(iii) Shall adopt a seal to be affixed to all licenses, registrations and permits issued;

(iv) Shall adopt rules not inconsistent with this act or the laws of this state that are reasonable and necessary to administer this act;

(v) May employ a board administrator and any additional staff as necessary to administer and enforce this act and board rules;

(vi) Shall have the authority to inspect the premises in which the business of funeral service is conducted, in which the business of cremation of human remains is conducted, where embalming is practiced or where chemical disposition is practiced. For purposes of this paragraph the board may employ a funeral service practitioner licensee of the state of Wyoming as an inspector to aid in the enforcement of this act and rules adopted pursuant thereto, whose compensation and expenses shall be payable only out of the fees collected by the board;

(vii) Shall have the authority to receive and investigate complaints, hire investigators and take all appropriate action allowed by law to enforce this act;

(viii) Shall conduct hearings as recommended by the complaint investigator on complaints concerning violations of this act and the rules adopted under this act. The board shall

have authority to administer oaths, take affidavits, summon witnesses and take testimony as to matters coming within the scope of its duties;

(ix) In its own name, may bring an action for an injunction, and courts of this state may enjoin any person from violation of this act. These proceedings shall be prosecuted by the attorney general's office or private counsel may be secured by the board with approval of the attorney general;

(x) May charge fees for application, examination, licensing, registering, permitting, renewal and any other service provided in amounts established pursuant to W.S. 33-1-201;

(xi) Shall adopt rules regulating the lease of caskets to ensure sanitary use. Notwithstanding any other provision of law, the lease of a casket for funeral and other services of a person to be cremated shall be authorized by those rules;

(xii) Shall promulgate rules and regulations necessary to regulate the practice of professional funeral service, including professional conduct, continuing education and discipline.

33-16-510. Prohibited acts, penalties, injunctive relief.

(a) No person shall:

(i) Engage in the business practice of funeral service, cremation, chemical disposition or other activities defined as part of funeral service practice, unless licensed, registered or permitted to do so under this act or lawfully doing so as an employee of a funeral establishment under the supervision of a funeral service practitioner;

(ii) Advertise, represent or in any manner hold himself out as being licensed, registered or permitted to provide the services regulated by this act by use of any title commonly associated with one engaged in the funeral, crematory or funeral service practice without having first complied with this act;

(iii) Conduct, direct or supervise any service with human remains present for a fee, compensation or reimbursement without having first complied with this act;

(iv) Maintain or operate a building or structure within the state of Wyoming as a funeral establishment in violation of the provisions of this act or the rules and regulations of the board;

(v) Maintain or operate a building or structure within the state of Wyoming as a crematory or chemical disposition facility in violation of the provisions of this act or the rules and regulations of the board; or

(vi) Embalm, cremate or chemically dispose of a dead human body when any fact within the knowledge, or brought to the attention, of the licensee, registrant or permittee is sufficient to arouse suspicion of crime in connection with the cause of death of the deceased, until permission of the coroner is obtained.

33-16-511. Grounds for disciplinary action on licensees, registrations and permits, generally.

(a) The board may refuse to renew, or may deny, suspend, revoke or otherwise restrict a license, registration or permit issued under this act for any of the following acts:

(i) Unprofessional conduct, as defined by rules and regulations of the board;

(ii) Failure to make timely and proper application for renewal or failure to meet the continuing education requirements prior to the license, registration or permit expiration date;

(iii) Willful violation of any provision of the rules and regulations promulgated by the board;

(iv) Willful violation of any provisions of this act.

(b) In addition to the remedies in subsection (a) of this section, the board may impose a civil penalty upon any person who violates this act or a rule or order of the board. The penalty and fees may not exceed two thousand dollars ($2,000.00) for each violation of this act or rule promulgated under this act. Fees imposed may include the board's costs and expenses for the investigation, prosecution and reasonable attorneys' fees.

(c) The board may initiate proceedings under this act on its own motion or on the written complaint of any person. All proceedings before the board shall be conducted under the rules and regulations adopted by the board and in accordance with the provisions of the Wyoming Administrative Procedure Act.

(d) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license, registration or permit issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license, registration or permit in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license, registration or permit withheld, suspended or restricted under this subsection. If a license, registration or permit is suspended or restricted under this subsection, the license, registration or permit may be reissued without a hearing if the department of family services provides notice that the person has complied with the terms of the court order that resulted in the suspension or restriction of the license, registration or permit issued under this act.

(e) In addition to other remedies, the board may assess part or all of the costs of the proceeding against a disciplined licensee, registrant or permittee.

33-16-512. Limitation of practice.

All persons licensed, registered or permitted under this act shall adhere to the professional standards of practice promulgated in the rules and regulations of the board. Any person licensed, registered or permitted under this act who refuses or neglects to obey those professional standards of practice shall be subject to discipline.

33-16-513. Petition for disciplinary action; notice for hearing; review.

(a) A petition for the discipline of a licensee, registrant or permittee may be filed by the attorney general or by the county attorney of the county in which the licensee, registrant or permittee resides or has practiced. The petition shall be filed with the board and the board shall set the matter for hearing in accordance with the Wyoming Administrative Procedure Act.

(b) Petitions for review shall be in accordance with the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedures.

33-16-514. Criminal penalty for violation.

Unless otherwise provided for in this act for specific violations, any person violating this act is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00), by imprisonment for not more than six (6) months, or both. A second or subsequent conviction for violation of this act during a thirty-six (36) month period shall constitute a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than two thousand dollars ($2,000.00), or both. Each violation shall constitute a separate offense.

33-16-515. Funeral services to be conducted in permitted funeral establishment by licensee or registrant.

The business of a funeral service practice shall be conducted in a funeral establishment that has been issued a permit by the board. Unlicensed individuals employed by a funeral establishment may assist funeral directors and funeral service practitioners in the area of funeral service practice, under the supervision of a licensed funeral service practitioner. Individuals not licensed by the board as funeral service practitioners or registered as apprentice funeral service practitioners shall not conduct other activities incidental to the practice of embalming and shall not embalm, cremate or chemically dispose of human remains, except as otherwise allowed in W.S. 33-16-530.

33-16-516. Funeral establishment; permit required; qualifications.

(a) It is unlawful for any person or entity to operate a funeral establishment not permitted by the board.

(b) Every person or entity desiring to operate a funeral establishment within the state of Wyoming shall apply to the board for a funeral establishment permit, upon a form and in the manner prescribed by the board, accompanied by the fee set by the board and satisfactory evidence of the following:

(i) The applicant, unless an organization, is a licensed funeral director licensed prior to July 1, 2014, or a

licensed funeral service practitioner. The applicant, when an organization, shall have as an active officer or manager, a person who is a licensed funeral director licensed prior to July 1, 2014, or a licensed funeral service practitioner;

(ii) The applicant, unless an organization, has no criminal convictions which would impact upon the applicant's abilities to operate a funeral establishment in accordance with this act and the rules and regulations of the board. The applicant, when an organization, shall have as an active officer or manager, a person who has no criminal convictions which would impact upon the applicant's abilities to operate a funeral establishment in accordance with this act and the rules and regulations of the board;

(iii) The application shall designate the funeral service practitioner responsible for the funeral establishment, and, if the establishment is operated by a funeral director licensed prior to July 1, 2014, it shall set forth the name and license number of at least one (1) licensed funeral service practitioner employed by the establishment to provide funeral practice services and oversight to the employees of the funeral establishment;

(iv) The funeral establishment shall meet the standards required by the rules and regulations of the board and the provisions of this act, and receive a satisfactory inspection by the board.

(c) A funeral establishment engaging in embalming shall have an embalming room equipped with a sanitary floor, embalming table, necessary drainage and ventilation and containing necessary instruments and supplies for the preparation and embalming of human dead bodies for burial or transportation. The floors of the room shall be made of material that is impervious to the absorption of liquid and sanitized. The premises shall be kept in a sanitary condition providing adequate safety measures to all funeral employees and consumers.

(d) If the applicant proposes to operate more than one (1) funeral establishment, the applicant shall make a separate application and procure a separate permit for each separate location.

(e) Any funeral establishment permittee desiring to change the location of the business shall make application to the board at least thirty (30) days prior to the time that the change in

location is to take effect unless an emergency change in location is authorized by the board. A fee as established by the board shall accompany the application for the change. The board shall grant the change if the location conforms to the provisions of this act.

(f) Any funeral establishment permittee desiring to change the name of the business shall make application to the board at least thirty (30) days prior to the time the change in name is to take effect. A fee as established by the board shall accompany the application for the change.

(g) Any funeral establishment permittee desiring to change the licensed funeral director or funeral service practitioner in charge of the establishment shall make application to the board immediately. A fee as established by the board shall accompany the application for the change. The change shall not be effective until approved by the board. The board shall by rule and regulation provide for emergencies if a director dies or becomes incapacitated.

33-16-517. Funeral service practitioner; license required; qualifications.

(a) Persons employed by a funeral establishment may assist funeral directors and funeral service practitioners in the area of funeral directing, under the supervision of a licensed funeral service practitioner. To be licensed as a funeral service practitioner within the state of Wyoming, an applicant shall apply to the board for a funeral service practitioner license, upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and satisfactory evidence of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no criminal convictions which would impact upon the applicant's abilities to engage in the practice of funeral service in accordance with this act and the rules and regulations of the board. The board may waive this provision based on individual circumstances;

(iii) The applicant has:

(A) Obtained an associates' or higher degree in funeral service practice or mortuary science from an American board of funeral service education accredited mortuary science

program or an equivalent accredited program of funeral service education; or

(B) Obtained a mortuary science diploma from an institution accredited by the American board of funeral service education or an equivalent accreditation and can show evidence of five (5) years of experience in practicing funeral service in another jurisdiction, regardless of whether that jurisdiction has a formal licensing requirement for funeral service practice as defined by W.S. 33-16-502(a)(xvii).

(iv) The applicant has completed a one (1) year apprenticeship under the supervision of a Wyoming licensed funeral service practitioner, which shall include practical experience of having assisted in the embalming of at least twenty-five (25) dead human bodies and having assisted in arranging and conducting at least twenty-five (25) funeral or memorial services;

(v) The applicant has passed the National Board Examination as administered by the Conference of Funeral Service Examining Board; and

(vi) The applicant has passed an examination administered by authority of the board on the laws, rules and regulations governing the practice of funeral service in Wyoming. The examination may also contain questions relating to funeral service practice and other areas as deemed proper by the board.

33-16-518. Funeral director; license required; qualifications.

It is unlawful for any person to engage in the business of funeral directing without being granted a license as a funeral service practitioner or permitted as a funeral director under a permit originally issued prior to July 1, 2014 as provided in W.S. 33-16-520.

33-16-519. Apprentice funeral service practitioner; registration required; qualifications.

(a) Individuals apprenticing with a funeral service practitioner, shall be licensed as an apprentice funeral service practitioner by the board prior to beginning the apprenticeship. Apprentice credit shall only be given by the board for time actually spent apprenticing under an apprentice license granted

by the board. Every person desiring to be licensed as an apprentice, shall apply to the board upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and satisfactory evidence of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no criminal convictions which would impact upon the applicant's abilities to provide the services of an apprentice in accordance with this act and the rules and regulations of the board. The board may waive this provision based on individual circumstances; and

(iii) The applicant has passed an examination administered by authority of the board on the laws, rules and regulations governing the practice of funeral service in Wyoming. The examination may also contain questions relating to funeral service topics as deemed proper by the board.

33-16-520. Licenses, registrations and permits under prior law; recognition given; subject to this act.

(a) Persons who hold a current license in good standing as an embalmer on June 30, 2014, issued by the board of embalmers under prior laws of Wyoming shall be issued a license as a funeral service practitioner under the provisions of this act without additional requirements.

(b) Persons who hold a current permit in good standing as a funeral director on June 30, 2014, issued by the board of embalmers under prior laws of Wyoming, shall be issued a funeral director permit under the provisions of this act without additional requirements, which license may be renewed year after year, unless otherwise suspended or revoked by the board or until the failure of the permittee to renew the permit under this act or the death of the permittee, whichever comes first.

(c) Persons who hold a current permit in good standing as an apprentice embalmer on June 30, 2014, issued by the board of embalmers under prior laws of Wyoming, shall be issued an apprentice permit, as an apprentice funeral service practitioner, under the provisions of this act without additional requirements.

(d) Funeral establishments which hold a current license in good standing associated with a funeral director permittee on June 30, 2014, issued by the board of embalmers under prior laws

of Wyoming, shall be issued an establishment permit under the provisions of this act without additional requirements.

33-16-521. Record keeping for licensees.

The board administrator shall keep a record in which shall be registered the names and residence of all persons to whom a certificate of license has been granted, and the number and date of these licenses. A copy of each individual license shall be furnished to the licensee.

33-16-522. Out-of-state licensees; reciprocity; state of disaster or emergency; entities and individuals.

(a) The board shall have the power to issue a reciprocal license to an applicant from another jurisdiction that has equal or like educational requirements as required by this state or the board as follows:

(i) A license as a funeral service practitioner may be issued by the board to an out-of-state resident who submits to the board satisfactory evidence that the applicant has met all the requirements of this act, passes an examination determined by the board addressing Wyoming state specific funeral laws and pays the fees required by this act;

(ii) The board may issue an appropriate license without further apprenticeship to a resident of a state which has similar educational requirements necessary for reciprocity with this state, if the applicant:

(A) Has a current license to practice as a funeral service practitioner, mortician, undertaker or similar license, in the state of residence of the person;

(B) Has been:

(I) An active funeral service practice licensee and has actually been engaged in funeral service practice for at least three (3) years; or

(II) Practicing funeral service in another jurisdiction that does not have formal licensing requirements for funeral service practice as defined by W.S. 33-16-502(a)(xvii) for at least five (5) years and the applicant meets the education requirements specified by W.S. 33-16-517(a)(iii)(A) or (B).

(C) Has never been convicted of a felony or misdemeanor related to funeral service practice. The board may waive this provision based on individual circumstances;

(D) Has never had a funeral service practice related license revoked or suspended;

(E) Is not currently facing disciplinary action;

(F) Intends to practice in this state;

(G) Has filed documents required by the board;

(H) Has paid the fees as required by this act;

(J) Is a citizen or permanent resident of the United States;

(K) Is a graduate of an accredited funeral service education program;

(M) Has passed the national board examination or state board examination; and

(N) Has passed an examination determined by the board addressing Wyoming state specific funeral laws.

(b) In the event of a disaster or a state of emergency, or for the purpose of conducting a bona fide educational program, the board may grant temporary authority to practice funeral service in Wyoming, for the duration of the declared state of emergency or educational program, to an out-of-state licensee upon proof of current license in good standing in his state of residence.

(c) The board may issue an annual or occasional nonresident permit to an individual or entity who does not reside in Wyoming, but who wishes to conduct any service for a fee where human remains are present in the state of Wyoming. The board may issue the permit upon payment of a fee, the amount of which shall be determined by the board, if the applicant can establish that he resides in another state and conducts funeral service operations under the laws of that state.

(d) It is unlawful for out-of-state licensees to bury or dispose of human remains or conduct funeral services within the

state of Wyoming without first obtaining a permit to do so from the board.

(e) The board shall promulgate rules under which nonresident licensees shall operate which shall be designed to protect the public.

33-16-523. Investigation of applicants for license; granting or refusing license.

Upon receipt of an application for an establishment license under this act, the board may cause an investigation to be made as to the character of the applicant, including its officers or members if the application is by or in behalf of business entity, and may require a showing that will reasonably prove that the applicant does not have a background evidencing conduct adverse to the practice of funeral service or to the ability to practice funeral service. The board may subpoena witnesses and administer oaths upon proper notice. After proper hearing, the board shall grant a license if it finds the applicant does not have a background evidencing conduct adverse to the practice of funeral service or to the ability to practice funeral service and the proposed funeral establishment is, or will be, constructed and equipped as required by this act. Every application shall be granted or refused within ninety (90) days from the date of the filing of the application.

33-16-524. Renewal of license; fees; penalties; continuing education.

Every licensee and permittee under this act shall pay annually a fee for the renewal of his license. All licenses and permits issued by the board shall expire annually on a date set by the board. Persons licensed and permitted under this act shall submit an application on an annual basis for license or permit renewal in the form and manner established by rules and regulations of the board. All application forms shall be accompanied with the annual fee for renewal set by the board. The amount of the renewal fee, payable by a licensee of the board shall be established by the board pursuant to W.S. 33-1-201. The board shall mail on or before the first day of January of each year to each licensee, addressed to his last known address, a notice that his renewal application and renewal fee is due and payable. If the renewal application is not submitted by the expiration date, the license or permit shall be void. Within thirty (30) days after the expiration date a person may apply for renewal of his license or permit in a

manner established by rules and regulations of the board. Any person whose license or permit has been voided for failure to renew shall comply with all requirements of a new applicant before a license or permit may be reissued. Upon receipt of the renewal application and full payment of fees, the board shall cause the renewal certificate to be issued. The application for renewal for funeral service practitioners, funeral directors and apprentices shall also be accompanied by satisfactory evidence of participation in continuing education activities as established by rules and regulations of the board.

33-16-525. Licenses and permits to be signed and displayed; business to be in name of permitted business.

Every license or permit issued under this act shall specify the name of the licensee or permittee, shall be signed by the licensee or authorized designee of the permittee and shall be displayed conspicuously in the place of business or employment of the licensee. No funeral establishment shall be conducted or held forth as being conducted, or advertised as being conducted, under any name except the name of the business appearing on the establishment's permit issued by the board.

33-16-526. Specific prohibited conduct of licensees.

(a) The board may suspend or revoke licenses or impose other disciplinary action appropriate under the circumstances on licensees, permittees and registrants, after hearing by the board and after ten (10) days' notice to the licensee, upon the licensee, permittee or registrant being found by the board to have committed any of the following acts or omissions, as the acts are further defined by the board:

(i) Conviction of a felony or misdemeanor related to the licensee's ability to practice funeral services;

(ii) Unprofessional conduct, including, but not limited to:

(A) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or funeral service practitioner;

(B) False or misleading advertising as a funeral service practitioner;

(C) Solicitation of human dead bodies by the licensee, his agents, assistants or employees, whether the solicitation occurs after death or while death is impending, provided this shall not be deemed to prohibit general advertising;

(D) Aiding or abetting an unlicensed person to engage in funeral service practice, unless the unlicensed person is lawfully doing so as an employee of a funeral establishment permitted by the board under the supervision of a funeral service practitioner also employed by the same funeral establishment;

(E) Except as otherwise provided by rule and regulation, using any casket or part of a casket which has previously been used as a receptacle for, or in connection with, the burial or other disposition of a dead human body;

(F) Violation of any of the provisions of this act;

(G) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;

(H) Fraud or misrepresentation in obtaining a license;

(J) Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof.

(b) Notwithstanding any other provision of law the lease of a casket for funeral and other services of a person to be cremated is hereby authorized. The board shall adopt rules regulating the lease of caskets to ensure sanitary use.

33-16-527. Duty to ascertain cause of death; funeral service practitioner to prepare body for transportation or removal if death due to communicable, contagious or infectious disease.

It shall be the duty of every funeral director and funeral service practitioner, when called to take charge of a dead body, to first ascertain the cause of death from the coroner or medical professional. If death has occurred from any communicable, contagious or infectious disease, the funeral

director or funeral service practitioner shall not remove or transport the body until after the body has been prepared for transportation or removal by a licensed funeral service practitioner of this state.

33-16-528. Persons barred from embalming room; exceptions.

It shall be the duty of every funeral director and funeral service practitioner, not to permit any person or persons to enter any room in any funeral establishment where dead bodies are being embalmed, except licensed funeral service practitioners and their assistants or apprentices, funeral directors and their apprentices, public officers in the discharge of their official duties, and attending physicians and their assistants, unless by direct permission of the immediate family.

33-16-529. Exemptions from this act; limitation.

(a) Any duly authorized representative of any church, fraternal order or other association or organization honoring the dead who performs a religious ceremony under the authority of and pursuant to the religious tenets or practices of the organization is hereby exempted from the terms and provisions of this act and from the enforcement of the provisions hereof related to performing of religious ceremonies except for providing the presence of human remains at the religious service.

(b) Any person may:

(i) Counsel individuals, families or next of kin about the final disposition of human remains and about the selection and purchase of funeral goods and services;

(ii) Conduct a memorial service or provide a setting for a memorial service and any goods or assistance needed for a memorial service, except providing for the presence of human remains at the memorial service.

(c) Any person licensed pursuant to title 26 of Wyoming statutes may sell insurance or pre-need funeral contracts authorized by that license.

(d) Any person licensed pursuant to title 33 of Wyoming statutes while practicing within the scope of his license is exempt from the provisions of this act.

(e) Any health care institution licensed pursuant to title 35 of Wyoming statutes when operating within the scope of its license is exempt from the provisions of this act.

33-16-530. Crematory operator; chemical disposer; permit required; qualifications.

(a) It is unlawful for any person or entity to operate a crematory disposing of human remains without the crematory being first granted a permit by the board as a crematory, or to chemically dispose of human remains in a chemical disposition facility, unless the chemical disposition facility is first granted a permit by the board to operate as a chemical disposition facility.

(b) The board shall examine the premises and structure of any crematory or chemical disposition facility and shall issue the permit only if the applicant and the structure meet the standards required by rules and regulations of the board and the provisions of this act.

(c) Every person desiring to operate a crematory or chemically dispose of human remains within the state of Wyoming shall apply to the board for a crematory permit or a chemical disposition facility permit, upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and satisfactory evidence of the following:

(i) The applicant, unless an organization, shall be a licensed funeral service practitioner or funeral director who is a shareholder or officer in or is directly employed by a licensed funeral establishment. The applicant, when an organization, shall be a funeral establishment permitted by the board that employs at least one (1) licensed funeral service practitioner assigned as the funeral service licensee responsible for the crematory or chemical disposition facility;

(ii) The application shall designate a licensed funeral service practitioner as the funeral service practitioner responsible for the crematory or chemical disposition facility; and

(iii) The crematory or chemical disposition facility shall meet the standards required by the rules and regulations of the board and the provisions of this act, and receive a satisfactory inspection by the board;

(iv) An employee who is not a licensed funeral service practitioner may assist in the operation of a crematory or chemical disposition facility to the extent directed by a funeral service practitioner following the facility's receipt of human remains in a closed cremation container. An employee who is not a funeral service practitioner shall not handle human remains or open a closed cremation container. The employee may conduct the full crematory or chemical disposition process under the direction of a funeral service practitioner or funeral director. The funeral service practitioner overseeing the facility shall successfully complete a crematory or chemical disposition facility operator's certification program approved by the board. The supervising funeral service practitioner shall ensure that employees who are operating crematories under the direction of a funeral service practitioner or funeral director successfully complete a crematory or chemical disposition operator's certification program approved by the board. The board may waive or extend the time to complete the certification program required by this section due to hardship or difficulty in completing the required certification program.

(d) If the applicant proposes to operate more than one (1) crematory or chemical disposition facility, the applicant shall make a separate application and procure a separate license for each separate location.

(e) Any crematory or chemical disposer licensee desiring to change the location of the business shall make application to the board at least thirty (30) days prior to the time that the change in location is to take effect. A fee as established by the board shall accompany the application for the change. The board shall grant the change provided the location conforms to the provisions of this act.

(f) Any crematory or chemical disposition facility desiring to change the name of the business shall make application to the board at least thirty (30) days prior to the time that the change in name is to take effect. A fee as established by the board shall accompany the application for the change.

(g) Any crematory or chemical disposition facility desiring to change the licensed funeral service practitioner responsible for the crematory or chemical disposition facility shall make application to the board immediately. A fee as

established by the board shall accompany the application for the change.

33-16-531. Records of crematories and chemical disposition facilities; crematory and chemical disposition authorization.

(a) Upon the receipt of a human body for cremation or chemical disposition, the crematory or chemical disposition facility shall deliver to the funeral director, funeral service practitioner or his agent who delivers the body to the crematory or chemical disposition facility, a receipt therefor, showing the date of delivery, name of the funeral director or funeral service practitioner from whom the body is received and the name of the deceased. Each crematory or chemical disposition facility shall maintain a record of each cremation or chemical disposition of human remains, submitted to it by the person authorizing cremation or chemical disposition disclosing, at a minimum:

(i) The name of the person cremated or chemically disposed;

(ii) The name of the person authorizing the cremation or chemical disposition;

(iii) A statement that the person authorizing cremation or chemical disposition has the right of disposition with regard to the person being cremated or chemically disposed;

(iv) The date the body was received;

(v) The date the cremation or chemical disposition was performed;

(vi) Whether the person being cremated or chemically disposed has been implanted with medical devices; and

(vii) Any other information as the board may require.

(b) The record of each cremation or chemical disposition shall be signed by the owner or operator of the crematorium or chemical disposition facility and by the funeral service practitioner or other authorized person having charge of the preparation of the human remains for cremation or chemical disposition. The record shall be kept at the crematory or chemical disposition facility for inspection by the board which

may also require copies thereof to be filed with it containing such information as may be necessary for the use of the board.

33-16-532. Cremation chambers and crematories for disposition of human remains.

Cremation chambers of crematoriums and facilities of chemical disposition permitted by this act shall be used exclusively for the cremation or chemical disposition of human remains.

33-16-533. Cremation of human remains; chemical disposition.

The funeral director, funeral service practitioner, or other person having charge of the preparation of human remains for burial or the last rites and committal services thereof shall have the right to be present either in person or by his employees, at any stage of the cremation or chemical disposition of such human remains. No crematorium or other appropriately licensed entity conducting chemical disposition shall accept human remains for cremation or chemical disposition until it has received a burial-transit permit required by law.

33-16-534. Inspection of crematories and facilities for chemical disposition; rules and regulations.

The board shall promulgate reasonable rules and regulations governing the cremation and chemical disposition of human remains. The rules shall provide minimum standards of sanitation, required equipment and fire and environmental protection which the board deems necessary for the protection of the public. The board shall inspect all crematoriums and other appropriately permitted entities conducting chemical disposition at least once each year.

33-16-535. Removal of human remains from casket or other container; use of container.

Human remains delivered to a crematorium or other appropriately permitted entity conducting chemical disposition shall not be removed from the casket or other container without the written authorization of the person giving the consent to or requesting the cremation or chemical disposition of the human remains. Notwithstanding any other provision of law the lease of a casket for funerals and other services of a person to be cremated is authorized.

33-16-536. Violation declared public nuisance; enforcement; criminal penalties.

Maintenance or operation of a building or structure within the state of Wyoming as a crematorium or chemical disposition facility in violation of the provisions of this act or the rules and regulations of the board is a public nuisance and may be abated as provided by law. A person violating this section or rules and regulations promulgated by the board related to crematories, cremation or chemical disposition is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00), by imprisonment for not more than six (6) months, or both. A second or subsequent conviction for violation of this act during a thirty-six (36) month period shall constitute a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than two thousand dollars ($2,000.00), or both. Each violation shall constitute a separate offense.

33-16-537. Cremation containers.

(a) A cremation container shall meet substantially all of the following standards:

(i) Be composed of readily combustible materials suitable for cremation;

(ii) Be able to be closed in order to provide a complete covering for the human remains;

(iii) Be resistant to leakage and spillage;

(iv) Be rigid enough for handling with ease; and

(v) Provide protection for the health, safety, and integrity of crematory personnel and the cremation facility.

CHAPTER 17 - HOTEL KEEPERS

33-17-101. Limitation of liability; permitted if safe provided and notice posted.

Every landlord or keeper of a public inn or hotel in this state, who shall keep in his place of business an iron safe, in good order and suitable for the purpose hereinafter named, and who shall post or cause to be posted in some conspicuous place in his office, and on the inside of every entrance door to every

bed chamber, the notice hereinafter mentioned, shall not be liable for the loss of any money, jewelry or other valuables belonging to his guests or customers, unless such loss shall occur by the hand or through the negligence of such landlord, or by a clerk or servant employed by him in such hotel or inn; provided, that nothing herein contained shall apply to such amount of money or other valuables as is usually common and prudent for any such guest to retain in his room or about his person.

33-17-102. Limitation of liability; form of notice.

The notice required by this act shall be substantially as follows: "Notice is hereby given that the proprietor of this house keeps an iron safe suitable for the safe deposit of money, jewelry or other valuable articles belonging to his guests or customers, and unless they leave their money, jewelry, precious stones or other valuables with the landlord, his agent or clerk, in order that he may deposit the same for safe keeping in such iron safe, he will not be liable for the loss thereof."

33-17-103. Hotel keepers' lien.

Any keeper of a hotel or boarding house or lodging house or restaurant shall have a lien upon the baggage or other personal property of any person who shall have obtained board or lodging or both, from such keeper, for the amount due for such board or lodging, and such keeper is hereby authorized to retain the possession of such baggage, or personal property until said amount is paid. If the amount due for such board or lodging is not paid within sixty (60) days from the time the same shall have become due and payable, any such keeper may proceed to have such baggage or other personal property sold for the satisfaction of his lien in the following manner: He shall give ten (10) days prior notice of the sale of said articles by him held under his lien, a copy of which he shall immediately transmit, by registered letter, to the owner of the articles at his usual place of abode if known, and he shall post said notices of sale in three (3) conspicuous and public places in the city, town, village or place where said keeper resides, giving a description of the articles to be sold and the time and place of sale, one (1) of which notices shall be posted in the office of the hotel, lodging house, boarding house or restaurant, if still maintained. At the time mentioned in said notices, the said keeper may proceed to sell to the highest and best bidder for cash, all of such personal property held under the lien, or so much thereof as shall be necessary to pay his

claim, and the residue of the unsold property, together with the surplus proceeds of such property sold, if any, he shall surrender to the owner, his heirs or legal representatives, on application therefor.

33-17-104. Room rates to be posted.

There shall be posted in plain view of any guest or guests occupying such room or rooms on the inside of the door of each lodging room in every hotel or inn a card of a size not less than four (4) by six (6) inches on which shall be plainly printed in the English language in type no smaller than one-quarter of an inch high the rate per day as applying to one (1) or more guests.

33-17-105. Penalty for violation of W.S. 33-17-104.

Any hotel keeper or inn keeper violating the provisions of this act shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than ten dollars ($10.00) or not to exceed one hundred dollars ($100.00).

CHAPTER 18 - JUNK DEALERS

33-18-101. Definition.

Every person, firm or corporation engaged in the business of buying or selling of second hand, or broken metals, such as copper, brass, lead, zinc, tin, steel, cast iron, rags, rubber, or waste paper, shall be held and hereby are defined to be junk dealers within the meaning of this act.

33-18-102. Records; book to be kept.

(a) Every person engaged in the junk business as defined in W.S. 33-18-101, shall keep a book or dedicated computer software program in which all entries shall be written in a computer or in ink, in the English language and entered at the time of each and every transaction and in which the following information is recorded:

(i) An accurate account and description of all junk metal or rubber goods purchased or sold;

(ii) The name and residence of the person selling or buying the junk metal or rubber goods; and

(iii) If the person is selling junk metal or rubber goods:

(A) The license plate number of the person's vehicle, if applicable; or

(B) Verification of the person's name and residence through presentation of the person's United States federal or state-issued photo identification.

(b) Compliance with paragraph (iii) of subsection (a) of this section is optional for common household and personal items of less than fifty dollars ($50.00) market value.

(c) No entry in such book or computer shall be erased, mutilated or changed.

33-18-103. Records; information to be posted.

Every person, firm or corporation engaged in the buying and selling of junk metals, rags, rubber, or waste paper as described in W.S. 33-18-101 shall at all times keep posted, conspicuously in the office of their [his] place of business, the description of, and amount of junk articles purchased each day, and the names and addresses of the parties for whom said purchase was made, and also the names and addresses of all to whom sales of junk metals are made.

33-18-104. Records; inspection by law enforcement officers.

The said book, and the entries therein, shall at all times be open to the inspection of the sheriff of the county and his deputies, or any member of the police force of any city or town, in the county in which said junk dealers do business.

33-18-105. Purchase from intoxicated persons.

No person, firm or corporation engaged in the buying or selling of junk metals, rubber, rags or paper, shall purchase any articles from any person appearing to be intoxicated, nor from any person known to have been convicted of larceny or theft, and when any person is found to be the owner of stolen property, which had been so sold, the property shall be returned to the owner thereof without the payment of any money on the part of the owner.

33-18-106. Penalty; power of cities and towns not impaired.

Every junk dealer who shall be found guilty of a violation of the provisions of this act shall, for the first offense, be fined not less than fifty dollars ($50.00), nor more than two hundred dollars ($200.00), or imprisoned in the county jail not more than sixty (60) days, or either or both, in the discretion of the court, and for each subsequent offense of violating any of the provisions of this act of which any such junk dealer shall be found guilty, such junk dealer shall be fined not less than one hundred dollars ($100.00), nor more than three hundred dollars ($300.00), or imprisoned in the county jail not less than thirty (30) days nor more than ninety (90) days, or either or both, in the discretion of the court; provided, that this act shall not be construed to in any wise impair the power of cities or incorporated towns in this state to license, tax and regulate any person, persons or corporations now engaged in or hereafter engaging in the buying and selling of second hand metals.

CHAPTER 19 - JUNKYARD CONTROL

33-19-101. Citation of chapter.

This act may be cited as the Junkyard Control Act.

33-19-102. Declaration of legislative policy; nonconforming junkyards deemed public nuisance.

It is hereby declared to be in the public interest to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to the interstate and primary highway systems within this state. The legislature hereby finds and declares that junkyards which do not conform to the requirements of this act are public nuisances.

33-19-103. Definitions.

(a) Unless the context requires otherwise, the following terms when used have the meanings assigned to them:

(i) Junk. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material;

(ii) Automobile Graveyard. Any establishment or place of business which is maintained, used, or operated for storage, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts;

(iii) Junkyard. An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills;

(iv) Interstate System. That portion of the national system of interstate and defense highways located within this state, as officially designated, or as may hereafter be so designated by the transportation commission and approved by the United States department of transportation pursuant to the provisions of title 23, United States Code, "Highways";

(v) Primary System. That portion of connected main highways, as officially designated or as may hereafter be so designated by the transportation commission and approved by the United States department of transportation pursuant to the provisions of title 23, United States Code, "Highways";

(vi) Commission. Transportation commission of Wyoming;

(vii) Engineer. State highway engineer or his duly authorized representative;

(viii) Federal Interstate System. National system of interstate and defense highways;

(ix) Person. Any individual, firm, agency, company, association, partnership, business, trust, joint stock company, or corporation who operates or allows a junkyard to be placed or to remain on premises controlled by him.

33-19-104. Time for compliance for previously lawfully established junkyards.

(a) Except as otherwise provided in this act, the owner of any junkyard that was lawful when established, but that is in violation of W.S. 33-19-105(b) and that cannot, as a practical matter to be determined by the engineer, be screened, may maintain such junkyard without liability under W.S. 33-19-110 as follows:

(i) Repealed By Laws 2011, Ch. 129, § 202.

(ii) If the junkyard was established after October 22, 1965 and if the portion of the highway along which it was established became a part of the federal interstate system of the federal aid primary system after October 22, 1965, the junkyard may be maintained until, but not beyond five (5) years after the date of erection or the date the portion of the highway involved became a part of the federal interstate system or the federal aid primary system, whichever date is later.

33-19-105. When license required; license fee; limitations on issuance of license.

(a) No person shall establish, operate or maintain a junkyard, any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of the interstate or primary systems, without obtaining a junkyard license from the commission. The commission shall establish and collect fees for the issuance of junkyard licenses, and all fees collected shall be paid to the commission.

(b) No junkyard license shall be issued for the establishment, operation or maintenance of a junkyard within one thousand (1,000) feet to the nearest edge of the right-of-way of the interstate or primary systems except for junkyards:

(i) Screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of the interstate or primary systems, or otherwise removed from sight; or

(ii) Located within areas zoned for industrial use under authority of law; or

(iii) Located within unzoned industrial areas as determined from actual land uses and defined by regulations promulgated by the commission; or

(iv) Those which are not visible from the main traveled way of the highway system.

33-19-106. Screening; relocation or removal of junkyards; condemnation proceedings.

(a) If considered feasible by the commission, any junkyard in existence on the effective date of this act which is located within one thousand (1,000) feet of the nearest edge of the right-of-way of the interstate or primary systems and is visible from the main traveled way of the interstate or primary systems shall be screened by the commission. The screening shall be at locations on the right-of-way or in areas outside the right-of-way acquired for the purpose, so that the junkyard is not visible from the main traveled way of the interstate or primary systems.

(b) When the commission determines that the topography of the land adjoining the interstate or primary systems will not permit adequate screening of such junkyards, or that the screening would not be economically feasible, the commission may require the relocation, removal or disposal of the junk and junkyard by negotiation or condemnation. When the commission determines that it is in the best interests of the state, it may acquire such land or interest in land as necessary to provide adequate screening of the junkyards.

(c) Damages resulting from any taking of property in eminent domain shall include, but not be limited to acquisition costs, leasehold value and moving costs.

33-19-107. Injunction to abate junkyards which are nuisances.

The establishment, operation or maintenance of any junkyard contrary to the provisions of this act is a public nuisance and the commission may apply to the district court of the county in which the junkyard is located for an injunction to abate the nuisance.

33-19-108. Agreements with secretary of commerce.

The commission may enter into agreements with the secretary of commerce pursuant to title 23, United States Code, relating to the control of outdoor advertising and junkyards in areas adjacent to the interstate and primary systems, and to take action in the name of the state to comply with the terms of the agreements.

33-19-109. More restrictive ordinances or regulations saved; just compensation required for taking of property.

Nothing in this act affects the provision of any lawful ordinance or regulation which is more restrictive than the provisions of this act, and nothing authorizes the taking of real or personal property, or restriction of its reasonable and existing use, without just compensation.

33-19-110. Violation a misdemeanor.

Any person violating any provision of this act is guilty of a misdemeanor.

CHAPTER 20 - MERCHANTS: ITINERANT, TEMPORARY OR TRANSIENT

ARTICLE 1 - ITINERANT MERCHANTS

33-20-101. Repealed by Laws 1991, ch. 174, § 3.

33-20-102. Repealed by Laws 1991, ch. 174, § 3.

33-20-103. Repealed by Laws 1991, ch. 174, § 3.

33-20-104. Repealed by Laws 1991, ch. 174, § 3.

33-20-105. Repealed by Laws 1991, ch. 174, § 3.

33-20-106. Repealed by Laws 1991, ch. 174, § 3.

33-20-107. Repealed by Laws 1991, ch. 174, § 3.

33-20-108. Repealed by Laws 1991, ch. 174, § 3.

33-20-109. Repealed by Laws 1991, ch. 174, § 3.

33-20-110. Repealed by Laws 1991, ch. 174, § 3.

ARTICLE 2 - TEMPORARY OR TRANSIENT MERCHANTS

33-20-201. Definition.

The words "temporary or transient merchant" for the purposes of this act shall include all persons, firms and corporations, both as principal and agent, who engage in, do or transact any temporary or transient business, either in one (1) locality or more or by traveling from one (1) or more places in this state, selling goods, wares or merchandise and who for the purpose of carrying on such business hire, lease or occupy a building,

structure or car, for the exhibition and sale of such goods, wares or merchandise.

33-20-202. License; required.

Hereafter it shall be unlawful for any temporary or transient merchant to engage in, do or transact any business as such within this state without first having obtained a license as hereinafter provided.

33-20-203. License; application; fee; record to be kept; exemption if licensed by city or town.

(a) Any temporary or transient merchant desiring to engage in, do or transact business in this state, shall file an application for license for that purpose with the county clerk of the county in which he desires to do business, which application shall state his name, his proposed place of business, the kind of business proposed to be conducted and the length of time for which he desires to conduct business. Except as provided by subsection (b) of this section, the temporary or transient merchant shall pay to the treasurer of the county a license fee of two hundred dollars ($200.00). The treasurer of the county shall issue to the person duplicate receipts. The temporary or transient merchant shall file the treasurer's receipt for payment with the county clerk of the county, who shall issue to the temporary or transient merchant a license to do business at the place described in the application and the kind of business to be done shall be described in the license. No license shall be good for more than one (1) person, unless the person shall be the member of a copartnership, nor for more than one (1) place of business, and shall be good for a period of one (1) year from the date of its issuance. The county clerk shall keep a record of the licenses in a book which shall at all times be open to public inspection.

(b) The license fee of two hundred dollars ($200.00) under subsection (a) of this section may be modified by the county commissioners for an event, a fair or a celebration. The modification shall apply to all transient merchants conducting business at the event, fair or celebration. The county commissioners shall notify the county treasurer of the modification. The county treasurer shall issue duplicate receipts to the temporary or transient merchant for the modified license fee. The temporary or transient merchant shall file the treasurer's receipt with the county clerk of the county where the application is made. The county clerk shall issue a license

that describes the event, fair or celebration and the kind of business to be done. The license shall be good only for the event, fair or celebration and only for the kind of business identified. The county clerk shall keep a record of the modified licenses for an event, fair or celebration in a book that is open to public inspection at all times.

(c) If any city or town establishes by ordinance a temporary or transient merchant license and license fee for the conduct of business inside its corporate boundaries, subsections (a) and (b) of this section shall not apply to any temporary or transient merchant holding a valid license issued by the city or town when conducting business inside the boundaries of the city or town issuing the license. Any city or town issuing any license to any temporary or transient merchant shall notify the county clerk of the county in which the city or town is located that a license has been issued.

33-20-204. License; prosecution of action for recovery of fee.

If any person, firm or corporation who is liable for the payment of any license fee under this act shall after demand is made upon him or it by the county clerk of the county wherein such person, firm or corporation is engaged in business or by the sheriff or deputy sheriff of such county, refuse or neglect to pay such fee, unless such person comes within the provisions of W.S. 33-20-207, the county clerk may in his own name, but for the benefit of the county, immediately commence and prosecute an action at law against such delinquent person, firm or corporation for the recovery of such license fee, and for the purpose of securing any judgment which he might recover in such action, such county clerk may have the goods, wares and merchandise of such person, firm or corporation attached upon the grounds and in the manner provided for in cases of attachment.

33-20-205. Affidavit as to nature of sale required; advertising and representation.

It shall be unlawful for any temporary or transient merchant to advertise, represent or hold out any goods, wares or merchandise, as being sold as an insurance, bankrupt, railway wreck, insolvent, assignee, trustee, executor, administrator, receiver, syndicate, wholesale, manufacturer or closing out sale, or as a sale of any goods, wares or merchandise damaged by smoke, fire, water or otherwise, unless such temporary merchant

shall file with the county clerk an affidavit showing all the facts relating to the reasons for and the character of such sale so to be advertised or represented, and showing that the goods, wares and merchandise of such sales are in fact in accordance with such advertisements and representations; such affidavit shall include a statement of the names of the persons from whom the goods, wares and merchandise so to be advertised or represented, were obtained, and the date of the delivery of said goods to the applicant and the place from which said goods, wares and merchandise were last taken, and all details necessary exactly to locate and fully to itemize all goods, wares and merchandise so to be advertised and represented. If such affidavit shall fail to show that such goods, wares and merchandise of such sale are in accordance with the proposed advertisements or representations as shown in such affidavit, or fails to disclose the facts as herein required, or if the county clerk learns that the said affidavit is untrue in any particular, then the county clerk shall refuse such applicant a license for such sale. Should a license be issued to such applicant it shall state that such person is authorized and licensed to sell such goods, wares and merchandise, and advertise, represent and hold out the same as being sold as such insurance, bankrupt, railway wreck, insolvent, assignee, trustee, executor, administrator, receiver, syndicate, wholesale, manufacturer or closing out sale of any goods, wares and merchandise, or as being damaged by smoke, fire, water or otherwise, or in any similar manner present any other fact, as shown by such affidavit. Such affidavit shall be sworn to by the applicant before a person authorized to administer oaths. If the applicant be a partnership it shall be sworn to by a member of such partnership, or if the applicant be a corporation it shall be sworn to by one of the officers of such corporation. Every person making a false statement of any fact in such affidavit shall be deemed guilty of perjury and shall be punished for such offense as provided by the laws of Wyoming.

33-20-206. Reduced price sale by new merchant evidence of transient merchant.

Provided, further, that whenever it appears that any such stock of goods, wares and merchandise has been brought into any county in this state by a person, firm or corporation who has not previously conducted a merchandise business therein, and it is claimed that such stock is to be closed out at reduced prices such facts shall be prima facie evidence that the person, firm or corporation so offering such goods for sale is a transient merchant as defined by this act.

33-20-207. Bond required upon complaint; designation of agent for service; affidavit required; becoming permanent merchant.

If complaint be made to the county clerk that any person, firm or corporation doing business in any county of this state is a transient merchant and such person, firm or corporation shall claim to be a permanent merchant, the county clerk shall require of such person, firm or corporation, and he or it shall furnish, a bond in the sum of five hundred dollars ($500.00), with surety or sureties to be approved by the county clerk. Such bond shall run to the county clerk as obligee and it shall secure the payment of the license in the event that such person, firm or corporation does not continue in the business which he or it is conducting in such county for a period of one (1) year from the time when such business was started; said bond shall also be for the protection of all persons, firms or corporations having claim or claims against the obligor arising out of said business. At the time of delivering such bond to the county clerk the obligor shall also deliver to the county clerk a duly executed instrument making the county clerk the agent of the obligor for the purpose of being served with process in the event of suit on such bond. Such merchant so complained against shall also furnish to the county clerk the affidavit required in W.S. 33-20-205 before advertising or holding out any goods, wares or merchandise as being sold as an insurance, bankrupt, railway wreck, insolvent, assignee, trustee, executor, administrator, receiver, syndicate, wholesale, manufacturer or closing out sale, or as a sale of any goods, wares or merchandise damaged by smoke, fire, water or otherwise. But after such merchant has been conducting the particular business in which he or it is engaged in such county for a period of one (1) year, such merchant shall be held to be a permanent merchant and the provisions of this act shall no longer be applicable to such merchant.

33-20-208. Exceptions.

The provisions of this chapter shall not apply to sales made to dealers by commercial travelers selling in the usual course of business, or to sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy, or other public officers selling goods, wares and merchandise according to law, nor to any person selling fruits, vegetables, dressed meats, fowls or farm products, by a bona fide resident of the state.

33-20-209. Penalty.

Any person, firm or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor, whether he or it be the owner of such goods, wares and merchandise sold or carried by him or it or not, and on conviction thereof shall be fined not less than fifty dollars ($50.00) nor more than four hundred dollars ($400.00), or imprisoned in the county jail not less than ten (10) days nor more than ninety (90) days, or both.

33-20-210. Provisions not to affect interstate commerce; city or town powers not limited.

Nothing in this act shall be construed as prohibiting or in any way limiting, restricting or interfering with interstate commerce or the federal statutes regulatory thereof. Nor with the power of cities or towns to require additional licenses from or make additional regulations for temporary or transient merchants.

CHAPTER 21 - NURSES

ARTICLE 1 - IN GENERAL

33-21-101. Repealed by Laws 1983, ch. 82, § 2.

33-21-102. Repealed by Laws 1983, ch. 82, § 2.

33-21-103. Repealed by Laws 1983, ch. 82, § 2.

33-21-104. Repealed by Laws 1983, ch. 82, § 2.

33-21-105. Repealed by Laws 1983, ch. 82, § 2.

33-21-106. Repealed by Laws 1983, ch. 82, § 2.

33-21-107. Repealed by Laws 1983, ch. 82, § 2.

33-21-108. Repealed by Laws 1983, ch. 82, § 2.

33-21-109. Repealed by Laws 1983, ch. 82, § 2.

33-21-110. Repealed by Laws 1983, ch. 82, § 2.

33-21-111. Repealed by Laws 1983, ch. 82, § 2.

33-21-112. Repealed by Laws 1983, ch. 82, § 2.

33-21-113. Repealed by Laws 1983, ch. 82, § 2.

33-21-114. Repealed by Laws 1983, ch. 82, § 2.

33-21-115. Repealed by Laws 1983, ch. 82, § 2.

33-21-116. Repealed by Laws 1983, ch. 82, § 2.

33-21-117. Repealed by Laws 1983, ch. 82, § 2.

33-21-118. Repealed by Laws 1983, ch. 82, § 2.

33-21-119. Short title.

This act shall be known and may be cited as the "Wyoming Nurse Practice Act".

33-21-120. Definitions.

(a) As used in this act:

(i) "Advanced practice registered nurse (APRN)" means a nurse who:

(A) May prescribe, administer, dispense or provide nonprescriptive and prescriptive medications including prepackaged medications, except schedule I drugs as defined in W.S. 35-7-1013 and 35-7-1014;

(B) Has responsibility for the direct care and management of patients and clients in relation to their human needs, disease states and therapeutic and technological interventions;

(C) Has a doctorate or master's degree in nursing, or an advanced practice registered nurse specialty or has completed an accredited advanced practice registered nurse educational program prior to January 1, 1999; and

(D) Has completed an advanced program of study in a specialty area in an accredited nursing program, has taken and passed a national certification examination in the same area and has been granted licensure by the board to practice as an APRN.

(ii) "Alford plea" means a plea agreement where the defendant has pled guilty yet not admitted to all the facts that comprise the crime;

(iii) "Approval" is the process by which the board provides for evaluation and grants official recognition to nursing educational programs which meet established uniform and reasonable standards;

(iv) "Board" means the Wyoming state board of nursing;

(v) "Certificate" means a document issued by the board permitting the performance by a nursing assistant/nurse aide of basic related nursing tasks and skills delegated by a licensed nurse and as allowed by statute and board rule;

(vi) "Competence" means the application of knowledge and the interpersonal, critical thinking, decision-making and psychomotor skills expected for the practice role within the context of public health, safety and welfare;

(vii) "Impaired" means the inability to practice nursing with reasonable skill and safety to patients by reason of one (1) or more of the following:

(A) Lack of nursing competence;

(B) Mental illness;

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

(D) Chemical or alcohol impairment.

(viii) "License" means a current document permitting the practice of nursing as an advanced practice registered nurse, registered nurse or licensed practical nurse;

(ix) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem identification by means of:

(A) Assessment: A systematic and continuous collection of objective and subjective data about the health status of individuals and groups derived from observations,

health assessment including physical assessment, interviews, written records and reports;

(B) Nursing Diagnosis: The identification of actual or potential responses to health needs or problems based on collecting, analyzing and comparing data with appropriate nursing standards to serve as the basis for providing nursing care or for which referral to appropriate medical or community resources is required;

(C) Planning: Development of a plan of care which includes measurable goals derived from the nursing diagnosis and identified priorities to maintain comfort, support of human functions and responses, and an environment conducive to wellness;

(D) Intervention: Actions in nursing practice which implement the plan of care to maximize health capabilities of individuals and groups;

(E) Evaluation: The continuous appraisal of the effectiveness of goal attainment in the plan of care by means of reassessing health status, and if necessary, modifying nursing diagnosis, plan of care and interventions.

(x) "Practice of practical nursing" means the performance of technical services and nursing procedures which require basic knowledge of the biological, physical, behavioral, psychological and sociological sciences. These skills and services are performed under the direction of a licensed physician or dentist, advanced practice registered nurse or registered professional nurse. Standardized procedures that lead to predictable outcomes are utilized in the observation and care of the ill, injured and infirm, in provision of care for the maintenance of health, in action directed toward safeguarding life and health, in administration of medications and treatments prescribed by any person authorized by state law to prescribe and in delegation to appropriate assistive personnel as provided by state law and board rules and regulations;

(xi) "Practice of professional nursing" means the performance of professional services requiring substantial knowledge of the biological, physical, behavioral, psychological and sociological sciences, and of nursing theory as the basis for applying the nursing process which consists of assessment, diagnosis, planning, intervention and evaluation. The nursing process is utilized in the promotion and maintenance of health,

case finding and management of illness, injury or infirmity, restoration of optimum function and achievement of a dignified death. Nursing practice includes but is not limited to administration, teaching, counseling, supervision, delegation, evaluation of nursing practice and execution of the medical regimen. The therapeutic plan includes the administration of medications and treatments prescribed by any person authorized by state law to prescribe. Each registered professional nurse is accountable and responsible for the quality of nursing care rendered;

(xii) "Practice of a certified nursing assistant/nurse aide" means, regardless of title or care setting, the performance of nursing related tasks and services delegated by a licensed nurse. The nursing assistant/nurse aide shall complete a specified course of study approved by the board, meet minimum competency requirements and be certified by the board;

(xiii) "This act" means W.S. 33-21-119 through 33-21-157.

33-21-121. Board of nursing; membership; appointment; qualifications; term of office; vacancies; removal.

(a) The board of nursing shall consist of seven (7) members to be appointed by the governor. Five (5) members shall be registered nurses, one (1) member shall be a licensed practical nurse and one (1) member shall be a representative of the public. Membership shall be restricted to no more than one (1) person who is associated with a particular agency, educational institution, corporation or other enterprise or subsidiary at one time. Membership shall represent various geographical areas of Wyoming.

(b) Each registered nurse member of the board shall be a resident of this state, licensed in good standing under the provisions of this act, currently engaged in the practice of nursing as a registered nurse and shall have had no less than five (5) years of experience as a registered nurse, at least three (3) of which immediately preceded appointment. Of the five (5) registered nurse members on the board, one (1) member shall have had at least two (2) years of experience in an administrative or teaching position in a nursing education program, one (1) member shall have had at least two (2) years of experience in administration in nursing service or public health nursing, one (1) member shall have at least two (2) years

experience as an advanced practice registered nurse, and the remaining two (2) members shall be appointed from various areas of nursing.

(c) The practical nurse member shall be a resident of this state, licensed in good standing under the provisions of this act, currently engaged in the practice of nursing as a licensed practical nurse, and shall have had no less than five (5) years of experience as a licensed practical nurse, at least three (3) of which immediately preceded appointment.

(d) The representative of the public shall be a resident of this state who has attained the age of majority, is interested in consumer health concerns and shall not be nor ever have been licensed or employed as a provider of health care services or be enrolled or employed in any health related educational program.

(e) Members of the board shall be appointed for a term of three (3) years.

(f) The present members of the board holding office under the provisions of the Wyoming Nurse Practice Act as of July 1, 2005 shall serve as members for their respective terms.

(g) No member shall serve more than two (2) consecutive full terms. The completion of an unexpired portion of a full term shall not constitute a full term for purposes of this subsection. Any board member initially appointed for less than a full term is eligible to serve for two (2) additional consecutive full terms.

(h) An appointee to a full term on the board shall be appointed by the governor prior to the expiration of a term of the member being succeeded and shall become a member of the board on the first day following the expiration date of the preceding term. Appointees to unexpired portions of full terms shall become members of the board on the day following the appointment. Each term of office shall expire at 12:00 midnight on the last day of February for the term of the appointment.

(j) A vacancy that occurs for any reason in the membership of the board shall be filled by the governor in the manner prescribed in the provisions of this act regarding appointments. A person appointed to fill a vacancy shall serve for the unexpired portion of the term.

(k) The governor may remove any member from the board as provided in W.S. 9-1-202.

33-21-122. Board of nursing; powers and duties.

(a) The responsibility for enforcement of the provisions of this act is vested in the board of nursing. The board shall have all of the duties, powers and authority specifically granted by and necessary to the enforcement of this act.

(b) The board of nursing may make, adopt, amend, repeal and enforce reasonable rules and regulations necessary for the proper administration and enforcement of this act.

(c) Without limiting the foregoing, the board of nursing may do the following:

(i) Develop by rules and regulations uniform and reasonable standards for nursing practice;

(ii) Appoint advisory committees to provide expertise in specific areas of education or practice under consideration by the board;

(iii) Publish advisory opinions relative to whether the nursing procedures, policies and other practices of any agency, facility, institution or other organization that employs individuals licensed or certified under this act complies with the standards of nursing practice as defined in this act and board rules and regulations. The board may submit comments, register complaints or file charges with the appropriate advisory, certifying or regulatory body governing the agency, facility, institution or organization that authorizes and condones violations of this act or board rules and regulations;

(iv) Report alleged violations of this act to the district attorney of the county where the violation occurred;

(v) Examine, license, renew, relicense and reactivate the licenses of duly qualified individuals, may grant individuals a temporary permit to engage in the practice of professional and practical nursing in this state within the limits imposed in this act and may develop, by board rules and regulations, standards for continued competency of licensees continuing in or returning to practice;

(vi) Deny any applicant a license or temporary permit to practice professional or practical nursing, whether by examination, licensure, endorsement, renewal, relicensure or reactivation, if the applicant fails to meet the requirements of this act or board rules and regulations;

(vii) Conduct surveys and collect data related to licensure and educational enrollments and report to the public;

(viii) Conduct investigations, hearings and proceedings concerning alleged violations of this act and board rules and regulations and shall request criminal history background information on license or certificate applicants as authorized under W.S. 7-19-106(a)(viii);

(ix) Notwithstanding any other provision of law, the board may issue administrative subpoenas for the testimony of any license, certificate or temporary permit holder or other witness and may issue administrative subpoenas for the production of evidence relating to any matter under investigation. The board may compel attendance of witnesses and administer oaths to those testifying at hearings;

(x) Determine and administer appropriate disciplinary action against all individuals found guilty of violating this act and board rules and regulations. The board retains jurisdiction over the person issued a license, certificate or temporary permit pursuant to this act, regardless of whether the license, certificate or permit expired, lapsed or was relinquished during or after the alleged occurrence of conduct proscribed by this act;

(xi) Develop and enforce uniform and reasonable standards for nursing education programs as stated in board rules and regulations;

(xii) Approve nursing education programs that meet the prescribed standards of the board;

(xiii) Deny or withdraw approval of nursing education programs that fail to meet the prescribed standards of the board;

(xiv) Regulate by board rules and regulations the qualifications of advanced practice registered nurses;

(xv) Maintain records of proceedings as required by state law;

(xvi) Conduct conferences, forums, studies and research on nursing practice and education;

(xvii) Maintain nursing statistics for purposes of nursing manpower planning and nursing education;

(xviii) Appoint and employ a registered nurse qualified by nursing experience and a minimum of a master's degree in nursing to serve as executive director, approve additional staff positions as may be necessary in the opinion of the board to administer and enforce the provisions of this act and determine qualifications for such positions;

(xix) Participate in and pay membership fees to organizations that develop and regulate the national nursing licensure examinations and exclusively promote the improvement of the uniform and reasonable standards for the practice of nursing for protection of the public health, safety and welfare;

(xx) Submit an annual report to the governor, summarizing the board's proceedings and activities;

(xxi) Determine and collect reasonable fees not to exceed five hundred dollars ($500.00) as established by board rules and regulations;

(xxii) Receive and expend funds for the pursuit of the authorized objectives of the board of nursing. Funds shall be maintained in a separate account and periodic reports of the receipt and expenditure of funds shall be submitted to the governor;

(xxiii) Adopt a seal which shall be in the care of the executive director and which shall be affixed only in a manner as prescribed by the board; and

(xxiv) By board rule and regulation, regulate the qualifications, certification, recertification, examination and discipline of nursing assistants and nurse aides. For purposes of carrying out this paragraph, fingerprints and other information necessary for a criminal history record background check pursuant to W.S. 7-19-201 shall be provided to the board.

(d) Notwithstanding any other provision of this act, the board shall not, by rule or otherwise, limit the right of licensed nurses to practice with other health professionals or in an association, partnership, corporation or other lawful entity, nor limit the right of licensed nurses to practice under the name "nursing clinic", "nursing center" or other descriptive terms, provided the term is not misleading regarding the nature of services provided.

(e) This act does not require the board of nursing to act upon violations of the provisions of the act whenever, in the board's opinion, the public interest will be served adequately by a suitable written notice of warning to affected parties.

(f) The board shall administer the provisions of the Nurse Licensure Compact pursuant to W.S. 33-21-202, including factoring the annual assessment required under the compact into its biennium budget.

(g) The board shall administer the provisions of the advance practice registered nurse compact pursuant to W.S. 33-21-302, including factoring the annual assessment required under the compact into its biennium budget.

33-21-123. Executive director; appointment; assistant; powers and duties; salary and expenses.

(a) An executive director shall be appointed by the board and is responsible for the performance of administrative responsibilities of the board and other duties as the board directs.

(b) The executive director and assistant to the executive director shall be registered nurses, licensed in the state of Wyoming and qualified by nursing experience and a minimum of a master's degree in nursing.

(c) The executive director and assistant to the executive director may act on the board's behalf during the period between board meetings in matters of licensure, examination, disciplinary and other administrative functions.

(d) The executive director and the assistant to the executive director of the board of nursing shall receive an annual salary which shall be determined by the board in conjunction with the personnel department and which shall be competitive with salaries for positions requiring similar

education and experience and shall receive reimbursement for per diem and travel expenses incurred in connection with the performance of official duties as provided for in state statutes.

33-21-124. Board; officers; duties; terms.

(a) The board of nursing shall elect from its registered nurse members a president and vice president. The president shall preside at board meetings and shall be responsible for the performance of all duties and functions of the board required or permitted by this act. In the absence of the president, the vice president shall assume these duties.

(b) Additional offices shall be established and filled by the board at its discretion.

(c) Officers elected by the board shall serve a term of one (1) year commencing with the day of their election and ending upon election of their successors and shall serve no more than three (3) consecutive full terms in each office to which they are elected.

33-21-125. Board; meetings; notice; quorum; board action; conflict of interest.

(a) The board of nursing shall meet at least once every six (6) months to transact its business. One (1) meeting shall be designated as the annual meeting for the purpose of electing officers and board reorganization and planning. The board shall meet at additional times as it may determine. Additional meetings may be called by the president of the board or by two-thirds (2/3) of the members of the board. Board meetings and hearings shall be open to the public. In accordance with the law, the board may conduct part of the meeting in executive session, closed to the public.

(b) Notice of all board meetings shall be given in the manner pursuant to board rules and regulations.

(c) A majority of the board members including the president or vice president constitutes a quorum for the conduct of a board meeting. The act of the majority of members present at a meeting, which includes a quorum, shall be the act of the board of nursing.

(d) The board members shall vote when present. When a conflict of interest exists, the board members shall abstain from voting.

33-21-126. Board; compensation

Each member of the board shall receive as salary the sum paid each day to legislators and shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii), incurred in the performance of their duties.

33-21-127. Qualifications for licensure or certification; application requirements.

(a) An applicant for licensure or certification by examination to practice as an advanced practice registered nurse, registered nurse, licensed practical nurse or certified nursing assistant shall:

(i) Submit a written application verified by oath as prescribed by the board;

(ii) Be a graduate of a state board approved nursing or nursing assistant education program recognized by the board which prepares the applicant for the level of licensure or certification being sought;

(iii) Pass a board approved national nursing licensure or certification examination;

(iv) Have committed no acts which are grounds for disciplinary action as set forth in W.S. 33-21-146, or if the act has been committed, the board may, at its discretion and after investigation, determine that sufficient restitution has been made; and

(v) Remit fees as specified by the board.

(b) An applicant for licensure or certification by endorsement to practice as an advanced practice registered nurse, registered nurse, licensed practical nurse or certified nursing assistant shall:

(i) Submit a written application verified by oath as prescribed by the board;

(ii) Be a graduate of a state board approved nursing or nursing assistant education program recognized by the board which prepares the applicant for the level of licensure or certification being sought;

(iii) Have committed no acts which are grounds for disciplinary action as set forth in W.S. 33-21-146, or if the act has been committed, the board may, at its discretion and after investigation, determine that sufficient restitution has been made;

(iv) Remit fees as specified by the board; and either:

(A) Submit proof of initial licensure or certification by an examination acceptable to the board, provided that when the applicant secured his or her initial license or certificate, the requirements for licensure or certification included the requirements then necessary for licensure or certification in this state and have submitted proof that the license or certificate has not been suspended, revoked or otherwise restricted for any reason; or

(B) Be required to pass an examination or meet other requirements as specified by the board, if the applicant has not passed an examination acceptable to the board.

(c) Each applicant who successfully meets the requirements of this section is entitled to licensure or certification as an advanced practice registered nurse, registered nurse, licensed practical nurse or certified nursing assistant, whichever is applicable.

(d) In addition to subsections (a) and (b) of this section, an applicant for licensure or certification under this act shall provide the board fingerprints and other information necessary for a criminal history record background check as provided under W.S. 7-19-201.

33-21-128. Examinations for licensure; reexamination.

(a) Repealed by Laws 2005, ch. 224, § 2.

(b) The board may employ, contract and cooperate with any organization in the preparation, administration and grading of an appropriate national nursing licensure or nursing assistant certification examination.

(c) The board shall by rules and regulations limit the number of reexaminations which may be taken by the applicant after the initial failure of a board approved national nursing licensure or nursing assistant certification examination.

33-21-129. Renewal of licenses or certificates.

(a) Licenses or certificates issued under this act shall be renewed biennially according to a schedule established by board rules and regulations.

(b) A renewal license or certificate shall be issued to an advanced practice registered nurse, registered nurse, licensed practical nurse or certified nursing assistant who demonstrates satisfactory completion of requirements established by the board and who remits the required fees established in the board rules and regulations.

(c) Any license or certificate issued by the board shall expire if the licensee or certificate holder fails to renew the license or certificate as established in board rules and regulations, including the remittance of all fees.

(d) Failure to renew the license or certificate by the expiration date shall result in forfeiture of the right to practice nursing or nurse assisting in this state.

(e) For licensees who have prescriptive authority the board shall require three (3) hours of continuing education related to the responsible prescribing of controlled substances or treatment of substance abuse disorders every two (2) years.

33-21-130. Relicensure or recertification.

Licensees or certificate holders who have allowed their license or certificate to lapse by failure to renew as herein provided, may apply for relicensure or recertification according to board rules and regulations. Upon satisfaction of the requirements for relicensure or recertification, the board shall issue a renewal of license or certificate to practice nursing or nurse assisting.

33-21-131. Inactive status; reactivation or recertification.

Licensees or certificate holders who hold an active license or certificate to practice in this state, and who wish to discontinue the practice of professional or practical nursing or nurse assisting in this state, may request in writing that the board place their license or certificate on inactive status. A licensee or certificate holder on inactive status shall not be considered lapsed or expired. A biennial renewal fee shall be required to retain the inactive status. Licensees or certificate holders on inactive status may apply for reactivation pursuant to board rules and regulations.

33-21-132. Temporary permit.

(a) The board may issue a temporary permit to practice nursing or nurse assisting to an advanced practice registered nurse, registered nurse, licensed practical nurse or certified nursing assistant who is awaiting licensure or certification by endorsement and who is currently licensed or certified in good standing in another jurisdiction, territory or possession of the United States. The period for a temporary permit shall not exceed ninety (90) days, provided the applicant submits a written application for licensure or certification by endorsement in a form and substance satisfactory to the board. A temporary permit for such a request shall be issued only one (1) time.

(b) The board may issue a temporary permit to practice nursing or nurse assisting to an advanced practice registered nurse, registered nurse, licensed practical nurse or certified nursing assistant who is not seeking licensure or certification by endorsement and who is currently licensed or certified in good standing in another jurisdiction, territory or possession of the United States. The period for a temporary permit shall not exceed ninety (90) days, provided the applicant submits a written application for licensure or certification by endorsement in a form and substance satisfactory to the board. A temporary permit for such a request shall be issued only one (1) time.

(c) The board may issue a temporary permit to practice nursing or nurse assisting to a graduate of an approved nursing or nursing assistant education program, pending the results of the first board approved national nursing licensure or certification examination offered after graduation. A temporary permit shall not be issued to any applicant who has previously failed a board approved national nursing licensure or certification examination. The temporary permit shall be

surrendered in event of failure of the licensure or certification examination. A new graduate holding a temporary permit shall practice only under the direction and supervision of a registered professional nurse. A temporary permit for such a request shall be issued only one (1) time.

(d) The board may issue a temporary permit to graduates of foreign schools of nursing who have met the requirements for licensure by examination or endorsement pursuant to board rules and regulations. Applicants showing evidence of certification from a board approved national certifying organization for graduates of foreign nursing schools shall take the first available board approved national nursing licensure or certification examination for which they are eligible. A temporary permit for such a request shall be issued only one (1) time.

(e) A temporary permit is nonrenewable.

33-21-133. Licensees and certificate holders to provide statistical information to board.

Each licensee and certificate holder shall provide reasonable information for statistics requested by the board to perform its duties in nursing manpower planning.

33-21-134. Registered professional nurse; use of R.N.; advanced practice registered nurse; use of A.P.R.N.

(a) Any person who holds a license to practice as a registered professional nurse in this state or who holds a license in another state and is practicing in this state pursuant to the Nurse Licensure Compact, shall have the right to use the title "Registered Nurse" and the abbreviation "R.N." No other person shall assume this title or use this abbreviation or any words, letters, signs or devices to indicate that the person using same is a registered professional nurse.

(b) Any person who holds a license to practice as an advanced practice registered nurse in this state, or who holds a license in another state and is practicing in this state pursuant to the Advanced Practice Registered Nurse Compact, shall have the right to use the title "Advanced Practice Registered Nurse" and the abbreviation "A.P.R.N." No other person shall assume this title or use this abbreviation or any words, letters, signs or devices to indicate that the person using same is an advance practice registered nurse.

33-21-135. Licensed practical nurse; use of L.P.N.

Any person who holds a license to practice as a licensed practical nurse in this state or who holds a license in another state and is practicing in this state pursuant to the Nurse Licensure Compact, shall have the right to use the title "Licensed Practical Nurse" and the abbreviation "L.P.N." No other person shall assume this title or use this abbreviation or any words, letters, signs or devices to indicate that the person using same is a licensed practical nurse.

33-21-136. New graduate professional nurse; use of G.N.; new graduate advanced practice registered nurse; use of G.A.P.R.N.

(a) Any person who holds a temporary permit as a new graduate professional nurse in this state shall use the title "Graduate Nurse" and the abbreviation "G.N." No other person shall assume this title or use this abbreviation or any words, letters, signs or devices to indicate that the person using same is a new graduate professional nurse.

(b) Any person who holds a temporary permit as a new graduate advanced practice registered nurse in this state shall use the title "Graduate Advanced Practice Registered Nurse" and the abbreviation "G.A.P.R.N." No other person shall assume this title or use this abbreviation or any words, letters, signs or devices to indicate that the person using same is a new graduate advanced practice registered nurse.

33-21-137. New graduate practical nurse; use of G.P.N.

Any person who holds a temporary permit as a new graduate practical nurse in this state shall use the title "Graduate Practical Nurse" and the abbreviation "G.P.N." No other person shall assume this title or use this abbreviation or any words, letters, signs or devices to indicate that the person using same is a new graduate practical nurse.

33-21-138. Nursing education programs; approval by board.

The board shall by rules and regulations that establish standards for nursing education programs define the process for board approval of nursing education programs and collect actual costs incurred for the approval process for nursing education programs, not to exceed five thousand dollars ($5,000.00).

33-21-139. Nursing education programs; approval by board; procedure.

An institution or program desiring to initiate a nursing education program in this state shall apply to the board and submit evidence that its nursing program is able to meet the standards established by the board. If upon investigation the board finds that the program meets the established standards for nursing education programs, it may grant approval to the applicant program.

33-21-140. Nursing education programs; periodic evaluation.

The board shall periodically provide for reevaluation of approved nursing education programs based on actual reports or resurveys and shall publish a list of approved programs. The board shall collect actual costs incurred for the survey and approval process from the nursing education program, not to exceed five thousand dollars ($5,000.00).

33-21-141. Nursing education programs; denial or withdrawal of approval.

The board may deny or withdraw approval or take action as deemed necessary regarding nursing education programs that fail to meet the standards established by the board, provided that all actions shall be effected in accordance with the Wyoming Administrative Procedure Act.

33-21-142. Nursing education programs; reinstatement of approval.

The board may reinstate approval of a nursing education program upon submission of satisfactory evidence that its program meets the standards established by the board.

33-21-143. Nursing education programs; provisional approval.

The board may grant provisional approval of new programs pending the licensure results of the first graduating class.

33-21-144. Nursing education programs; conditional approval.

The board may grant conditional approval of an established program pending removal or correction of deficiencies, as identified by the board.

33-21-145. Violations; penalties.

(a) No person shall:

(i) Engage in the practice of nursing or nurse assisting as defined in this act without a valid, current license, certificate or temporary permit, except as otherwise permitted under this act or the Nurse Licensure Compact or the Advanced Practice Registered Nurse Compact;

(ii) Practice nursing or nurse assisting under cover of any diploma, license, certificate or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(iii) Use any words, abbreviations, figures, letters, titles, signs, cards or devices tending to imply that the person is an advanced practice registered nurse, registered nurse, licensed practical nurse or certified nursing assistant unless the person is duly licensed or certified as an advanced practice registered nurse, registered nurse, licensed practical nurse or certified nursing assistant under this act or the Advanced Practice Registered Nurse Compact or holds a license in another state and is practicing in this state pursuant to the Nurse Licensure Compact;

(iv) Knowingly employ unlicensed or uncertified persons in the practice of nursing or nurse assisting;

(v) Knowingly conceal information relating to violations of this act;

(vi) Conduct a nursing education program for the preparation of registered nurses or licensed practical nurses unless the program has been approved by the board;

(vii) Otherwise violate or aid or abet another person to violate any provision of this act; or

(viii) Practice nursing or nurse assisting during the time a license or certificate is suspended, revoked, surrendered, inactive or lapsed.

(b) Violation of any of the provisions of this act constitutes a misdemeanor and upon conviction, the person is subject to a fine of not more than one thousand dollars ($1,000.00), imprisonment for not more than one (1) year, or both.

33-21-146. Disciplining licensees and certificate holders; grounds.

(a) The board of nursing may refuse to issue or renew, or may suspend or revoke the license, certificate or temporary permit of any person, or to otherwise discipline a licensee or certificate holder, upon proof that the person:

(i) Has engaged in any act inconsistent with uniform and reasonable standards of nursing practice as defined by board rules and regulations;

(ii) Has been found guilty by a court, has entered an Alford plea or has entered a plea of nolo contendere to a misdemeanor or felony that relates adversely to the practice of nursing or to the ability to practice nursing;

(iii) Has practiced fraud or deceit:

(A) In procuring or attempting to procure a license or certificate to practice nursing or nurse assisting;

(B) In filing or reporting any health care information, including but not limited to client documentation, agency records or other essential health documents;

(C) In signing any report or record as an advanced practice registered nurse, registered nurse, a licensed practical nurse or certified nursing assistant;

(D) In representing authority to practice nursing or nurse assisting; or

(E) In submitting any information or record to the board.

(iv) Is unfit or incompetent to practice nursing by reason of negligence, habits or other causes including but not limited to:

(A) Being unable to practice nursing with reasonable skill and safety to patients by reason of physical or mental disability, or use of drugs, narcotics, chemicals or any other mind-altering material; or

(B) Performance of unsafe nursing practice or failure to conform to the essential standards of acceptable and prevailing nursing practice, in which case actual injury need not be established.

(v) Has engaged in any unauthorized possession or unauthorized use of a controlled substance as defined in the Wyoming Controlled Substances Act;

(vi) Has had a license or certificate to practice nursing or nurse assisting or to practice in another health care discipline in another jurisdiction, territory or possession of the United States denied, revoked, suspended or otherwise restricted;

(vii) Has practiced nursing or nurse assisting within this state without a valid current license or temporary permit or as otherwise permitted under this act, the Nurse Licensure Compact or the Advanced Practice Registered Nurse Compact;

(viii) Has knowingly and willfully failed to report to the board any violation of this act or of board rules and regulations;

(ix) Has been found by the board to have violated any of the provisions of this act or of board rules and regulations;

(x) Has knowingly engaged in an act which the licensee or certificate holder knew was beyond the scope of the individual's nursing or nurse assisting practice prior to committing the act, or performed acts without sufficient education, knowledge or ability to apply nursing principles and skills;

(xi) Has failed to submit to a mental, physical or medical competency examination following a proper request by the board made pursuant to board rules and regulations and the Wyoming Administrative Procedure Act;

(xii) Has violated a previously entered board order; or

(xiii) Has violated W.S. 35-4-1001.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license or certificate issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license or certificate in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license or certificate withheld, suspended or restricted under this subsection.

(c) The board of nursing shall revoke the license, certificate or temporary permit of any person if the person is convicted of violating any provision of W.S. 35-6-401 through 35-6-404.

33-21-147. Disciplining licensees or certificate holders; procedure.

A proceeding for discipline of a licensee, certificate holder or a temporary permit holder, or action against an applicant for a license, certificate or temporary permit, may be commenced when the board has reasonable grounds to believe that a person under the board's jurisdiction has committed acts in violation of W.S. 33-21-146. No license or certificate to practice nursing or nurse assisting may be revoked or denied by the board without affording the licensee, certificate holder or applicant due process of law. However, the board may summarily suspend a license or certificate and institute proceedings concomitantly if the board finds that the licensee or certificate holder presents a clear and immediate danger to the public health, safety and welfare if allowed to continue to practice. For purposes of a suspension or other restriction imposed pursuant to W.S. 33-21-146(b), the board may presume that the court imposing the suspension or restriction afforded the licensee, certificate holder or applicant due process of law.

33-21-148. Disciplining licensees; reinstatement.

Any person whose license or certificate has been denied, suspended or revoked, pursuant to this act, may apply to the board for reinstatement of the license or certificate or issuance of a license or certificate after fulfilling those requirements determined by the board. The application shall be made in writing and in the form prescribed by the board. The board may grant or deny the application or it may modify its

original findings to reflect any circumstances that have changed sufficiently to warrant modifications.

33-21-149. Disciplining licensees or certificate holders; conditional licensure.

As a result of disciplinary action, the board may in addition to other powers and duties, issue, renew or reinstate licenses or certificates subject to reasonable conditions which the board may impose.

33-21-150. Immunity of board members and persons reporting information to board.

(a) Any member or agent of the board, or any person under oath, is not subject to a civil action for damages as a result of reporting information in good faith, without fraud or malice, relating to alleged violations of this act or board rules and regulations including, but not limited to:

(i) Negligence, malpractice or the qualification, fitness or character of a person licensed or certified, or applying for a license or certificate, to practice nursing or nurse assisting; or

(ii) Violations of the standards of nursing education programs as defined by board rule and regulations.

(b) The immunity provided by this section shall extend to the members of any professional review committee and witnesses appearing before the committee which is authorized by the board to act pursuant to this section.

33-21-151. Injunctive relief; grounds.

(a) The board may petition in its own name for an injunction to a proper court of competent jurisdiction to enjoin:

(i) Any person from practicing nursing or nurse assisting, within the meaning of this act, without a valid license, certificate or temporary permit, unless so exempted under W.S. 33-21-154;

(ii) Any licensee or certificate holder from practicing who allegedly is in violation of this act; or

(iii) Any person, firm, corporation, institution or association from employing any individual to practice nursing or nurse assisting who is not licensed or certified under this act or exempted under W.S. 33-21-154.

33-21-152. Injunctive relief; procedure.

(a) Upon the filing of a verified petition the court may issue an injunction for violation of W.S. 33-21-151. In case of violation of an injunction issued under this section, the court may find the offender guilty of contempt of court.

(b) The injunction proceedings shall be in addition to, not in lieu of, all penalties and other remedies provided in this act.

33-21-153. Names of terminated licensees or certificate holders to board; enforcement by court order; civil contempt for noncompliance; immunity.

(a) Hospitals, nursing homes and other employers of advanced practice registered nurses, registered nurses, licensed practical nurses and certified nursing assistants shall report to the board the names of those licensees or certificate holders whose employment has been terminated voluntarily or involuntarily for any reasons stipulated in W.S. 33-21-146.

(b) The board may seek an order from a proper court of competent jurisdiction for a report from any of the parties stipulated in subsection (a) of this section if one is not forthcoming voluntarily.

(c) The board may seek a citation for civil contempt if a court order for a report is not obeyed by any of the parties stipulated in subsection (a) of this section.

(d) Any institution or person reporting in good faith and without fraud or malice, information to the board under this section, is immune from civil action as provided in W.S. 33-21-150.

33-21-154. Exemptions.

(a) No provisions in this act prohibit:

(i) The practice of nursing by persons enrolled in board approved nursing programs when the practice is part of their program of study;

(ii) The rendering of assistance by anyone in the case of an emergency;

(iii) The incidental health care by members of the family and friends;

(iv) The rendering of nursing services on a fee-for-service basis, or the reimbursement for nursing services directly to a registered nurse, licensed practical nurse or advanced practice registered nurse by any governmental program, commercial insurance company, hospital or medical services plan, or any other third-party payor;

(v) The establishment of an independent nursing practice by one (1) or more licensed nurses for the purpose of rendering nursing services within the scope of the license to practice nursing;

(vi) The practice of any currently registered nurse, licensed practical nurse or advanced practice registered nurse of another state who is employed by the United States government, or any bureau, division or agency thereof while in the discharge of official duties;

(vii) The practice of any currently registered nurse, licensed practical nurse or advanced practice registered nurse of another state who is employed by an individual, agency or corporation located in another state and whose employment responsibilities include transporting patients into, out of, or through this state. The exemptions shall be limited to a period not to exceed forty-eight (48) hours for each transport;

(viii) The practice of any currently registered nurse, licensed practical nurse or advanced practice registered nurse of another state who is presenting educational programs or consultative services within this state for a period not to exceed a total of fourteen (14) days per year;

(ix) The practice of any nurse or nursing assistant, currently licensed or certified in another jurisdiction, in the provision of nursing care in the case of an emergency or disaster as declared by the governor;

(x) The practice of any nurse within this state who holds a license in another state and is practicing in this state pursuant to the Nurse Licensure Compact;

(xi) The practice of any advanced practice registered nurse who holds a license in another state and is practicing in this state pursuant to the Advanced Practice Registered Nurse Compact.

(b) Nothing in this act shall be construed as:

(i) Restricting the practice, services or activities of any person licensed under this title while practicing within the scope of practice provided in the person's licensure act under this title; or

(ii) Prohibiting or regulating the delegation of functions within the scope of practice by any person other than a nurse licensed pursuant to this title provided that the delegation does not violate the act under which the person is licensed and provided that the board of nursing may discipline anyone licensed pursuant to this act for accepting any delegation that is beyond the person's scope of practice as defined by this act and that presents a danger of harm to a patient.

33-21-155. Board to establish fees; disposition of fees; appropriations to board.

(a) The board may establish appropriate fees as stated in board rules and regulations not to exceed the maximum stated in W.S. 33-21-122(c)(xxi).

(b) All fees collected by the board under this act shall be deposited to the state treasurer's office and shall be placed in a separate account. There shall be appropriated to the board of nursing from the account, sums as may be necessary to carry out the provisions of this act. Appropriations shall be based upon submission of a budgetary request as provided by W.S. 9-2-1011 and 9-2-1012.

33-21-156. Persons licensed under previous law.

(a) Any individual holding a license to practice nursing as a registered nurse in this state that is valid on July 1, 2005, shall be deemed to be licensed as a registered nurse under this act.

(b) Any individual holding a license to practice nursing as a licensed practical nurse in this state that is valid on July 1, 2005, shall be deemed to be licensed as a licensed practical nurse under this act.

(c) Any individual eligible for reactivation of a license to practice nursing as a registered nurse or as a licensed practical nurse in this state on July 1, 2005, shall be deemed to be eligible to be licensed as a registered nurse or as a licensed practical nurse.

(d) Any individual as of July 1, 2005, who has allowed a license to practice nursing as a registered nurse or licensed practical nurse in this state to lapse because of failure to renew, may become licensed as a registered nurse or as a licensed practical nurse by applying for relicensure pursuant to relicensure requirements established in this act and in board rules and regulations.

(e) Those licensed under the provisions of subsections (a) through (d) of this section are eligible for renewal of the license pursuant to renewal requirements established in this act and in board rules and regulations.

(f) Any individual holding recognition to practice as an advanced practice registered nurse in this state that is valid on July 1, 2005 shall be deemed to be an advanced practice registered nurse under this act.

33-21-157. Nurses volunteer license.

(a) As used in this section, "low income uninsured person" and "nonprofit health care facility" have the same meanings as in W.S. 33-15-131(a).

(b) For purposes of this section, a person shall be considered retired from the practice of practical, professional or advanced practice registered nursing if the person's license has expired.

(c) The state board of nursing may issue, with or without examination, a volunteer's license to a person who is retired from practice so that the person may provide nursing services to low income uninsured persons at nonprofit health care facilities. The board shall deny issuance of a volunteer's

license to a person who is not qualified under this section to hold a volunteer's license.

(d) An application for a volunteer's license shall include all of the following:

(i) A copy of the applicant's nursing degree;

(ii) A copy of the applicant's most recent license authorizing the practice of nursing issued by a jurisdiction in the United States that licenses persons to practice nursing;

(iii) Evidence of one (1) of the following, as applicable:

(A) The applicant has maintained for at least ten (10) years immediately prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice nursing; or

(B) The applicant has practiced for at least ten (10) years immediately prior to retirement in good standing as a nurse in one (1) or more of the branches of the United States armed services; and

(iv) A notarized statement from the applicant, on a form prescribed by the board, that the applicant:

(A) Will not accept any form of remuneration for any nursing services rendered while in possession of a volunteer's license;

(B) Will devote his nursing practice exclusively and totally to providing nursing services to low income uninsured persons at a nonprofit health care facility in this state; and

(C) Will provide any other documentation that the board reasonably may require.

(e) The holder of a volunteer's license may provide nursing services only on the premises of a nonprofit health care facility in this state and only to low income uninsured persons. The holder shall not accept any form of remuneration for providing nursing services while in possession of the license. The board may revoke a volunteer's license on receiving proof

satisfactory to the board that the holder has engaged in practice in this state outside the scope of the license.

(f) A volunteer's license shall be valid for a period of one (1) year, unless earlier revoked under subsection (e) of this section or pursuant to title 33, chapter 21 of the Wyoming statutes. A volunteer's license may be renewed upon the application of the holder. The board shall maintain a register of all persons who hold volunteer's licenses. The board shall not charge a fee for issuing or renewing a license pursuant to this section.

(g) To be eligible for renewal of a volunteer's license, the holder of the license shall certify to the board completion of any continuing education required under this act as if the holder of the license were in active practice. The board shall not renew a license if the holder has not complied with the continuing education requirements. The nonprofit health care facility in which the holder provides nursing services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing education.

(h) The board shall issue to each person who qualifies under this section a volunteer's license that states the license holder is authorized to provide nursing services pursuant to the laws of this state.

(j) Except as provided in this section, any person holding a volunteer's license issued by the board under this section shall be subject to the requirements of this act and the jurisdiction of the board as if he were licensed to practice nursing under this act.

(k) The board shall adopt rules to administer and enforce this section.

33-21-158. Advanced practice registered nurses; signature authority.

Except as otherwise provided by law and including the restriction in W.S. 33-21-120(a)(i)(A), an advanced practice registered nurse acting within the scope of the advanced practice registered nurse's practice may fulfill any requirement for a signature, certification, stamp, verification, affidavit, endorsement or other acknowledgement by a physician. Nothing in this section shall be construed to expand the scope of practice

of an advanced practice registered nurse as provided in this article.

ARTICLE 2 - NURSE LICENSURE COMPACT

33-21-201. Short title.

This article shall be known and may be cited as the "Nurse Licensure Compact."

33-21-202. Compact approved and ratified.

The Nurse Licensure Compact is enacted into law and entered into on behalf of this state with all other states legally joining in the compact in a form substantially as follows:

ARTICLE I

Findings and Declaration of Purpose

(a) The party states find that:

(i) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(ii) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(iii) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(iv) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(v) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

(vi) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(b) The general purposes of this compact are to:

(i) Facilitate the states' responsibility to protect the public's health and safety;

(ii) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(iii) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

(iv) Promote compliance with the laws governing the practice of nursing in each jurisdiction;

(v) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

(vi) Decrease redundancies in the consideration and issuance of nurse licenses; and

(vii) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II

Definitions

(a) As used in this compact:

(i) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action;

(ii) "Alternative program" means a nondisciplinary monitoring program approved by a licensing board;

(iii) "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards;

(iv) "Current significant investigative information" means:

(A) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(B) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(v) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board;

(vi) "Home state" means the party state which is the nurse's primary state of residence;

(vii) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses;

(viii) "Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege;

(ix) "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state;

(x) "Nurse" means RN or LPN/VN, as those terms are defined by each party state's practice laws;

(xi) "Party state" means any state that has adopted this compact;

(xii) "Remote state" means a party state, other than the home state;

(xiii) "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state;

(xiv) "State" means a state, territory or possession of the United States and the District of Columbia;

(xv) "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

General Provisions and Jurisdiction

(a) A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

(b) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. The procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(c) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

(i) Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;

(ii) Has graduated or is eligible to graduate from a licensing board approved RN or LPN/VN prelicensure education program or has graduated from a foreign RN or LPN/VN prelicensure education program that:

(A) Has been approved by the authorized accrediting body in the applicable country; and

(B) Has been verified by an independent credentials review agency to be comparable to a licensing board approved prelicensure education program.

(iii) Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;

(iv) Has successfully passed the NCLEX-RN® or NCLEX-PN® Examination or recognized predecessor, as applicable;

(v) Is eligible for or holds an active, unencumbered license;

(vi) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

(vii) Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

(viii) Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(ix) Is not currently enrolled in an alternative program;

(x) Is subject to self-disclosure requirements regarding current participation in an alternative program; and

(xi) Has a valid United States social security number.

(d) All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(e) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

(f) Individuals not residing in a party state shall continue to be able to apply for a party state's single state license as provided under the laws of each party state. However, the single state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single state license.

(g) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then current home state, provided that:

(i) A nurse, who changes primary state of residence after this compact's effective date, must meet all applicable Article III(c) requirements to obtain a multistate license from a new home state;

(ii) A nurse who fails to satisfy the multistate licensure requirements in Article III(c) due to a disqualifying

event occurring after this compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators ("Commission").

ARTICLE IV

Applications for Licensure in a Party State

(a) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

(b) A nurse may hold a multistate license, issued by the home state, in only one (1) party state at a time.

(c) If a nurse changes primary state of residence by moving between two (2) party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission. Further:

(i) The nurse may apply for licensure in advance of a change in primary state of residence;

(ii) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(d) If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state will convert to a single state license, valid only in the former home state.

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

(a) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(i) Take adverse action against a nurse's multistate licensure privilege to practice within that party state as follows:

(A) Only the home state shall have the power to take adverse action against a nurse's license issued by the home state;

(B) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(ii) Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state;

(iii) Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions;

(iv) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located;

(v) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions;

(vi) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

(vii) Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking the adverse action.

(b) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(c) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI

Coordinated Licensure Information System and Exchange of Information

(a) All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

(c) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications, including the reasons for such denials, and nurse participation in alternative programs known to the licensing board regardless of whether the participation is deemed nonpublic or confidential under state law.

(d) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(e) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(g) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(h) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

(i) Identifying information;

(ii) Licensure data;

(iii) Information related to alternative program participation; and

(iv) Other information that may facilitate the administration of this compact, as determined by commission rules.

(j) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

(a) The party states hereby create and establish a joint public entity known as the Interstate Commission Of Nurse Licensure Compact Administrators, in accordance with the following:

(i) The commission is an instrumentality of the party states;

(ii) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings;

(iii) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) The membership, voting and meetings of the commission shall be as follows:

(i) Each party state shall have and be limited to one (1) administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists;

(ii) Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by any other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication;

(iii) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission;

(iv) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII;

(v) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(A) Noncompliance of a party state with its obligations under this compact;

(B) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) Current, threatened or reasonably anticipated litigation;

(D) Negotiation of contracts for the purchase or sale of goods, services or real estate;

(E) Accusing any person of a crime or formally censuring any person;

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) Disclosure of investigatory records compiled for law enforcement purposes;

(J) Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

(K) Matters specifically exempted from disclosure by federal or state statute.

(vi) If a meeting, or portion of a meeting, is closed pursuant to this subsection, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(c) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to:

(i) Establishing the fiscal year of the commission;

(ii) Providing reasonable standards and procedures:

(A) For the establishment and meetings of other committees; and

(B) Governing any general or specific delegation of any authority or function of the commission.

(iii) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of the meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the

meeting revealing the vote of each administrator, with no proxy votes allowed;

(iv) Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;

(v) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission; and

(vi) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

(d) The commission shall publish its bylaws and rules, and any amendments, in a convenient form on the website of the commission.

(e) The commission shall maintain its financial records in accordance with the bylaws.

(f) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(g) The commission shall have the following powers:

(i) To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states;

(ii) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(iii) To purchase and maintain insurance and bonds;

(iv) To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;

(v) To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;

(vi) To hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of this compact and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(vii) To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services and to receive, utilize and dispose of the same. At all times the commission shall avoid any appearance of impropriety or conflict of interest;

(viii) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed. At all times the commission shall avoid any appearance of impropriety;

(ix) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;

(x) To establish a budget and make expenditures;

(xi) To borrow money;

(xii) To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, consumer representatives and other such interested persons;

(xiii) To provide and receive information from, and to cooperate with, law enforcement agencies;

(xiv) To adopt and use an official seal; and

(xv) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(h) Financing of the commission shall be as follows:

(i) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities;

(ii) The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states;

(iii) The commission shall not incur obligations of any kind prior to securing adequate funding. Nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, the party state;

(iv) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(j) Qualified immunity, defense and indemnification of the commission shall be as follows:

(i) The administrators, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities. Nothing in this paragraph shall be construed to protect any person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person;

(ii) The commission shall defend any administrator, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability

arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities provided that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct. Nothing in this paragraph shall be construed to prohibit that person from retaining his own counsel;

(iii) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

ARTICLE VIII

Rulemaking

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and any adopted rules. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(c) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(i) On the website of the commission; and

(ii) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(d) The notice of proposed rulemaking shall include:

(i) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(ii) The text of the proposed rule or amendment and the reason for the proposed rule;

(iii) A request for comments on the proposed rule from any interested person; and

(iv) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(e) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(f) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(g) The commission shall publish the place, time and date of the scheduled public hearing. Hearings shall be conducted as follows:

(i) In a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request; and

(ii) Nothing in this article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(h) If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

(j) Following the scheduled hearing date or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(k) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(m) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(i) Meet an imminent threat to public health, safety or welfare;

(ii) Prevent a loss of commission or party state funds; or

(iii) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(n) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision shall not take effect without the approval of the commission.

ARTICLE IX

Oversight, Dispute Resolution and Enforcement

(a) Oversight of the compact shall be as follows:

(i) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent;

(ii) The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the commission and shall have

standing to intervene in any proceeding for all purposes related to this compact. Failure to provide service of process in any proceeding to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) Default, technical assistance and termination shall be as follows:

(i) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(A) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(B) Provide remedial training and specific technical assistance regarding the default.

(ii) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default;

(iii) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states;

(iv) A state whose membership in this compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination;

(v) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state;

(vi) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of litigation, including reasonable attorneys' fees.

(c) Dispute resolution of the compact shall be as follows:

(i) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states;

(ii) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate;

(iii) In the event the commission cannot resolve disputes among party states arising under this compact:

(A) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute;

(B) The decision of a majority of the arbitrators shall be final and binding.

(d) Enforcement of the compact shall be as follows:

(i) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact;

(ii) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees;

(iii) The remedies provided in this subsection shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X

Effective Date, Withdrawal and Amendment

(a) This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this compact, that also were parties to the prior Nurse Licensure Compact, superseded by this compact shall be deemed to have withdrawn from the prior Nurse Licensure Compact within six (6) months after the effective date of this compact.

(b) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(d) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of the withdrawal or termination.

(e) Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(f) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(g) Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

ARTICLE XI

Construction and Severability

(a) This compact shall be liberally construed to effectuate its purposes. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability of the compact to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person or circumstance shall not be affected. If this compact is held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

ARTICLE 3 - ADVANCED PRACTICE REGISTERED NURSE COMPACT

33-21-301. Short title.

This article shall be known and may be cited as the "Advanced Practice Registered Nurse Compact."

33-21-302. Compact provisions generally.

The Advanced Practice Registered Nurse Compact is enacted into law and entered into on behalf of this state with all other states legally joining in the compact in a form substantially as follows:

ARTICLE I

Findings and Declaration of Purpose

(a) The party states find that:

(i) The health and safety of the public are affected by the degree of compliance with advanced practice registered nurse (APRN) licensure requirements and the effectiveness of enforcement activities related to state APRN licensure laws;

(ii) Violations of APRN licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(iii) The expanded mobility of APRNs and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of APRN licensure and regulation;

(iv) New practice modalities and technology make compliance with individual state APRN licensure laws difficult and complex;

(v) The current system of duplicative APRN licensure for APRNs practicing in multiple states is cumbersome and redundant for both APRNs and states;

(vi) Uniformity of APRN licensure requirements throughout the states promotes public safety and public health benefits.

(b) The general purposes of this compact are to:

(i) Facilitate the states' responsibility to protect the public's health and safety;

(ii) Ensure and encourage the cooperation of party states in the areas of APRN licensure and regulation, including promotion of uniform licensure requirements;

(iii) Facilitate the exchange of information between party states in the areas of APRN regulation, investigation and adverse actions;

(iv) Promote compliance with the laws governing APRN practice in each jurisdiction;

(v) Invest all party states with the authority to hold an APRN accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

(vi) Decrease redundancies in the consideration and issuance of APRN licenses; and

(vii) Provide opportunities for interstate practice by APRNs who meet uniform licensure requirements.

ARTICLE II

Definitions

(a) As used in this compact:

(i) "Advanced practice registered nurse" or "APRN" means a registered nurse who has gained additional specialized knowledge, skills and experience through a program of study recognized or defined by the Interstate Commission of APRN Compact Administrators ("commission"), and who is licensed to perform advanced nursing practice. An advanced practice registered nurse is licensed in an APRN role that is congruent with an APRN educational program, certification and commission rules;

(ii) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an APRN, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice or any other encumbrance on licensure affecting an APRN's authorization to practice, including the issuance of a cease and desist action;

(iii) "Alternative program" means a, nondisciplinary monitoring program approved by a licensing board;

(iv) "APRN licensure" means the regulatory mechanism used by a party state to grant legal authority to practice as an APRN;

(v) "APRN uniform licensure requirements" means minimum uniform licensure, education and examination requirements as adopted by the commission;

(vi) "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on APRN licensure and enforcement activities related to APRN licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards;

(vii) "Current significant investigatory information" means:

(A) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the APRN to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(B) Investigative information that indicates that the APRN represents an immediate threat to public health and safety regardless of whether the APRN has been notified and had an opportunity to respond.

(viii) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board;

(ix) "Home state" means the party state that is the APRN's primary state of residence;

(x) "Licensing board" means a party state's regulatory body responsible for regulating the practice of advanced practice registered nursing;

(xi) "Multistate license" means an APRN license to practice as an APRN issued by a home state licensing board that authorizes the APRN to practice as an APRN in all party states under a multistate licensure privilege, in the same role and population focus as the APRN is licensed in the home state;

(xii) "Multistate licensure privilege" means a legal authorization associated with an APRN multistate license that permits an APRN to practice as an APRN in a remote state, in the same role and population focus as the APRN is licensed in the home state;

(xiii) "Noncontrolled prescription drug" means a device or drug that is not a controlled substance and is prohibited under state or federal law from being dispensed without a prescription. The term includes a device or drug that bears or is required to bear the legend "caution: federal law prohibits dispensing without prescription" or "prescription only" or other legend that complies with federal law;

(xiv) "Party state" means any state that has adopted this compact;

(xv) "Population focus" means a specific patient population that is congruent with the APRN educational program, certification and commission rules;

(xvi) "Prescriptive authority" means the legal authority to prescribe medications and devices as defined by party state laws;

(xvii) "Remote state" means a party state that is not the home state;

(xviii) "Single state license" means an APRN license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state;

(xix) "State" means a state, territory or possession of the United States and the District of Columbia;

(xx) "State practice laws" means a party state's laws, rules and regulations that govern APRN practice, define the scope of advanced nursing practice, including prescriptive authority, and create the methods and grounds for imposing discipline. State practice laws do not include the requirements necessary to obtain and retain an APRN license, except for qualifications or requirements of the home state.

ARTICLE III

General Provisions and Jurisdiction

(a) A state must implement procedures for considering the criminal history records of applicants for initial APRN licensure or APRN licensure by endorsement. The procedures shall include the submission of fingerprints or other biometric based information by APRN applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(b) By rule, the commission shall adopt the APRN uniform licensure requirements. The uniform licensure requirements shall provide the minimum requirements for APRN multistate licensure in party states, provided that the commission may adopt rules whereby an APRN, with an unencumbered license on the effective

date of this compact, may obtain, by endorsement or otherwise, and retain a multistate license in a party state.

(c) In order to obtain or retain a multistate license, an APRN must meet, in addition to the uniform licensure requirements, the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable home state laws.

(d) By rule, the commission shall identify the approved APRN roles and population foci for licensure as an APRN. An APRN issued a multistate license shall be licensed in an approved APRN role and at least one (1) approved population focus.

(e) An APRN multistate license issued by a home state to a resident in that state will be recognized by each party state as authorizing the APRN to practice as an APRN in each party state, under a multistate licensure privilege, in the same role and population focus as the APRN is licensed in the home state. If an applicant does not qualify for a multistate license, a single state license may be issued by a home state.

(f) Issuance of an APRN multistate license shall include prescriptive authority for noncontrolled prescription drugs, unless the APRN was licensed by the home state prior to the home state's adoption of this compact and has not previously held prescriptive authority. Further:

(i) An APRN granted prescriptive authority for noncontrolled prescription drugs in the home state may exercise prescriptive authority for noncontrolled prescription drugs in any remote state while exercising a multistate licensure privilege under an APRN multistate license. The APRN shall not be required to meet any additional eligibility requirements imposed by the remote state in exercising prescriptive authority for noncontrolled prescription drugs;

(ii) Prescriptive authority in the home state for an APRN who was not granted prescriptive authority at the time of initial licensure by the home state, prior to the adoption of this compact, shall be determined under home state law;

(iii) Prescriptive authority eligibility for an APRN holding a single state license shall be determined under the law of the licensing state.

(g) For each state in which an APRN seeks authority to prescribe controlled substances, the APRN shall satisfy all requirements imposed by the state in granting or renewing such authority.

(h) An APRN issued a multistate license is authorized to assume responsibility and accountability for patient care independent of a supervisory or collaborative relationship with a physician. This authority may be exercised in the home state and in any remote state in which the APRN exercises a multistate licensure privilege. For an APRN issued a single state license in a party state, the requirement for a supervisory or collaborative relationship with a physician shall be determined under applicable party state law.

(j) All party states shall be authorized, in accordance with state due process laws, to take adverse action against an APRN's multistate licensure privilege such as revocation, suspension, probation or any other action that affects an APRN's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes any action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any actions by remote states.

(k) An APRN practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. APRN practice is not limited to patient care, but shall include all advanced nursing practice as defined by the state practice laws of the party state in which the client is located. APRN practice in a party state under a multistate licensure privilege will subject the APRN to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

(m) This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as satisfying any state law requirement for registered nurse licensure as a precondition for authorization to practice as an APRN in that state.

(n) Individuals not residing in a party state shall continue to be able to apply for a party state's single state

APRN license as provided under the laws of each party state. However, the single state license granted to these individuals will not be recognized as granting the privilege to practice as an APRN in any other party state.

ARTICLE IV

Applications for APRN Licensure in a Party State

(a) Upon application for an APRN multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held or is the holder of a licensed practical/vocational nursing license, a registered nursing license or an advanced practice registered nurse license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

(b) An APRN may hold a multistate APRN license, issued by the home state, in only one (1) party state at a time.

(c) If an APRN changes primary state of residence by moving between two (2) party states, the APRN must apply for APRN licensure in the new home state, and the multistate license issued by the prior home state shall be deactivated in accordance with applicable commission rules and the following:

(i) The APRN may apply for licensure in advance of a change in primary state of residence;

(ii) A multistate APRN license shall not be issued by the new home state until the APRN provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate APRN license from the new home state.

(d) If an APRN changes primary state of residence by moving from a party state to a nonparty state, the APRN multistate license issued by the prior home state will convert to a single state license, valid only in the former home state.

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

(a) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(i) Take adverse action against an APRN's multistate licensure privilege to practice within that party state as follows:

(A) Only the home state shall have power to take adverse action against an APRN's license issued by the home state;

(B) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct that occurred outside of the home state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(ii) Issue cease and desist orders or impose an encumbrance on an APRN's authority to practice within that party state;

(iii) Complete any pending investigations of an APRN who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions;

(iv) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a party state licensing board for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing licensing board shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located;

(v) Obtain and submit, for an APRN licensure applicant, fingerprints or other biometric based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions;

(vi) If otherwise permitted by state law, recover from the affected APRN the costs of investigations and disposition of cases resulting from any adverse action taken against that APRN; and

(vii) Take adverse action based on the factual findings of another party state, provided that the licensing board follows its own procedures for taking the adverse action.

(b) If adverse action is taken by a home state against an APRN's multistate licensure, the privilege to practice in all other party states under a multistate licensure privilege shall be deactivated until all encumbrances have been removed from the APRN's multistate license. All home state disciplinary orders that impose adverse action against an APRN's multistate license shall include a statement that the APRN's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(c) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any APRN for the duration of the APRN's participation in an alternative program.

ARTICLE VI

Coordinated Licensure Information System and Exchange of Information

(a) All party states shall participate in a coordinated licensure information system of all APRNs, licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each APRN, as submitted by party states, to assist in the coordinated administration of APRN licensure and enforcement efforts.

(b) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

(c) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications, including the reasons for such denials, and APRN participation in alternative programs known to the licensing board regardless of whether the participation is deemed nonpublic or confidential under state law.

(d) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(e) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(g) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing the information shall be removed from the coordinated licensure information system.

(h) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

(i) Identifying information;

(ii) Licensure data;

(iii) Information related to alternative program participation information; and

(iv) Other information that may facilitate the administration of this compact, as determined by commission rules.

(j) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

Establishment of the Interstate Commission of APRN Compact Administrators

(a) The party states hereby create and establish a joint public agency known as the Interstate Commission of APRN Compact Administrators, in accordance with the following:

(i) The commission is an instrumentality of the party states;

(ii) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings;

(iii) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, voting and meetings of the commission shall be as follows:

(i) Each party state shall have and be limited to one (1) administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists;

(ii) Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of

bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication;

(iii) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission;

(iv) All meetings shall be open to the public and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII;

(v) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(A) Noncompliance of a party state with its obligations under this compact;

(B) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) Current, threatened or reasonably anticipated litigation;

(D) Negotiation of contracts for the purchase or sale of goods, services or real estate;

(E) Accusing any person of a crime or formally censuring any person;

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) Disclosure of investigatory records compiled for law enforcement purposes;

(J) Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

(K) Matters specifically exempted from disclosure by federal or state statute.

(vi) If a meeting or portion of a meeting is closed pursuant to this subsection, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons for the action, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(c) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to:

(i) Establishing the fiscal year of the commission;

(ii) Providing reasonable standards and procedures:

(A) For the establishment and meetings of other committees; and

(B) Governing any general or specific delegation of any authority or function of the commission.

(iii) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of the meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the

meeting revealing the vote of each administrator, with no proxy votes allowed;

(iv) Establishing the titles, duties, authority and reasonable procedures for the election of the officers of the commission;

(v) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(vi) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment and reserving of all of its debts and obligations.

(d) The commission shall publish its bylaws and rules and any amendments, in a convenient form on the website of the commission.

(e) The commission shall maintain its financial records in accordance with the bylaws.

(f) The commission shall meet and take actions as are consistent with the provisions of this compact and the bylaws.

(g) The commission shall have the following powers:

(i) To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states;

(ii) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(iii) To purchase and maintain insurance and bonds;

(iv) To borrow, accept or contract for services of personnel, including but not limited to employees of a party state or nonprofit organizations;

(v) To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;

(vi) To hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of this compact and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(vii) To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same. At all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(viii) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed. At all times the commission shall strive to avoid any appearance of impropriety;

(ix) To sell convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;

(x) To establish a budget and make expenditures;

(xi) To borrow money;

(xii) To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, consumer representatives, and other interested persons;

(xiii) To provide and receive information from, and to cooperate with, law enforcement agencies;

(xiv) To adopt and use an official seal; and

(xv) To perform other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of APRN licensure and practice.

(h) Financing of the commission shall be as follows:

(i) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities;

(ii) The commission may levy on and collect an annual assessment from each party state to cover the cost of the operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states;

(iii) The commission shall not incur obligations of any kind prior to securing adequate funding. Nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, the party state;

(iv) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(j) Qualified immunity, defense, and indemnification of the commission shall be as follows:

(i) The administrators, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities. Nothing in this paragraph shall be construed to protect any person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person;

(ii) The commission shall defend any administrator, officer, executive director, employee or representative of the

commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities provided that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct. Nothing in this paragraph shall be construed to prohibit that person from retaining his own counsel;

(iii) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

ARTICLE VIII

Rulemaking

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and any adopted rules. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(c) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(i) On the website of the commission; and

(ii) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(d) The notice of proposed rulemaking shall include:

(i) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(ii) The text of the proposed rule or amendment, and the reason for the proposed rule;

(iii) A request for comments on the proposed rule from any interested person; and

(iv) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(e) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(f) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(g) The commission shall publish the place, time and date of the scheduled public hearing. Hearings shall be conducted as follows:

(i) In a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request; and

(ii) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(h) If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

(j) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(k) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall

determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(m) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(i) Meet an imminent threat to public health, safety or welfare;

(ii) Prevent a loss of commission or party state funds; or

(iii) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(n) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision shall not take effect without the approval of the commission.

ARTICLE IX

Oversight, Dispute Resolution and Enforcement

(a) Oversight of the compact shall be as follows:

(i) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent;

(ii) The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the commission and shall have standing to intervene in such a proceeding for all purposes related to this compact. Failure to provide service of process in any proceeding to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) Default, technical assistance and termination shall be as follows:

(i) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(A) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(B) Provide remedial training and specific technical assistance regarding the default.

(ii) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default;

(iii) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board, the defaulting state's licensing board and each of the party states;

(iv) A state whose membership in this compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination;

(v) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state;

(vi) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of litigation, including reasonable attorneys' fees.

(c) Dispute resolution of the compact shall be as follows:

(i) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states;

(ii) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate;

(iii) In the event the commission cannot resolve disputes among party states arising under this compact:

(A) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute;

(B) The decision of a majority of the arbitrators shall be final and binding.

(d) Enforcement of the compact shall be as follows:

(i) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact;

(ii) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this

compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees;

(iii) The remedies provided in this subsection shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X

Effective Date, Withdrawal and Amendment

(a) This compact shall come into limited effect at the time the compact has been enacted into law in ten (10) party states for the sole purpose of establishing and convening the commission to adopt rules relating to its operation and the APRN uniform licensure requirements.

(b) On the date of the commission's adoption of the APRN uniform licensure requirements, all remaining provisions of this compact, and rules adopted by the commission, shall come into full force and effect in all party states.

(c) Any state that joins this compact subsequent to the commission's initial adoption of the APRN uniform licensure requirements shall be subject to all rules that have been previously adopted by the commission.

(d) Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(e) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(f) Nothing contained in this compact shall be construed to invalidate or prevent any APRN licensure agreement or other cooperative arrangement between a party state and a nonparty state that does not conflict with the provisions of this compact.

(g) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon any party state until it is enacted into the laws of all party states.

(h) Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

ARTICLE XI

Construction and Severability

(a) This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

CHAPTER 22 - NURSING HOME ADMINISTRATORS

33-22-101. Definitions.

(a) For the purposes of this act and as used herein:

(i) The term "board" means the Wyoming state board of nursing home administrators hereinafter created;

(ii) The term "nursing home administrator" means a person who operates, manages, supervises, or is in charge of a nursing home.

33-22-102. Board of nursing home administrators created; composition; appointment; removal; qualifications and terms of members.

(a) The Wyoming state board of nursing home administrators is created to consist of five (5) members appointed by the governor. The governor may remove any member he appoints as provided in W.S. 9-1-202.

(b) One (1) appointee shall hold the degree of doctor of medicine and be licensed to practice medicine in Wyoming. One (1) appointee shall be a registered nurse duly licensed to practice professional nursing in Wyoming, who is not employed by a nursing home. One (1) appointee shall be a consumer representative selected from the general public. The remaining two (2) appointees shall each be and shall each maintain employment as an operator-administrator of a nursing home within Wyoming, and have two (2) years' experience as a nursing home operator-administrator within Wyoming.

(c) The terms of all appointed members shall be four (4) years. Any vacancy shall be filled by the governor for the unexpired term.

33-22-103. License; issuance; qualifications; waiver of additional qualifications.

The board shall have authority to issue licenses to qualified persons as nursing home administrators. No license shall be issued to a person as a nursing home administrator unless he shall have submitted evidence satisfactory to the board of his ability to supervise a nursing home. For purposes of carrying out this section, fingerprints and other information necessary for a criminal history record background check under W.S. 7-19-201 shall be provided to the board.

33-22-104. License; annual fee; expiration; continuing education.

Each person licensed as a nursing home administrator shall be required to pay an annual license fee in an amount to be fixed by the board pursuant to W.S. 33-1-201. Each such license shall expire on the thirty-first day of December following issuance, and shall be renewable for a calendar year, upon payment of the annual license fee. Application for renewal shall be accompanied by evidence satisfactory to the board of completion of continuing education requirements as established by rule of the board.

33-22-105. Disposition of fees; board of nursing home administrators' account.

All fees shall be received and collected as provided by law. The state treasurer shall keep the same in a separate account, which may be used and expended by the board to pay the compensation and travel expenses of members and employees of the board, and other expenses necessary for the board to administer and carry out the provisions of this act.

33-22-106. Officers of board; rules and regulations; compensation of board; necessary personnel.

The board shall elect from its membership a chairman, vice-chairman and secretary-treasurer, and shall adopt rules and regulations to govern its proceedings. This board will serve without compensation except for the receipt of per diem and mileage as provided in W.S. 33-1-302(a)(vii). The board may employ and fix the compensation and duties of necessary personnel to assist it in the performance of its duties.

33-22-107. Determining qualifications of administrator; examinations; holder of license deemed qualified.

The board shall have sole and exclusive authority to determine the qualifications, skill and fitness of any person to serve as an administrator of a nursing home or similar institution. The board may give examinations and shall determine the subjects of examination for applicants for licensure as nursing home administrators, and the scope, content and format of such examinations which in any examination shall be the same for all candidates; provided, however, that such examinations shall include examination of the applicant to demonstrate his proficiency in the rules and regulations of health and safety. The holder of a license under the provisions of this act shall be deemed qualified to serve as the administrator of a nursing home.

33-22-108. Powers and duties of board.

(a) The board shall:

(i) Develop, impose and enforce standards which must be met by individuals in order to receive a license or temporary license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who have backgrounds that do not evidence conduct adverse to the practice of nursing home administration or to the ability to practice nursing home administration and are

otherwise suitable, and who, by training or experience, in the field of institutional administration, are qualified to serve as nursing home administrators;

(ii) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(iii) Issue licenses to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding such license is determined substantially to have failed to conform to the requirements of such standards, subject to the provisions of the Wyoming Administrative Procedure Act;

(iv) Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of standards with respect to administrators of nursing homes who have been licensed as such;

(v) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(vi) Receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards; and

(vii) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this paragraph.

33-22-109. Rules and regulations.

The board shall have the authority to make such rules and regulations not inconsistent with law as may be necessary for

the proper performance of its duties, and to take such other action as may be necessary to enable the state to meet the requirements set forth in section 1908 of the Social Security Act, the federal rules and regulations promulgated thereunder, and other pertinent federal authority.

33-22-110. Misdemeanor.

It shall be unlawful and a misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless he is the holder of a license or temporary license as a nursing home administrator, issued in accordance with the provisions of this act.

33-22-111. Temporary licenses.

(a) The board may issue a temporary license to an applicant for:

(i) Licensure who has provided all of the information required for licensure and is awaiting the results of the applicant's criminal history record background check under W.S. 7-19-201. A temporary license issued under this paragraph shall expire when the board receives the results of the applicant's criminal history record background check and issues the applicant a license or denies the application for licensure;

(ii) Licensure pending completion of the experience and examination requirements established by rule of the board. A temporary license issued under this paragraph shall be valid for not more than six (6) months. No applicant shall receive more than two (2) separate temporary licenses under this paragraph; or

(iii) A temporary license who, by training or experience in the field of institutional administration, the board determines is qualified to serve as the administrator of a nursing home that does not have a licensed nursing home administrator. A temporary license issued under this paragraph shall be valid for not more than six (6) months.

(b) The holder of a temporary license under the provisions of this act shall be authorized to serve as a nursing home administrator for the period that the temporary license is valid.

(c) The holder of a temporary license shall be subject to the standards of conduct imposed on a license holder under this act.

CHAPTER 23 - OPTOMETRISTS

33-23-101. Definitions; authorized scope of practice; prohibited procedures; exceptions.

(a) As used in this act:

(i) "Board" means the Wyoming state board of examiners in optometry;

(ii) "License" means a current license to practice optometry in this state issued by the board;

(iii) "Licensee" means a person licensed by the board under this act;

(iv) "Optometrist" or "doctor of optometry" means a person licensed by the board under this act;

(v) "Physician" means a person holding a valid license issued by the Wyoming state board of medicine under the Medical Practice Act;

(vi) "Controlled substance" means any drug, substance or immediate precursor listed in schedules I through V of article III of the Wyoming Controlled Substances Act of 1971;

(vii) "Ophthalmic lenses" means any type of spectacle or contact lenses;

(viii) "Contact lenses" shall include contact lenses with or without power;

(ix) "This act" means W.S. 33-23-101 through 33-23-116.

(b) The practice of optometry occurs when a person employs primary human eye care procedures, including:

(i) The examination, diagnosis and treatment of abnormal conditions and diseases of the eye, its adnexa and visual system;

(ii) Measuring the powers and range of vision of the eye to determine the accommodative and refractive state and general function of the eye;

(iii) The adaptation, sale, prescribing and dispensing of frames and ophthalmic lenses in all their forms;

(iv) Ordering and performance of diagnostic laboratory or imaging tests;

(v) The prescribing and administration of pharmaceutical agents, as provided in W.S. 33-23-102;

(vi) Preoperative and postoperative care for those procedures excluded from the practice of optometry under subsection (c) of this section;

(vii) Any laser procedure as set forth by the board's rules and not excluded under subsection (c) of this section.

(c) The following ophthalmic procedures shall be excluded from the authorized practice of optometry:

(i) The following general procedures:

(A) Administration of general anesthesia;

(B) Surgery performed with general anesthesia.

(ii) The following laser procedures:

(A) Corneal procedures;

(B) Procedures of the vitreous chamber of the eye for the purpose of treating any retinal or macular disease;

(C) Retinal procedures.

(iii) The following nonlaser procedures:

(A) Surgery related to removal of an eye from a living person;

(B) Surgery of the bony orbit, including orbital implants;

(C) Incisional or excisional surgery of the extraocular muscles;

(D) Surgery of the eyelid for suspected malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis or tarsorrhaphy;

(E) Incisional or excisional surgery of the lacrimal system other than probing or related procedures;

(F) Surgery requiring full thickness conjunctivoplasty with graft or flap;

(G) Pterygium surgery;

(H) Surgery requiring full thickness incision or excision of the cornea or sclera, other than paracentesis, in an emergency requiring immediate reduction of pressure inside the eye;

(J) Corneal transplants;

(K) Surgery requiring incision of the iris or ciliary body, including diathermy or cryotherapy;

(M) Surgical extraction of the crystalline lens;

(N) Surgical intraocular implants;

(O) Surgery requiring removal of the vitreous;

(P) Procedures of the vitreous chamber of the eye for the purpose of treating any retinal or macular disease, including intra-vitreal injection;

(Q) Surgery requiring manipulation of the retina;

(R) Intravenous injections.

(d) The provisions of this chapter do not prevent a physician from treating or fitting glasses to the human eye, or a physician or optometrist from filling prescriptions or orders. Nor do the provisions of this chapter prevent the replacing, duplicating or repairing of ophthalmic lenses or the frames or fittings thereof by persons qualified to write or fill prescriptions or orders under the provisions of this act, nor

prevent the doing of the merely mechanical work upon such lenses or upon the frames or fittings thereof.

(e) It is unlawful for any person to dispense, replace or duplicate ophthalmic lenses or any contact lenses without a prescription or order from a physician or optometrist. A contact lens prescription shall specifically state that it is intended for contact lenses and include the type and specification of the contact lenses being prescribed. An optometrist shall provide, at no additional cost to the patient, a written copy of his contact lens prescription. The prescription shall only be released after the contact lenses have been adequately fitted and no more follow-up visits are necessary to assure the contact lenses fit the patient. The essential information necessary to duplicate the prescription shall be defined by rules adopted by the board. All contact lens prescriptions shall have an expiration date after which it shall be unlawful to fill such prescription. The prescribing optometrist shall not be liable for any injury or condition to a patient resulting from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing optometrist. Any person may file a complaint with the board seeking disciplinary action concerning any violation of this subsection. The board shall investigate or cause to be investigated and shall resolve a complaint on its own motion or upon receipt of a written complaint as provided by W.S. 33-23-110. No person shall improperly fill a contact lens prescription or fill an expired prescription.

(f) The provisions of this chapter do not prohibit the sale of goggles, sunglasses, colored glasses or occupational eye-protective devices if they do not have refractive values, nor do the provisions of this act prohibit the sale of complete ready-to-wear eyeglasses as merchandise by any person not holding himself out as competent to examine, test or prescribe for the human eye or its refractive errors.

(g) Nothing in this act shall prevent an optometrist from using assistants in his practice under his general supervision as defined in board rule.

33-23-102. Optometrist's use of certain drugs; limitation.

An optometrist shall be allowed to administer and prescribe pharmaceutical agents related to the practice of optometry for the treatment of ocular disease, excluding schedule I and II narcotics, but allowing for the prescribing of hydrocodone or

hydrocodone containing pharmaceutical agents regardless of schedule.

33-23-103. License required; civil suit; damages.

(a) It is unlawful for any person in the state of Wyoming to practice or attempt to practice optometry or to advertise, or hold himself out as qualified to fit or adjust any lenses or lens in any manner or form as an aid to human eyesight, without first obtaining a license to practice optometry.

(b) A person who is damaged by another person who violates this section may in addition to other remedies provided by law, institute suit in the county where the violation occurred to require enforcement by injunctive procedures and to recover damages plus court costs and reasonable attorney's fees.

(c) A person who is attending an optometry school accredited by a regional or professional accreditation organization which is recognized or approved by the United States Department of Education (USDE) or the Council on Higher Education Accreditation (CHEA), or their successor agencies, may practice optometry while doing an externship for said school under the direct supervision of an optometrist or physician licensed in this state.

33-23-104. Board of examiners in optometry; created; composition; designation; duties generally; appointment; qualifications and terms of members; vacancies; oath.

The Wyoming state board of examiners in optometry is created to carry out the purposes and enforce the provisions of this act. The board shall consist of five (5) members appointed by the governor and shall include three (3) licensed optometrists, one (1) member of the public and one (1) licensed health care professional other than a licensed optometrist. The terms of the office of the members appointed shall be three (3) years or until their successors have qualified. Each member of the board shall be a resident of the state of Wyoming and each optometrist member of the board shall have been engaged in the actual practice of optometry in the state for at least one (1) year prior to appointment. The governor shall make all appointments to fill vacancies caused by death, resignation or removal. The governor may remove any member as provided in W.S. 9-1-202. The members of the board, before entering upon their duties, shall take and subscribe to the oath required to be taken by state

officers and shall file the oath in the office of the secretary of state.

33-23-105. Board of examiners in optometry; officers; powers of members; meetings; quorum; records.

The board shall annually elect officers. Each member of the board shall have the power, during his term of office to administer oaths and take affidavits, certifying thereto under his hand and seal provided and kept by the board. The board shall meet at least once in each year, for the purpose of holding an examination, and in addition thereto, upon the call of the president or request of a majority of its members. A majority of the board shall constitute a quorum. The secretary shall keep a complete record of the proceedings of the board, which record shall be open to public inspection at all reasonable times.

33-23-106. Board of examiners in optometry; compensation of members; disposition of funds.

(a) Each member of the board may receive as compensation the sum paid each day to members of the state legislature for each day spent in board meetings and per diem and mileage as provided in W.S. 33-1-302(a)(vii). Expenses shall be paid from the fees and assessments received under the provisions of this act. All fees, assessments and other monies, except fines and penalties, received under the provisions of this act, may be used for meeting the expenses of the board and in carrying out the provisions of this act. In no event shall any expenses be charged against the state.

(b) All money shall be received and collected as provided by law. The state treasurer shall credit the money to a separate account.

33-23-107. Board of examiners in optometry; report to governor.

The board shall, as required by W.S. 9-2-1014, report to the governor.

33-23-108. Board of examiners in optometry; seal.

The board shall provide a seal which shall contain the words, "Wyoming State Board of Examiners in Optometry, Official Seal".

33-23-109. Examinations; licensure; qualifications; reciprocity.

(a) Any applicant for licensure under this act is required to pass the examination series administered by the National Board of Examiners in Optometry, or its successor agency, or any other examination specified by the board in rule. The applicant shall be a graduate of an optometric school or college accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or the United States Department of Education (USDE) or the Council on Higher Education Accreditation (CHEA), or their successor agencies. Examinations shall cover subjects designated by the board.

(b) Repealed by Laws 2021, ch. 78, § 2.

(c) In addition to satisfying the requirements under subsection (a) of this section, an applicant for licensure under this act shall provide the board fingerprints and other information necessary for a criminal history record background check as provided under W.S. 7-19-201.

(d) The board of examiners, pursuant to W.S. 33-1-201, shall establish fees for the standard examination, initial license and the annual renewal of the license. Every optometrist who desires to continue the practice of optometry shall annually, on or before April 1, pay the board the required renewal fee. A license which has expired due to failure to renew may be reinstated by the board upon receipt of the renewal fee and reinstatement and late fees set by the board in accordance with W.S. 33-1-201 provided the request for reinstatement is received in the board office no later than June 30 of the year in which the license expired. An optometrist who previously notified the board that he had retired may renew his license by submitting renewal fees for each year in which no license was issued and a reinstatement fee within three (3) years of the expiration date of the last license held. Upon retirement from active practice, an optometrist shall notify the board in writing.

(e) The board may issue a license by endorsement to engage in the practice of optometry to an applicant who is currently licensed in another United States or Canadian jurisdiction with substantially equivalent requirements as Wyoming and who meets Wyoming requirements for licensure by endorsement. Applicants

for licensure by endorsement shall comply with standards set forth in board rules.

33-23-110. Refusal, suspension or revocation of license.

(a) The board may suspend, revoke or refuse to issue a license to any person who has been guilty of unprofessional and dishonest conduct, unethical conduct, conduct likely to deceive the public or failure to timely submit a renewal application.

(b) "Unprofessional and dishonest conduct" as used in this act means:

(i) The loaning of his license by any licensed optometrist to any person; the employment of "cappers" or "steerers" to obtain business, "splitting" or dividing a fee with any person or persons, the advertising by any means whatsoever of optometric practice or treatment or advice in which untruthful, improbable, misleading or impossible statements are made;

(ii) Repealed by Laws 1995, ch. 42, § 2.

(iii) Being guilty of offenses that relate to the practice of optometry or to the ability to practice optometry or involving habitual intemperance, or being habitually addicted to the use of morphine, opium, cocaine, or other drugs having a similar effect;

(iv) The obtaining of any fee by intentional fraud or intentional misrepresentation or false pretenses;

(v) The use of any other term by a person licensed under this act except the term "optometrist" or "doctor of optometry" to designate his profession;

(vi) Employing either directly or indirectly any suspended or unlicensed optometrist to perform any work covered by the practice of optometry;

(vii) Incompetence, malpractice or unethical conduct;

(viii) Knowingly making any false statement of any material fact in any application or other instrument required by law to be filed with the board;

(ix) The board may clarify definitions stated in this subsection by properly promulgated rules and regulations.

(c) Board disciplinary proceedings will be conducted in accordance with the Wyoming Administrative Procedure Act and the rules and regulations of the board.

(d) Repealed by Laws 2005, ch. 59, § 2.

(e) Repealed By Laws 2005, ch. 59, § 2.

(f) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-23-111. Limitation on rights conferred by license; prohibited acts.

(a) Nothing in this act shall be construed as conferring on the holder of a license issued by the board, the title "doctor of medicine," "ophthalmologist," or any other word or abbreviation indicating that he is engaged in the practice of medicine.

(b) Repealed by Laws 2021, ch. 78, § 2.

33-23-112. Repealed by Laws 1995, ch. 42, § 2.

33-23-113. Advertising and display of license requirements.

(a) An advertisement for the practice of optometry shall identify the license held pursuant to this act. The advertisement shall be free from deceptive or misleading information.

(b) To communicate to the patient the license held pursuant to this act, a licensee shall:

(i) Wear a photo identification name tag during patient encounters. The photo identification name tag shall include a photograph of the licensee, the licensee's name, and

the license held pursuant to this act. The name tag shall be of a sufficient size for a patient to read the contents of the tag and shall be worn in a manner so as to be visible and apparent to the patient;

(ii) Display the license certificate issued by the board, in its entirety, in a conspicuous place in his office, wherein the practice of optometry is conducted;

(iii) Comply with these requirements in each practice setting.

(c) A licensee who enters into a collaborative practice agreement with a medical doctor or doctor of osteopathy shall conspicuously post in each office the regularly scheduled hours the medical doctor or doctor of osteopathy intends to be physically present in the office.

33-23-114. Continuing education courses required.

All optometrists shall take courses of study in subjects relating to the practice of the profession of optometry for the utilization and application of new techniques, scientific and clinical advances, and achievements of research which will assure expansive and comprehensive care to the public. The board shall determine the requirements for continuing education pursuant to rules promulgated by the board. The board may use up to one-half (1/2) of its annual renewal fees for the purposes of contracting with institutions of higher learning, professional organizations, or qualified individuals to provide educational programs that meet this requirement. The board may also treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the programs of continuing education.

33-23-115. Penalty; injunction; civil penalty; jury trial.

(a) Any person who violates any provision of this act is guilty of a misdemeanor and upon conviction shall be fined not more than seven hundred fifty dollars ($750.00) or imprisoned not more than six (6) months in the county jail, or both.

(b) Any person aggrieved by a violation of this act, the Wyoming state board of examiners of optometry, the attorney general or the district or county attorney may institute suit in the county in which a violation of this act occurred to require

enforcement by injunctive procedures and to recover a civil penalty not to exceed ten thousand dollars ($10,000.00) per violation, plus costs.

(c) Where a civil penalty is sought the defendant shall be entitled to a jury trial.

33-23-116. Rules and regulations.

The board may promulgate rules and regulations in accordance with the Wyoming Administrative Procedure Act.

33-23-117. Repealed by Laws 2021, ch. 78, § 2.

CHAPTER 24 - PHARMACY

ARTICLE 1 - IN GENERAL

33-24-101. Short title; definitions.

(a) This act means W.S. 33-24-101 through 33-24-301 and shall be known as the "Wyoming Pharmacy Act".

(b) As used in this act:

(i) Repealed by Laws 2022, ch. 7, § 2.

(ii) "Telepharmacy" means a site where prescription drugs are stored and dispensed that is remote from but under the active control and supervision of a parent pharmacy and a licensed pharmacist and that is subject to the requirements of W.S. 33-24-156;

(iii) "Collaborative pharmaceutical care" means a pharmacist working in collaboration with practitioners authorized to prescribe medications;

(iv) "Unprofessional conduct" means:

(A) Dispensing a drug or brand of drug in filling a prescription which differs from that specified by the prescription, without authority of the issuer of the prescription, regarding the patient's name, drug, strength, quantity, directions or number of authorized refills;

(B) Obtaining any fee by fraud or misrepresentation;

(C) Willfully betraying patient confidences, provided a pharmacist may provide otherwise confidential patient information to other licensed health care professionals treating the patient;

(D) Employing directly or indirectly any student, any unlicensed pharmacy technician or any unlicensed pharmacist to practice pharmacy unless authorized by this act;

(E) Advertising in a misleading, false or deceptive manner;

(F) Filling a prescription which is more than two (2) years old;

(G) Filling a prescription without reasonable inquiry and confirmation of its validity if there are reasonable grounds to doubt the current existence of a practitioner-patient relationship between the practitioner and the customer seeking to obtain the drug;

(H) Filling a prescription with a drug that is past the expiration date provided by the manufacturer or supplier of the drug or other competent authority;

(J) Filling a prescription with drugs which have not been refrigerated as recommended by the manufacturer or supplier of the drugs or by other competent authority; or

(K) Other actions defined by rule and regulations as relevant to the pharmacist's professional character.

33-24-102. State board of pharmacy; generally.

(a) There is created a state board of pharmacy whose duty is to carry out the purposes and to enforce the provisions of this act. The board shall consist of nine (9) voting members consisting of five (5) pharmacists, one (1) physician, one (1) dentist or veterinarian, one (1) member of the public and one (1) pharmacy technician, who shall be appointed by the governor, by and with the advice and consent of the senate.

(b) The term for board members shall be six (6) years, and shall expire on March 1. Each member, unless removed, shall serve until his successor is appointed and qualified. Effective

July 1, 1979, appointments and terms shall be in accordance with W.S. 28-12-101 through 28-12-103.

(c) The board shall promulgate reasonable rules and regulations as necessary to carry out the purposes and enforce the provisions of this act.

33-24-103. State board of pharmacy; qualifications of members; limitation on terms; prohibited affiliations.

(a) A pharmacist who is currently licensed as provided in this article and actively engaged in the practice of pharmacy in Wyoming shall be eligible to be a voting member of the board of pharmacy if the pharmacist is a United States citizen and resident of Wyoming and at the time of appointment has been legally qualified to practice and engaged in the active practice of pharmacy in the state continuously for at least five (5) years.

(b) A dentist, physician or veterinarian who is currently licensed pursuant to chapter 15, 25 or 30 of this title shall be eligible to be a voting member of the board of pharmacy if the dentist, physician or veterinarian is a United States citizen and resident of Wyoming and at the time of appointment has been licensed to practice and engaged in the active practice of dentistry, medicine or veterinary medicine in this state continuously for at least five (5) years.

(c) A person shall be eligible for appointment as a voting member of the board representing the public if at the time of appointment the person is a United States citizen and resident of Wyoming and at the time of appointment has resided in this state continuously for at least five (5) years.

(d) A pharmacy technician licensed pursuant to article 3 of this chapter and actively practicing as a pharmacy technician in Wyoming shall be eligible to be a voting member of the board if the person is a United States citizen and a resident of this state and at the time of appointment has been employed as a pharmacy technician in Wyoming continuously for at least five (5) years.

(e) No member shall be appointed to, or serve, more than two (2) successive terms.

(f) No member shall be connected with a school or college of pharmacy in a professional or executive capacity.

(g) The term of any person appointed to the board pursuant to subsections (a) through (d) of this section shall expire immediately if the person no longer meets the eligibility criteria specified in the subsection under which the person was appointed.

33-24-104. State board of pharmacy; vacancies.

Any vacancy upon the board caused by the disqualification, resignation, death or removal of a member shall be filled by the governor by appointment for the unexpired term of the vacated position. Appointment to fill a vacancy shall be made within ninety (90) days after the occurrence of the vacancy.

33-24-105. State board of pharmacy; oath or affirmation of members.

Each member of the board hereinafter appointed shall, before entering upon the duties of his office, take and subscribe an oath or affirmation that the member will support the constitution and the laws of the United States and the state of Wyoming, and that the member will faithfully perform the duties as a member of the state board of pharmacy.

33-24-106. State board of pharmacy; president, vice-president and secretary-treasurer; common seal; meetings; quorum.

The board shall elect from its members a president, vice-president, and a secretary-treasurer. The board shall have a common seal. The board shall meet at least three (3) times a year, and more often if necessary, for the examination of applicants for registration and other business of the board at the times and places as shall be designated by the president or the board. Meetings of the board shall be at the call of the president and the secretary-treasurer or a majority of the board. A regular meeting of the board shall be held in the month of June of each year. A majority of the board shall at all times constitute a quorum, and the proceedings thereof shall at all reasonable times be open to public inspection.

33-24-107. State board of pharmacy; removal of members.

The governor may remove any member as provided in W.S. 9-1-202.

33-24-108. State board of pharmacy; creation of indebtedness; compensation of members; employment and compensation of staff; legal counsel.

(a) The board of pharmacy shall not create any indebtedness on behalf of the state except as provided in this section.

(b) Out of the fees collected and funds assessed by the board, each of the members of the board shall receive salary in the same manner and amount as members of the Wyoming legislature for each full or partial day actually engaged in the duties of his office and shall be reimbursed for per diem and mileage as provided in W.S. 33-1-302(a)(vii). Per diem and mileage expenses shall be paid from the board's account.

(c) The board may employ inspectors, chemists, agents, clerical help and other staff and personnel it determines necessary and may determine their salaries. All employees shall be reimbursed for per diem and mileage expenses as provided for state employees.

(d) The board may engage the services of legal counsel with the approval of the attorney general, to be paid from funds collected under this act.

33-24-109. Disposition of moneys received and collected.

All monies shall be received and collected as provided by law. The state treasurer shall place the money in a separate account. The money shall only be paid out upon a lawful voucher properly accompanied by two (2) signatures authorized by the board showing that the expense has been actually and properly incurred in the performance of the duties devolved upon the board. Upon presentation of the voucher and certificate, the auditor shall draw his warrant upon the treasurer against the account in favor of the proper person. No warrant shall be drawn unless and until there are sufficient monies in the account to pay the same. The account shall only be drawn upon to pay the necessary compensation and expenses of the board, and such expenses as may be necessary to carry out and execute the provisions of this act.

33-24-110. Administration of oaths.

The presiding officer of the board and the secretary are empowered to administer oaths in connection with investigations by and the duties of the board.

33-24-111. Report to governor.

The board shall, as required by W.S. 9-2-1014, report to the governor relative to its proceedings.

33-24-112. Fees for examinations, reexaminations, license renewals and registration renewals; late fees.

(a) The board shall determine each year the fees to be collected for examinations, reexaminations, license renewals and registration renewals based upon annual normal operating expenses, including late fees to be collected for failure to pay a license or renewal fee by the deadline established by the board, provided that:

(i) Examination and reexamination fees shall not exceed five hundred dollars ($500.00) plus the amount charged by the National Association of Boards of Pharmacy to take the examinations;

(ii) License and registration renewals shall not exceed two hundred fifty dollars ($250.00);

(iii) Pharmacy licenses and renewals shall not exceed five hundred dollars ($500.00);

(iv) Licenses and renewals for manufacturers or distributors of oxygen shall not exceed one hundred dollars ($100.00);

(v) Late fees for licenses and renewals shall not exceed three hundred dollars ($300.00); and

(vi) Drug distributor licenses and renewals shall not exceed one thousand dollars ($1,000.00).

(b) Repealed By Laws 1996, ch. 42, § 2.

(c) Repealed By Laws 1996, ch. 42, § 2.

33-24-113. Licensing of resident pharmacy; exceptions; display of license; suspension, revocation, letter of admonition, administrative penalty or refusal to renew; appeals.

(a) Any pharmacy located in this state which dispenses, mails or in any manner delivers controlled substances or prescription drugs or devices in this state pursuant to a prescription or provides pharmaceutical care in this state shall:

(i) Submit a license application to the board on a form prescribed by the board and pay the license fee established by the board in its rules and regulations. Where pharmaceutical operations are conducted at more than one (1) location, each location shall be separately licensed;

(ii) Notify the board of the occurrence of any of the following:

(A) Permanent closing of the pharmacy;

(B) Change in pharmacy ownership, name, management, location or pharmacist in charge;

(C) Conviction of any pharmacy owner or employee for violation of any state or federal drug law;

(D) Any substantial theft or loss of dangerous drugs, controlled substances or medical devices;

(E) Any other matter required to be reported by rule and regulation of the board.

(b) The license shall be displayed in a conspicuous place in the pharmacy for which it is issued, and shall be renewed annually on or before June 30 by submitting a renewal application to the board.

(c) It is unlawful for any person or commercial operation to operate a pharmacy unless a license has been issued to the operator by the board of pharmacy.

(d) The board may deny, suspend, revoke or refuse to renew a license issued under this section, may issue a letter of admonition to a resident pharmacy licensee and may assess an administrative penalty, not to exceed two thousand dollars ($2,000.00) per violation, against a resident pharmacy licensee on any of the following grounds:

(i) Failure to comply with any requirement of this chapter or the Wyoming Controlled Substances Act;

(ii) Failure to comply with rules and regulations of the board;

(iii) Conviction of a pharmacy owner, pharmacist in charge, staff pharmacist or pharmacy technician for a felony under any state or federal law, if the conviction is related to the practice of pharmacy;

(iv) Obtaining any remuneration by fraud, misrepresentation or deception;

(v) Suspension or revocation of a pharmacy license or any other disciplinary action against the licensee by a board of pharmacy in any other state;

(vi) Knowing submission of false, misleading or fraudulent information to the board in connection with an initial or renewal application for a resident pharmacy license;

(vii) Purchase or receipt of a prescription drug, controlled substance or medical device from a source other than a manufacturer, wholesaler or pharmacy licensed by the board;

(viii) Purchase or receipt of a prescription drug, controlled substance or medical device that is not approved by the federal food and drug administration;

(ix) Keeping the pharmacy open for business without a licensed pharmacist in charge on site;

(x) Allowing a person who is not licensed by the board to perform duties as a pharmacist, pharmacy technician or pharmacy technician in training.

(e) Before any final adverse administrative action is taken against a pharmacy licensee, the licensee is entitled to a hearing by the board of pharmacy upon due notice of the time and place where the hearing will be held. The accused may be represented by legal counsel, is entitled to compulsory attendance of witnesses and may appeal to the district court of the county in which the pharmacy is situated, in accordance with the Wyoming Administrative Procedure Act.

(f) Any administrative penalty assessed shall be paid to the board who shall remit the monies to the county treasurer to the credit of the public school fund of the county in which the violation occurred.

33-24-114. Required pharmacy facilities, utensils and drugs.

To secure and retain a license, a pharmacy shall be equipped with facilities, apparatus, utensils and stock of drugs and medicines sufficient to permit the prompt and efficient compounding of prescriptions and shall be maintained in a sanitary and orderly manner. The minimum facilities, apparatus, utensils and stock of drugs and medicines shall be prescribed by the board of pharmacy.

33-24-115. Unlawful sale of licenses.

It shall be unlawful for any member or members of the state board of pharmacy to sell or offer for sale any license contrary to the provisions of this act. A conviction thereof will constitute an abuse of official power and render such member ineligible for continued membership on the board and create a vacancy in his position.

33-24-116. Qualifications of applicants for licensure as a pharmacist by examination.

(a) Any person seeking licensure by examination to practice pharmacy in this state may make application in writing to the board. The applicant shall:

(i) Submit an application in the form and containing information as prescribed by the board;

(ii) Have attained the age of majority;

(iii) Be possessed of a background that does not evidence conduct adverse to the practice of pharmacy or to the ability to practice pharmacy;

(iv) Have graduated and received a professional degree from a college or school of pharmacy that has been approved by the board or have graduated from a foreign college of pharmacy. Graduates from a foreign college of pharmacy shall have completed a transcript verification program, taken and

passed a college of pharmacy equivalency exam and completed a communication ability test as provided in board regulations;

(v) Have completed an internship or other program that has been approved by the board or demonstrated to the board's satisfaction experience in the practice of pharmacy which meets or exceeds the minimum internship requirements specified in board regulations;

(vi) Have successfully passed an examination or examinations approved by the board;

(vii) Pay the fees specified in board regulations for the examination and any related materials;

(viii) Provide the board with fingerprints, necessary fees and other information required to perform a criminal history record background check as provided for by W.S. 7-19-201. The board may delay issuing a license pending its receipt of the information from the background check.

33-24-117. Examination required.

The applicant shall pass an examination, which has been adopted by the board, in a manner satisfactory to a reasonable board. The examination shall be, so far as the board shall deem practicable, on such subjects as are prescribed in the curriculum and taught in the accredited colleges and universities which offer courses of study leading to the degree above described and required, on the ethical and practical aspects of the practice of pharmacy which will confront a successful applicant in the practice of the profession in Wyoming, and on the laws and rules relating thereto. The examination shall be offered in the manner prescribed by the board.

33-24-118. Registration of applicant; issuance of license; contents of license or certificate of registration.

Upon an applicant passing the examination the board shall cause his name and residence to be registered in a record kept by it for that purpose; and if the application is complete and there are no known grounds for denial of the license requested, the board shall issue to the applicant a license as evidence of his eligibility to practice pharmacy. The license, or certificate of registration shall contain, along with the other advisory information, the name of the person to whom issued, the date of

issuance, and a special registration number designed by the board for exclusive identification of the registrant.

33-24-119. Reexamination fees; no refund of fees; notice of results of examination; application for reexamination.

(a) All reexamination fees shall be the same as the current fee for the initial examination to be paid to the board. Before such examination is had, the fee must be paid, and in no case shall the examination or reexamination fee be refunded.

(b) The applicant shall be informed within a reasonable time if he passed or failed to pass the examination.

(c) An applicant who fails in his examination shall have the privilege, if he so desires, of applying to the board for a reexamination. This application shall be made in writing and shall be accompanied with the proper fee.

33-24-120. Records as prima facie evidence.

The board shall keep a record in which shall be recorded the names and addresses and pertinent information of all applicants and such other matters as shall afford a full record of its activities; the records or transcripts therefrom, duly certified by the board, shall be prima facie evidence before all the courts of this state of the entries therein contained.

33-24-121. Renewal license certificate; late fee; expiration upon failure to renew; reinstatement; continuing professional education requirement for renewal; reduction or exception determined by board.

(a) On or before December 31 of each year, any pharmacist licensed to practice pharmacy in this state shall transmit to the board his signature, registration number and address together with proof of compliance with subsection (d) of this section, the annual fee determined by the board and the relevant information pertaining to criminal, substance abuse, professional liability and licensure history. Upon receipt and compliance with all requirements, the board shall issue a renewal license certificate.

(b) A late fee as provided by W.S. 33-24-112(a)(v) shall be charged to any licensee failing to renew his license by December 31.

(c) If the licensee fails to secure the renewal certificate before December 31, the license to practice expires ten (10) days after mailing of written notice to renew sent to the holder by certified mail to the address last recorded for the licensee with the board. An expired license may be restored by the board upon compliance with this section not later than March 31 following expiration of the license.

(d) The board may require that any person applying for renewal in accordance with subsection (a) of this section shall satisfactorily complete not less than six (6) nor more than fifteen (15) contact hours or not less than three-fifths (3/5) of one (1) continuing education unit nor more than one and one-half (1 1/2) continuing education units of approved continuing pharmaceutical education courses each year. For purposes of this subsection, one (1) continuing education unit is equivalent to ten (10) contact hours. No hours or units used for one (1) year shall apply to any other year. The board shall promulgate rules and regulations necessary to administer this subsection and may reduce or make exception to the requirements of this subsection for the initial year of application and for emergency or hardship cases. The board shall require one and one-half (1 1/2) hours of continuing education related to the responsible prescribing of controlled substances annually. The board may require a person licensed as an inactive pharmacist, who seeks to be licensed as an active pharmacist, to:

(i) Provide proof of meeting the continuing education requirements for each year the person was licensed as an inactive pharmacist; or

(ii) Complete the continuing education requirements for each year, up to a maximum of five (5) years, the person was licensed as an inactive pharmacist.

33-24-122. Revocation or suspension of license and registration; letter of admonition; summary suspension; administrative penalties; probation; grounds.

(a) The license and registration of any pharmacist may be revoked or suspended by the board of pharmacy or the board may issue a letter of admonition, refuse to issue or renew any license or require successful completion of a rehabilitation program or issue a summary suspension for any one (1) or more of the following causes:

(i) Conviction of a felony or high misdemeanor that relates to the practice of pharmacy or to the ability to practice pharmacy, in which case the record of conviction or a copy thereof certified by the clerk or judge of the court in which the conviction is had shall be conclusive evidence;

(ii) For renting or loaning to any person his or her license or diploma to be used as a license or diploma for such person;

(iii) For unprofessional conduct;

(iv) For knowingly submitting false or misleading information to the board in the application for a license or renewal of a license;

(v) For knowingly submitting false or misleading information to the board or its representative regarding the professional practice of the internship or professional practice of pharmacy by any other person;

(vi) Willful violation of any provision of this chapter or any willful violation of any of the provisions of the Wyoming Controlled Substances Act of 1971 or any amendments thereto;

(vii) Willful violation of any rules or regulations promulgated by the board in accordance with this chapter or the Wyoming Controlled Substances Act of 1971;

(viii) If the person's registration or license to practice has been refused, lapsed for cause, expired for cause, revoked for cause, or suspended for cause in this or any other jurisdiction or if the person has otherwise been disciplined by a board of pharmacy in this or any other jurisdiction;

(ix) For senility or mental impairment which impedes the pharmacist's professional abilities or for habitual personal use of morphine, cocaine or other habit forming drugs or alcohol;

(x) For physical impairment which unnecessarily impedes the pharmacist's professional abilities and for which there can be no reasonable accommodation;

(xi) For violating W.S. 35-4-1001.

(b) If a person accused of violating subsection (a) of this section admits the violation, or the board finds the causes alleged to be true and determines that a letter of admonition or revocation or suspension of a license or registration is an inappropriate remedy, the board may assess an administrative penalty against that person of not more than two thousand dollars ($2,000.00) for each violation of this act or rule promulgated under this act, to be paid into the county treasury to the credit of the public school fund of the county in which the violation occurred. In addition to the penalty imposed under this subsection, the board may impose a license probation period upon that person, a violation of which is grounds for license revocation or suspension under subsection (a) of this section.

(c) The board may summarily suspend the license of any person holding a pharmacist license without a hearing if the board finds probable cause to believe that there is imminent danger to the public health or safety. The board may meet by telephone to consider summarily suspending a license if a quorum of the board is not available to meet in person under exigent circumstances. Summary suspension shall occur if the board determines there is probable cause to believe that continued practice by the licensee constitutes an imminent danger to the public health or safety. Proceedings for a disciplinary hearing shall be instituted simultaneously with the summary suspension. If the board does not commence the disciplinary hearing within thirty (30) days of the suspension order, the suspension shall be automatically vacated. At the written request of the suspended licensee in order to prepare for a hearing, the thirty (30) day period may be extended and the temporary suspension continued for an additional period not to exceed thirty (30) days.

(d) The board of pharmacy shall revoke the license and registration of any pharmacist if the person is convicted of violating any provision of W.S. 35-6-401 through 35-6-404.

33-24-123. Revocation or suspension of license and registration; proceedings; informal resolution.

(a) Except as provided by subsections (b) and (c) of this section, proceedings under W.S. 33-24-122 may be taken by the board from matters within its knowledge, or may be taken upon the information of others; provided however, that if the informant is a member of the board, the other members of said board shall constitute the board for the purpose of finding

judgment of the accused. The board shall, if it deems the charge sufficient, give notice by mail to the accused of facts or conduct which warrant the intended action, and afford the accused a hearing, as provided by law. All hearings or proceedings hereunder shall be conducted in accordance with the procedures prescribed by the Wyoming Administrative Procedure Act. If the accused does not appear, the board may proceed and determine the accusation in his absence. If the accused pleads guilty, or, upon the hearing the board shall find the causes alleged, or any of them to be true, it may proceed to judgment and may either revoke his registration and license, or merely revoke his license or suspend it for a specified period of time, or condition any of such sanctions on such future active or passive conduct of the offender as the board shall determine is reasonable, provided that such remedies are not exclusive and shall be in addition to other remedies provided by law. Upon revocation of any registration or license, the fact shall be noted upon the records of the board of pharmacy and the license shall be marked as cancelled upon the date of its revocation.

(b) Notwithstanding subsection (a) of this section, the executive director may subject to board approval and upon mutual agreement with a licensee, informally resolve violations of W.S. 33-24-122(a) and impose administrative penalties authorized under W.S. 33-24-122(b) in lieu of the proceedings specified under subsection (a) of this section. If the board disapproves the agreement and informal resolution, the agreement shall not:

(i) Constitute any admission by the licensee;

(ii) Be admissible in any subsequent proceeding under this act;

(iii) Prohibit the director from filing a formal complaint;

(iv) Prohibit the licensee from contesting or objecting to a formal complaint filed by the director or from appealing the decision of the board.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. Notwithstanding subsection (a) of this section, no appeal under the Wyoming

Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-24-124. Persons deemed practicing pharmacy.

(a) Any person shall be deemed to be practicing pharmacy within the meaning of this act who provides collaborative pharmaceutical care or prepares, or compounds, or processes, or packages, or repackages, or labels, or dispenses, or sells, or offers for sale, at retail or in connection with operation of a health-care facility, any dangerous drugs, medicines, poisons, chemicals, narcotics, or prescriptions, which are identified as such in accordance with this act.

(b) "Practice of pharmacy" means, but is not limited to:

(i) Interpreting, evaluating, compounding, dispensing or administering medical orders or prescriptions;

(ii) Providing patient counseling;

(iii) Assessing the patient for the purpose of prescribing drugs and devices pursuant to board of pharmacy rules;

(iv) Initiating or providing pharmacist care services pursuant to board of pharmacy rules;

(v) Using continuous quality improvement programs, emerging technologies and competency-based education to improve patient safety and the quality of services provided;

(vi) Engaging in collaborative pharmaceutical care.

(c) Regarding collaborative pharmaceutical care:

(i) Nothing in this section shall be deemed to require any pharmacist to provide collaborative pharmaceutical care. No employer shall discriminate against a pharmacist on the basis that the pharmacist declines to participate in a collaborative pharmacy practice agreement;

(ii) The practice of collaborative pharmaceutical care shall be governed by board of pharmacy rules.

33-24-125. Dangerous substances; generally.

(a) Dangerous drugs, medicines, poisons, chemicals, and narcotics include only those drugs, chemicals, poisons, medicines and other substances which are intended for use by man:

(i) Which are habit forming; or

(ii) Which because of toxicity or other potentiality for harmful effect, or method of use, or the collateral measures necessary to its use, are not safe for use except under the supervision of a practitioner licensed by law to prescribe such substances; or

(iii) Which are designated as dangerous substances under the provisions of W.S. 33-24-131; and which are named and thereby included on a list of dangerous drugs, medicines, poisons, chemicals and narcotics compiled by the board of pharmacy and by them filed with the department of health. The board will provide a complete current copy of such list to all persons requesting same at cost.

33-24-126. Dangerous substances; compilation of list.

In compiling such list of dangerous substances, and determining which substances shall be included thereon, and in adding substances thereto, and in deleting substances therefrom, the board shall consider all information which shall come to its attention from reasonably reliable sources and shall compile the list making use of such information about, experience with, and knowledge of (or lack of knowledge of or about) each substance and shall include, add or delete each substance as the accumulation of such information, experience, knowledge, or lack thereof, shall indicate according to the definitions and guidelines provided in W.S. 33-24-125.

33-24-127. Adoption of certain publications by reference; list of dangerous substances open to public inspection; petition to add or delete substances from list.

(a) The board is authorized to adopt, by reference if feasible, in whole or in part the United States Pharmacopoeia, the National Formulary, and supplements thereto and later editions thereof, and lists of drugs the traffic in which is restricted by federal law, provided always:

(i) That a complete copy of the current list shall be always open to the public inspection at the department of health; and

(ii) Any citizen may petition the board in writing to add or to delete any substance to or from the list, which petition shall be considered by the board after providing the petitioner reasonable notice and opportunity to be heard thereon. The board may consider treatises and scientific reports without requiring formal foundations or proofs thereof, and may accept or reject the conclusions therein or deductible therefrom as deemed best in the light of the professional knowledge and experience of the individual members of the board.

33-24-128. Appeal from decisions of board as to list of dangerous drugs.

Appeal from decisions of the board relating to composition of, additions to or deletions from the list of dangerous drugs shall be had initially to the advisory council to the department of health, the decision of which advisory council shall be final unless appealed by either the pharmacy board or the petitioner to the courts of this state. All appeals shall be conducted as provided by the Wyoming Administrative Procedure Act. No board shall be concluded by decisions of any previous board as to a particular substance, provided that the board shall not be obliged to consider the same substance more than once during any twelve (12) month period.

33-24-129. Exempted professions.

This act does not apply to physicians, dentists, veterinarians, podiatrists, optometrists, osteopaths or midwives licensed by law to practice their professions within this state or to other persons authorized by federal law and state law to treat sick and injured persons in Wyoming and to use controlled substances in the course of treatment.

33-24-130. Exemptions; administration of drugs and medicine.

Unless otherwise provided by law, the provisions of this act do not apply to administration of drugs and medicines, or to persons engaged in the administration of drugs and medicines. Administration of drugs and medicines, for the purpose of this exclusion, is hereby defined as actual, personal distribution to, or injection in, or application to a particular human being,

of substances or material which has already been prepared, selected, measured, packaged, and labeled, or otherwise specifically identified by a person qualified to do so under the terms of this act.

33-24-131. Exemptions; sale of certain articles.

The provisions of this act shall not apply to the sale at wholesale or sale by any method at retail of economic poisons, medical and dental supplies, cosmetics, dietary foods, or nonnarcotic, nonprescription, prepackaged medicinal preparations contained in distinctive and original unbroken containers, when such medicinal preparations are identified by and sold under a trade name of the manufacturer or primary distributor thereof and are sold or offered for sale to the general public, if such articles meet the requirements of state and federal food, drug and cosmetic laws; provided however, that notwithstanding the above, any drug, medicinal preparation, or substance for use by man which is determined by the state board of pharmacy, after notice to the manufacturer or primary distributor thereof, and opportunity to be heard pursuant to the provisions of the Wyoming Administrative Procedure Act, as having a depressant or stimulant effect on the central nervous system or its hallucinogenic effect, or as habit forming, or as a drug or product which, because of its toxicity or other potentiality for harmful effect, or method of use, or the collateral measures necessary for such use is not safe for use except under the supervision of a practitioner licensed by law to prescribe such substances, may be designated by rule as a dangerous drug which shall be restricted to sale on prescription of a practitioner licensed by law to prescribe such substances.

33-24-132. Repealed by Laws 2017, ch. 169, § 2.

33-24-133. Association with boards of pharmacy of other jurisdictions.

In order to be informed and to determine the status of boards of pharmacy of other jurisdictions which desire to effect arrangements for reciprocal registration of pharmacists, and in order to also be advised regarding fitness of applicants, and of the progress and changes in pharmacy throughout the country, the board may annually select at least one (1) of its members to meet with like representatives from other jurisdictions, and may join in creating and maintaining an association for such mutual ends, and in its discretion the board may contribute such information as it possesses which is useful to such aims and

objects. Additionally, the board may subscribe for and secure the services of associations engaged in the compilation of pharmaceutical information, knowledge and progress, specially adapted to secure excellence and efficiency in the work of the board.

33-24-134. Reciprocity.

(a) The board, in its sole discretion, may license as a pharmacist in this state without examination, any person who proposes to practice pharmacy in this state who is duly licensed by examination in some other state. An applicant for a license pursuant to this section shall:

(i) Submit an application in the form and containing information as prescribed by the board;

(ii) Meet the qualifications specified in W.S. 33-24-116(a)(ii) through (iv);

(iii) Have engaged in the practice of pharmacy for a period of at least one (1) year or have met the requirements of W.S. 33-24-116(a)(v) within one (1) year immediately preceding the date of application;

(iv) Have been a licensed pharmacist by examination in another state;

(v) Submit evidence that the applicant's license to practice pharmacy in any other state has not been suspended, revoked or otherwise restricted for any reason other than nonrenewal or the failure to obtain the required continuing education credits;

(vi) Pay the fees specified in board regulations for licensure by reciprocity;

(vii) Provide the board with fingerprints, necessary fees and other information required to perform a criminal history record background check as provided for by W.S. 7-19-201. The board may delay issuing a license pending its receipt of the information from the background check;

(viii) Have passed an examination regarding applicable federal and state statutes and regulations relating to the practice of pharmacy in Wyoming.

(b) Repealed By Laws 2007, Ch. 211, § 2.

(c) Repealed By Laws 2007, Ch. 211, § 2.

(d) Repealed By Laws 2007, Ch. 211, § 2.

(e) The board may issue a temporary pharmacist license, provided the applicant has met those requirements in paragraphs (i) through (vii) of subsection (a) of this section as well as other requirements established by the board. A temporary pharmacist license shall not be effective for a period of more than six (6) months from the date of issuance and shall not be renewed. The board may charge a fee not to exceed twenty-five dollars ($25.00) for issuance of a temporary pharmacist license. A pharmacist with a temporary license may be disciplined as provided by W.S. 33-24-122 and 33-24-123.

33-24-135. Internship.

(a) The internship or practical experience requirement for registration as a pharmacist in this state shall consist of no more than two thousand (2,000) and no less than one thousand two hundred (1,200) hours experience in a pharmacy or related setting. Hours shall be accumulated after the completion of the first professional year in an approved college or school of pharmacy or, for those applicants who have graduated from a foreign college of pharmacy, completed a transcript verification program, taken and passed a college of pharmacy equivalency exam program and completed a communication ability test as provided in board regulations. Hours of internship experience accumulated may be determined by the board.

(b) The board is hereby empowered to promulgate and enforce such reasonable regulations as may from time to time appear necessary to provide that interns shall receive broad training in all aspects of the profession during internship, and that each intern shall keep a record thereof during a portion of the training reflecting his work and experience and whether it conforms to the requirements of the board.

(c) The service and experience rendered and gained during internship must be predominantly related to the preparing, compounding, processing, packaging, labeling, and dispensing of the restricted substances, selling or offering the same for sale at retail, keeping records in regard thereto, and making reports required by law in regard thereto, all under the personal guidance and supervision of a preceptor.

(d) Each prospective intern shall be licensed by the board upon payment of a fee and shall register by application giving the intern's name and address. Under its regulations the board may provide for consideration and acceptance of internship served in other jurisdictions.

(e) The board may issue a letter of admonition or suspend or revoke a pharmacy intern's license for any:

(i) Willful violation of any provision of this chapter or the Wyoming Controlled Substances Act of 1971;

(ii) Willful violation of any rule or regulation promulgated pursuant to this chapter or the Wyoming Controlled Substances Act of 1971;

(iii) Conviction of a felony or misdemeanor that relates to the practice of pharmacy or to the ability to practice as a pharmacy intern;

(iv) Action which threatens the public health, safety or welfare; or

(v) Knowing submission of false or misleading information to the board in the application for an initial or renewal license.

33-24-136. Filing memorandum of prescription; labels generally; prescription defined; counseling and patient profiles.

(a) Every person who prepares, compounds, processes, packages or repackages, dispenses, fills or sells or offers for sale, at retail or in connection with operation of a health care facility, any prescription, shall place the written or electronic record of the prescription in a separate file marked and kept for that purpose, and shall affix a label to the container in which the prescribed substance is dispensed bearing the name and address of the pharmacy and initials of the dispensing pharmacist, or of the preceptor if the dispenser is an intern, the date on which the prescription is filed in the pharmacy's files, the name of the person who prescribed the substance, the name of the patient or customer for whom the prescription was made and directions for use by the patient as directed on the prescription by the practitioner.

(b) "Prescription" means an order for medication by a person licensed and authorized by the state board of medicine, the state board of dental examiners, the state board of nursing, the state board of registration in podiatry, the state board of examiners in optometry or the state board of veterinary medicine which is dispensed to or for an ultimate user, but does not include an order for medication which is dispensed for immediate administration to the ultimate user. Each prescription record shall be maintained and available for inspection by agents of the board for a period of two (2) years from the date it is filed.

(c) Pharmacists shall offer to and shall counsel patients if requested, concerning and in conjunction with drugs dispensed pursuant to a new prescription.

(d) Pharmacies shall maintain patient profile records of the dispensing of drugs pursuant to a prescription.

(e) Notwithstanding subsection (a) of this section, if, in the opinion of the pharmacist, an emergency exists whereby the practitioner who ordered or prescribed the prescription cannot be contacted for authorization and there is a need to refill the prescription, the pharmacist may provide up to a seventy-two (72) hour supply, or the smallest available unit, of the previously prescribed drug, except a controlled substance. Nothing in this subsection shall be construed to require a pharmacist to refill the prescription in the absence of authorization from the practitioner.

33-24-137. Repealed by Laws 2015, ch. 166, § 2.

33-24-138. Repealed by Laws 2015, ch. 166, § 2.

33-24-139. Supervision of preparation of drugs.

No person shall manufacture, make, produce, package, pack or prepare within this state any drugs, medicines, medical supplies, chemicals or poisons, for human treatment or medication except under the personal and immediate supervision of a registered pharmacist, chemist, pharmaceutical chemist or such other person who may be approved by the board after investigation and determination that he is qualified by scientific or technical training or experience to perform the duties of supervision as may be necessary to protect the public health and safety.

33-24-140. Code of ethics.

The board shall propose, and with the advice of the practicing licensees in this state shall adopt and from time to time amend or revise, a comprehensive code of ethics for the profession of pharmacy the review of which shall become obligatory on all applicants for license or renewal thereof.

33-24-141. Use of letters "RPh" or word "pharmacist".

Whenever any person shall append the letters "RPh" or word "pharmacist" or such similar designation to his name in any way, for advertising, or upon any card, stationery, door or sign, or occasion either of the same to be done, the same shall be prima facie evidence that the person is subject to the regulations and convictions and penalties of this act.

33-24-142. Penalty.

Any person who practices pharmacy, as defined in this act, without being properly qualified and licensed as required, or who violates any of the other provisions of this act shall be subject to criminal prosecution, and upon conviction may be fined not more than one hundred dollars ($100.00), or imprisoned for not more than thirty (30) days, or both. Each separate violation of this act shall constitute a separate offense; provided, that upon a second or subsequent conviction, such person shall be subject to a fine of not more than five hundred dollars ($500.00), and imprisonment of not more than six (6) months.

33-24-143. Prosecutions.

It shall be the duty of the district attorney for the county where the violation occurs to attend to the prosecution of all criminal complaints made under this act, both upon the trial in the circuit court where the complaint may be made, and also upon hearings in the district court, either upon such complaint, or upon the information or indictment filed against any person under this act. Nothing in this act shall be construed to prevent the prosecution of any person for violation of this act upon the information of the district attorney directly.

33-24-144. Injunction.

When it appears to the board that any person is violating any of the provisions of this act, the board may, in its own name,

bring an action in a court of competent jurisdiction for an injunction, and courts of this state may enjoin any person from violation of this act regardless of whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted. Such proceedings shall be prosecuted by the attorney general or, if approved by the attorney general, by private counsel engaged by the board.

33-24-145. Powers and duties of agents, inspectors and board members.

(a) The board, its agents and inspectors may specially, but not exclusively, examine and inspect all activities in this state undertaken in compliance with W.S. 33-24-101 through 33-24-301 which appear to be contrary to or in violation of W.S. 33-24-101 through 33-24-301, to procure enforcement and to check for violations and provide for enforcement of related federal laws and regulations. The inspectors may also determine if practitioners' records are adequately kept in a manner reflecting professional responsibility and may provide legislative recommendations if records are not found to be adequately maintained.

(b) The board, its agents and inspectors shall examine and inspect drug manufacturers, distributors and wholesalers, licensed pursuant to W.S. 33-24-153.

33-24-146. Citation.

This act is known and may be cited as the "Wyoming Generic Drug Substitution Act".

33-24-147. Definitions.

(a) As used in this act:

(i) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label or wrapping at the time of packaging;

(ii) "Generically equivalent drug" means a drug that contains identical active ingredients in the identical dosage forms, but not necessarily containing the same inactive ingredients, that meet the identical compendial or other applicable standards of identity, strength, quality and purity, including potency, and, where applicable, content uniformity, disintegration times or dissolution rates, as the prescribed

brand name drug, and, if applicable, the manufacturer or distributor holds either an approved new drug application or an approved abbreviated new drug application unless other approval by law or from the Federal Food and Drug Administration is required. A generically equivalent drug shall bear an "AB" or higher rating in the Federal Food and Drug Administration Approved Drug Products with Therapeutic Equivalence Evaluations;

(iii) "Generic name" means the chemical or generic name, as determined by the United States Adopted Names (USAN) and accepted by the Federal Food and Drug Administration (FDA), of those drug products having the same active chemical ingredients;

(iv) "Substitute" means to dispense a generically equivalent drug or interchangeable biological product in place of the prescription ordered or prescribed;

(v) "Therapeutically equivalent" means drugs that will provide the same bioavailability or bioequivalence when administered to an individual in the same dosage regimen;

(vi) "Biological product" means as defined in 42 U.S.C. 262(i)(1);

(vii) "Interchangeable biological product" means a biological product that the United States food and drug administration has:

(A) Licensed and determined meets the standards for interchangeability under 42 U.S.C. 262(k)(4); or

(B) Determined is therapeutically equivalent to the prescription ordered or prescribed, as set forth in the latest edition or supplement to the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) issued by the United States food and drug administration.

(viii) "This act" means W.S. 33-24-146 through 33-24-151.

33-24-148. Conditions for drug substitution.

(a) Repealed By Laws 2001, Ch. 54, § 2.

(b) Except as limited by W.S. 33-24-149(b) or when the practitioner has clearly indicated substitution is not permitted, a pharmacist may substitute:

(i) A drug product with the same generic name in the identical strength, quantity, dose and dosage form as the prescribed drug, provided the substituted product or drug meets all requirements specified in W.S. 33-24-147(a)(ii);

(ii) An interchangeable biological product.

(c) Repealed By Laws 2001, Ch. 54, § 2.

(d) Repealed By Laws 2001, Ch. 54, § 2.

(e) A pharmacist may not substitute a generically equivalent drug unless it has been manufactured with the following minimum manufacturing standards and practices by a manufacturer who:

(i) Marks capsules and tablets with an identification code or monogram;

(ii) Labels products with their expiration date;

(iii) Maintains reasonable resources for product information;

(iv) Maintains recall capabilities for unsafe or defective drugs.

(f) Repealed By Laws 2001, Ch. 54, § 2.

(g) When a practitioner orally communicates a prescription and prohibits substitution of an interchangeable biological product or generically equivalent drug, the pharmacist shall make reasonable efforts to obtain a written prescription from the practitioner with the phrase "brand medically necessary" written on the face of the prescription in his own handwriting.

33-24-149. Drug substitution procedures.

(a) A pharmacist who receives a prescription for a brand name prescription drug may dispense any interchangeable biological product or generically equivalent drug of the brand name prescription drug prescribed, unless the prescribing

practitioner has clearly indicated substitution is not permitted.

(b) If a practitioner prescribes a prescription drug by its generic name or by the nonproprietary name of an interchangeable biological product, the pharmacist may dispense the generically equivalent drug or the interchangeable biological product as defined in this act.

(c) Except as provided in subsection (e) of this section, when a pharmacist dispenses an interchangeable biological product or generically equivalent drug as authorized by this act, he shall label the prescription container with the name of the dispensed biological product or drug. If the dispensed drug or product does not have a brand name, the prescription label shall indicate the generic name of the drug dispensed or the nonproprietary name of the interchangeable biological product dispensed.

(d) The national drug code number or the name of the manufacturer or distributor of the interchangeable biological product or generically equivalent drug dispensed shall be noted on the prescription record or entry by the pharmacist.

(e) A prescription dispensed by a pharmacist shall bear upon the label the name of the medication in the container except if the practitioner orders "do not label", or words of similar import, on the prescription or so designates in an oral or electronic transmission of the prescription.

(f) Except as otherwise provided in subsections (g) and (j) of this section, not later than five (5) business days after dispensing a biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific product dispensed to the patient, including the name and manufacturer of the product. The entry shall be electronically accessible to the practitioner through one (1) of the following electronic records systems:

(i) An interoperable electronic medical records system;

(ii) Electronic prescribing technology;

(iii) A pharmacy benefit management system; or

(iv) A pharmacy record.

(g) Except as otherwise provided in subsection (j) of this section, if an electronic records system under subsection (f) of this section is not available, the dispensing pharmacist shall, not later than five (5) business days after dispensing a biological product, communicate to the practitioner the specific product dispensed to the patient, including the name and manufacturer of the product, using facsimile, telephone, electronic transmission or any other prevailing means of communication.

(h) An entry made into an electronic records system under subsection (f) of this section or a communication made under subsection (g) of this section shall establish a presumption that the practitioner received notice of the biological product dispensed to the patient.

(j) The requirements of subsections (f) and (g) of this section shall not apply if:

(i) There is no interchangeable biological product for the product prescribed by the practitioner; or

(ii) A prescription for a refill is not changed from the product dispensed on the prior filling of the prescription.

(k) The dispensing pharmacist shall notify a patient of the biological product which was dispensed, which may be carried out through the prescription label required pursuant subsection (c) of this section.

33-24-150. Pharmacist's liability.

Any pharmacist who selects the drug product to be dispensed shall assume no greater liability for selecting the dispensed product as would be incurred in filling a prescription for a drug product prescribed by generic name.

33-24-151. Substitution not considered practice of medicine; individual causes of action.

(a) The substitution of any dangerous substance by a registered pharmacist or a registered pharmacy intern under his supervision does not under this act constitute the practice of medicine.

(b) This act shall not be construed to deny any individual a cause of action against a pharmacist or his employer for violations of this act, including failure to observe accepted standards of care of the pharmaceutical profession.

33-24-152. Nonresident pharmacy registration; requirements for registration; fees; renewal; denial, letter of admonition, administrative penalty, revocation or suspension; advertising.

(a) Any pharmacy located outside this state which ships, mails or delivers, in any manner, controlled substances or prescription drugs or devices into this state pursuant to a prescription or provides pharmaceutical care to a resident of this state shall be considered a nonresident pharmacy, shall obtain a license from the board, and shall:

(i) Repealed by Laws 2005, ch. 215, § 2.

(ii) Comply with all directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident;

(iii) Maintain its records of controlled substances or dangerous drugs or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed;

(iv) Comply with all requirements of the Wyoming Generic Drug Substitution Act;

(v) Submit a license application to the board on a form prescribed by the board and pay the license fee established by the board in its rules and regulations;

(vi) Immediately notify the board of the occurrence of any of the following:

(A) Permanent closing of pharmacy operations;

(B) Change in pharmacy ownership, name, management, location or pharmacist in charge;

(C) Conviction of a pharmacy owner or employee for a felony under any state or federal drug law;

(D) Any substantial theft or loss of dangerous drugs, controlled substances or medical devices;

(E) Any other matter required to be reported by rule and regulation of the board.

(b) Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six (6) days per week, and for a minimum of forty (40) hours per week, provide a toll free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll free number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(c) A pharmacy applying for licensure under this section shall be charged the fee specified in W.S. 33-24-112(a)(iii).

(d) A nonresident pharmacy license under this section shall be renewed annually on or before June 30 by submitting a renewal application to the board.

(e) The board may deny, suspend, revoke or refuse to renew a license issued under this section, may issue a letter of admonition to a nonresident pharmacy licensee and may assess an administrative penalty, not to exceed two thousand dollars ($2,000.00) per violation, against a nonresident pharmacy licensee on any of the following grounds:

(i) Failure to comply with any requirement of the pharmacy practice act of the state of domicile or the Wyoming Controlled Substances Act. Upon a determination by the board's executive director that the pharmacy practice act of the state of domicile is less protective of the public than the provisions of this act and could endanger the public health, safety or welfare, the executive director before any adverse action pursuant to this paragraph shall provide notice of the noncompliance to the nonresident pharmacy and afford a reasonable opportunity to cure the noncompliance;

(ii) Failure to comply with rules and regulations of the board or regulatory body of the jurisdiction in which the pharmacy is located. Upon a determination by the board's executive director that the rules and regulations of the state

of domicile are less protective of the public than the provisions of the board's rules and regulations and could endanger the public health, safety or welfare, the executive director before any adverse action pursuant to this paragraph shall provide notice of the noncompliance to the nonresident pharmacy and afford a reasonable opportunity to cure the noncompliance;

(iii) Conviction of a pharmacy owner, pharmacist in charge, staff pharmacist or pharmacy technician for a felony under any state or federal law, if the conviction is related to the practice of pharmacy;

(iv) Obtaining any remuneration by fraud, misrepresentation or deception;

(v) Suspension or revocation of a pharmacy license or any other disciplinary action by a board of pharmacy against the licensee in any other state;

(vi) Knowing submission of false, misleading or fraudulent information to the board in connection with an initial or renewal application for a nonresident pharmacy license;

(vii) Purchase or receipt of a prescription drug, controlled substance or medical device from a source other than a manufacturer, wholesaler or pharmacy licensed by the regulatory authority in the state where the pharmacy is located;

(viii) Purchase or receipt of a prescription drug, controlled substance or medical device that is not approved by the federal food and drug administration;

(ix) Keeping the pharmacy open for business without a licensed pharmacist in charge on site.

(f) Repealed by Laws 2005, ch. 215, § 2.

(g) It is unlawful for any nonresident pharmacy which is not licensed by the board to advertise its services in this state, or for any person to advertise the pharmacy services of a nonresident pharmacy which has not been licensed by the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions. Any person convicted of violating this

subsection shall be subject to the penalties provided by W.S. 33-24-142.

(h) Before any final adverse administrative action is taken against a nonresident pharmacy licensee, the licensee is entitled to a hearing by the board of pharmacy upon due notice of the time and place where the hearing will be held. The accused may be represented by legal counsel, is entitled to the compulsory attendance of witnesses and may appeal to the first judicial district court located in Laramie county in accordance with the Wyoming Administrative Procedure Act.

33-24-153. Manufacturer or wholesaler registration; requirements for registration; bonds or other security; fees; renewal; denial, revocation or suspension; record keeping; summary orders; administrative penalties; definitions.

(a) Every wholesale distributor who engages in the distribution of prescription drugs in this state shall obtain from the board a drug distributor's license for each distribution location. In addition, every nonresident wholesale distributor who ships prescription drugs into this state shall be licensed by the licensing authority in the state in which the distributor resides. For manufacturers engaged in wholesale distribution of prescription drugs in this state, the provisions of this section that are more stringent than those required by the United States food and drug administration shall not apply. This section shall not apply to resident pharmacies registered under W.S. 33-24-113, nonresident pharmacies registered under W.S. 33-24-152 or to individuals practicing medicine as defined by W.S. 33-26-102(a)(xi)(B) and (E).

(b) Applications for a drug distributor's license under this section shall be made on a form furnished by the board. Applicants for licensure under this section shall provide the board with fingerprints, necessary fees and other information required to perform a criminal history record background check as provided for by W.S. 7-19-201 for the designated representative for each wholesale drug distributor site.

(c) The fee for a drug distributor's license shall be the fee specified in W.S. 33-24-112(a)(iii).

(d) Repealed By Laws 2007, Ch. 211, § 2.

(e) Every drug distributor's license shall be renewed annually on or before the first day of July.

(f) Any administrative penalty assessed under this section shall be paid to the board who shall remit the monies to the county treasurer to the credit of the public school fund of the county in which the violation occurred.

(g) By January 1, 2009, the board shall require every drug distributor license holder and applicant to submit a bond in the amount of one hundred thousand dollars ($100,000.00), or other security acceptable to the board such as an irrevocable letter of credit or deposit in a trust account or financial institution, payable to a fund established by the board pursuant to paragraph (h) of this section. The purpose of the bond or other security shall be to secure payment of any fines or penalties imposed by the board and any fees and costs incurred by the board regarding the drug distributor's license which are authorized under state law and which remain unpaid thirty (30) days after liability for the payment is final. The board shall release the bond or security one (1) year after the distributor's license ceases to be valid. The bond or security shall cover all facilities operated by the applicant and licensed by the board. The board may waive the requirement of a bond or other security if:

(i) The drug distributor has previously obtained a comparable bond or other security for the purpose of licensure in another state where the wholesaler possesses a valid license in good standing; or

(ii) The drug distributor is a publicly held company.

(h) The board shall establish a fund, separate from its other accounts, for the deposit of amounts submitted in lieu of a bond pursuant to subsection (g) of this section.

(j) The board shall require each person engaged in wholesale distribution of prescription drugs to establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of the drugs.

(k) The board shall issue an order to cease distribution of a prescription drug if the board finds that there is probable cause that:

(i) A drug distributor has:

(A) Violated a provision of this section; or

(B) Sold, distributed, transferred, manufactured, repackaged, handled or held a counterfeit prescription drug intended for human or animal use.

(ii) The prescription drug at issue as a result of a violation in paragraph (k)(i)(B) of this section could cause serious adverse health consequences or death; and

(iii) Other procedures would result in unreasonable delay in responding to the dangers posed by the prescription drug at issue.

(m) An order issued by the board pursuant to subsection (k) of this section shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than ten (10) working days after the date of the issuance of the order, on the actions required by the order. If, after providing an opportunity for a hearing, the board determines that inadequate grounds exist to support the actions required by the order, the board shall vacate the order.

(n) The board may deny, suspend, revoke or refuse to renew a license issued under this section, may issue a letter of admonition and may assess an administrative penalty not to exceed those penalties established in paragraph (o) of this section for any of the following acts:

(i) Failure to obtain a license in accordance with this section or operating without a valid license when a license is required;

(ii) The sale, distribution or transfer of a prescription drug to a person who is not authorized to receive the prescription drug under the law of the jurisdiction in which the person receives the prescription drug;

(iii) Repealed by Laws 2017, ch. 169, § 2.

(iv) Providing the board with false or fraudulent records or making false or fraudulent statements regarding the provisions of this section or board rules;

(v) Obtaining or attempting to obtain a prescription drug by fraud, deceit or misrepresentation, or engaging in fraud or misrepresentation in the distribution of a prescription drug;

(vi) Except for the wholesale distribution by manufacturers of a prescription drug that has been delivered into commerce pursuant to an application approved by the United States food and drug administration, the adulteration, misbranding or counterfeiting of any prescription drug;

(vii) The receipt of any prescription drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit or suspected of being counterfeit, or the delivery or proffered delivery of such drug whether for pay or otherwise; and

(viii) The adulteration, mutilation, destruction, obliteration or removal of all or any part of the labeling of a prescription drug or the commission of any other act with respect to a prescription drug that results in the prescription drug being misbranded.

(o) The board may assess an administrative penalty for a violation of subsection (n) of this section as follows:

(i) If a person unknowingly engages in the wholesale distribution of prescription drugs and acts in violation of subsection (n) of this section, the person may be assessed an administrative penalty not to exceed fifty thousand dollars ($50,000.00);

(ii) If a person knowingly engages in wholesale distribution of prescription drugs in violation of subsection (n) of this section, the person may be assessed an administrative penalty not to exceed five hundred thousand dollars ($500,000.00).

(p) The board is authorized to contract with a private person or entity to inspect and accredit drug distributors. Any proprietary information obtained during the accreditation process shall remain confidential and privileged. The board shall provide by rule and regulation for the administrative review of any decision denying accreditation.

(q) The board may license by reciprocity a drug distributor that is licensed in another state if:

(i) The requirements of the distributor's domiciliary state are determined by the board to be substantially equivalent to the requirements of this state for licensing of drug distributors; or

(ii) The applicant is accredited by a third party approved by the board.

(r) For purposes of this section:

(i) "Designated representative" means an individual designated by a wholesale drug distributor and who is actively involved in and aware of the actual daily operation of the wholesale drug distributor at the wholesaler's licensed location;

(ii) Repealed by Laws 2017, ch. 169, § 2.

33-24-154. Emergency administration of controlled substances.

Notwithstanding any other provision of this act or the Wyoming Controlled Substances Act, the board, by rule or regulation, may authorize nursing homes, hospices, extended care facilities or intermediate care facilities to maintain a limited supply of controlled substances or other drugs on the premises for emergency administration to the residents and patients therein without being subject to the licensure requirements of this act.

33-24-155. Reports required to state health officer.

(a) As provided by department of health rule and regulation, a pharmacist shall report in the manner established through published reporting procedures provided to each licensed pharmacist, any unusually high volume of any type of prescription filled, unusual trend in pharmacy visits or unusual trend in nonprescription medication sales that the pharmacist has reason to believe is related to a public health emergency.

(b) Pursuant to department of health rule and regulation, there may be a review of medical records by the state health officer, his designee or their designated health care representative who shall be under the supervision of the state health officer or his designee to confirm diagnosis, investigate causes or identify other cases of disease conditions in a region, community or workplace in the state to determine if proper measures have been taken to protect the public health and safety. Notwithstanding any other provision of law, the review of records during a public health emergency or disease outbreak may occur without patient consent, but shall be kept confidential and shall be restricted to information necessary

for the control, investigation and prevention of any disease condition dangerous to the public health. Any person who receives medical information under this subsection shall not disclose that information for any other purpose than the investigation and any disease control effort. Any violation of this subsection is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars ($1,000.00), or both.

33-24-156. Telepharmacy practice authorized.

(a) The board pursuant to its rules and regulations may authorize a resident pharmacy licensee to store and dispense prescription drugs as provided in subsection (b) of this section through a telepharmacy located at a site at least ten (10) miles from a licensed pharmacy except this ten (10) mile restriction does not apply:

(i) In counties with a city of fifty thousand (50,000) or more persons as shown in the most recent federal census; or

(ii) To any facility owned or leased by the state or any subdivision of the state; or

(iii) To any facility located in a hospital or clinic setting.

(b) Telepharmacies shall include the following minimum features:

(i) Storage, security and dispensing of prescription drugs only:

(A) In unit of issue packages;

(B) Through a system which dispenses tablets or capsules from an enclosed and lockable cabinet directly into a prescription vial and prints and applies a prescription label to the vial; or

(C) By manually dispensing tablets, capsules or liquids from a stock bottle into a prescription vial and affixing a prescription label to the vial.

(ii) Connection by a secure communication system to the parent pharmacy, with the capability of live video and audio

communication with a licensed pharmacist at the parent pharmacy during hours of operation;

(iii) Adequate provision for security, including verification of customer identity and prescription information;

(iv) Automated inventory control using bar codes, radio frequency tags or a similar identification system;

(v) Prominent display of the name, address and toll free telephone number of the parent pharmacy;

(vi) Telepharmacies shall be supervised by a parent pharmacy and a licensed pharmacist and shall be staffed during hours of operation by a licensed pharmacist, certified pharmacy technician or registered pharmacy intern.

(c) A telepharmacy system operated as provided in this act and in accord with rules and regulations of the board is deemed to be operated under the charge of a licensed pharmacist for purposes of W.S. 33-24-113(b).

(d) A licensed pharmacist who supervises a telepharmacy shall complete an inspection of the telepharmacy at a frequency specified by the board of pharmacy. Inspection criteria shall be developed by the state board of pharmacy and all inspection criteria shall be included in the policies and procedures applicable to each telepharmacy site. Inspection reports shall be prepared pursuant to standards adopted by the board of pharmacy and shall be maintained by each telepharmacy until the next state board of pharmacy inspection.

33-24-157. Immunization administration.

(a) A pharmacist licensed under this act may only prescribe and administer immunizations recommended for healthy individuals age seven (7) and older in a private space utilized for counseling and administering immunizations to ensure patient safety and confidentiality as authorized by the board. Parental consent shall be required for prescriptions for immunizations and for administration of immunizations pursuant to this section for any minor child. A pharmacist administering vaccinations pursuant to this section shall enter a record of the immunization in the Wyoming immunization registry operated by the department of health. Nothing in this subsection shall be deemed to require any pharmacist to administer immunizations to individuals who are less than thirteen (13) years of age. No

employer shall discriminate against a pharmacist on the basis that the pharmacist determines not to administer immunizations to individuals who are less than thirteen (13) years of age.

(b) A pharmacist licensed under this act may administer immunizations to adults who are considered high risk only by prescription from a licensed physician.

(c) The board, in cooperation with the Wyoming state board of medicine, shall adopt rules specifying immunizations allowed under this act and the requirements a pharmacist shall meet in order to prescribe and administer immunizations, including requirements for spaces in which immunizations shall be administered by a pharmacist.

(d) A pharmacy technician or pharmacy intern licensed under this act shall only administer immunizations under the supervision of a pharmacist licensed under this act. A pharmacy technician or pharmacy intern who intends to administer immunizations shall register with the board, but nothing in this subsection shall be deemed to require any pharmacy technician to administer immunizations to individuals who are less than thirteen (13) years of age. No employer shall discriminate against a pharmacy technician on the basis that the pharmacy technician determines not to administer immunizations to individuals who are less than thirteen (13) years of age.

33-24-158. Prescription of epinephrine or opiate antagonist by pharmacist.

(a) A pharmacist licensed under this act may prescribe an opiate antagonist in accordance with the Emergency Administration of Medical Treatment Act.

(b) The board, in cooperation with the Wyoming state board of medicine, shall adopt rules specifying the requirements a pharmacist shall meet in order to prescribe epinephrine or an opiate antagonist.

ARTICLE 2 - WYOMING DRUG IDENTIFICATION ACT

33-24-201. Short Title.

This article shall be known and may be cited as the "Wyoming Drug Identification Act".

33-24-202. Definitions.

(a) As used in this article:

(i) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer or distributor of the drug, or both;

(ii) "Dangerous substance" means any drug defined under W.S. 33-24-125;

(iii) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label even though he is not the actual manufacturer of the drug;

(iv) "Solid dosage form" means capsules or tablets intended for oral use;

(v) Repealed by Laws 2019, ch. 186, § 2.

33-24-203. Code imprint required for the manufacture and distribution of dangerous substances; listing of substances with board of pharmacy; exceptions; exemptions.

(a) No dangerous substance in solid dosage form shall be manufactured or distributed in this state unless it is clearly marked or imprinted with a code imprint identifying the drug and the manufacturer or distributor of the drug.

(b) All manufacturers and distributors of dangerous substances in solid dosage form shall provide upon request to the Wyoming board of pharmacy a listing of all dangerous substances identifying by code imprint the manufacturer and the specific type of drug. The listing shall at all times be kept current by all manufacturers and distributors subject to this article.

(c) This article shall not apply to nonnarcotic, nonprescription, prepackaged medicinal preparations contained in distinctive and original unbroken containers, when the medicinal preparations are identified by and sold under a trade name of the manufacturer or primary distributor and are sold or offered for sale to the general public, if the articles meet the requirements of state and federal food, drug and cosmetic laws.

(d) The Wyoming board of pharmacy may grant exemptions from the requirements of this article upon application by any

drug manufacturer or distributor showing size, physical characteristics or other unique characteristics which render the application of a code imprint to a drug subject to this article impractical or impossible. Any exemption granted by the board shall be included by the manufacturer or distributor in the listing required by subsection (b) of this section, describing the physical characteristics and type of drug to which the exemption applies.

33-24-204. Violations; seizure by the board of pharmacy.

All dangerous substances in solid dosage form that are possessed, distributed, sold or offered for sale in violation of the provisions of this article are deemed contraband and shall be seized by the Wyoming board of pharmacy and summarily forfeited to the state.

ARTICLE 3 - PHARMACY TECHNICIANS

33-24-301. Pharmacy technicians; licensing; definitions; revocation or suspension of license; letter of admonition; information required for background checks.

(a) This section shall be known as the "Wyoming Pharmacy Technician Act."

(b) As used in this section:

(i) Repealed by Laws 2022, ch. 7, § 2.

(ii) "Pharmacy functions" means those functions performed in a pharmacy department which do not require the professional judgment of a licensed pharmacist;

(iii) "Pharmacy technician" means an individual other than an intern, who performs pharmacy functions under the supervision of a licensed pharmacist.

(c) A pharmacy technician shall not perform pharmacy functions unless under the supervision of a licensed pharmacist.

(d) A licensed pharmacist shall be jointly responsible and liable for the actions of a pharmacy technician when supervision is required.

(e) A pharmacy technician shall register and pay a fee to be licensed by the board before performing any pharmacy

functions. The applicant shall provide relevant information pertaining to criminal, substance abuse, professional liability and licensure or certification history. A pharmacy technician license shall be renewed annually upon payment of the required renewal fee and upon providing information required.

(f) The board may issue a letter of admonition or suspend or revoke a pharmacy technician's license or the board may assess an administrative penalty against that person not to exceed one thousand dollars ($1,000.00) for each violation for any:

(i) Willful violation of any provision of this chapter or the Wyoming Controlled Substances Act of 1971, or any amendments thereto;

(ii) Willful violation of any rule or regulation promulgated in accordance with this chapter or the Wyoming Controlled Substances Act of 1971;

(iii) Action which threatens the public health, safety or welfare;

(iv) Conviction of a felony or misdemeanor that relates to the practice of pharmacy or to the ability to practice as a pharmacy technician; or

(v) Knowing submission of false or misleading information to the board in the application for a license or renewal of a license.

(g) The board shall promulgate reasonable rules and regulations necessary to carry out the purposes of this section including, but not limited to:

(i) Qualifications, education and training required of pharmacy technicians;

(ii) Functions and services which may be performed by pharmacy technicians; and

(iii) Requirements for supervision by licensed pharmacists.

(h) An applicant for a pharmacy technician license or a pharmacy technician-in-training permit shall provide the board with fingerprints, fees and other information necessary for a

criminal history record background check as authorized by W.S. 7-19-201. The board may delay issuance of a license or permit pending the receipt of the information from the applicant's background check.

CHAPTER 25 - PHYSICAL THERAPISTS

33-25-101. Definitions.

(a) As used in this act:

(i) "Physical therapy" or "physiotherapy" means the care and services provided by or under the direction and supervision of a physical therapist or physiotherapist who is licensed pursuant to this act. The practice of physical therapy includes:

(A) Examining, evaluating and testing persons with mechanical, physiological or developmental impairments, functional limitations, disabilities or other health or movement related conditions to determine a physical therapy diagnosis, prognosis or plan of treatment and assessing the ongoing effects of intervention;

(B) Alleviating impairments, functional limitations or disabilities by designing, implementing or modifying treatment interventions that may include but are not limited to:

(I) Therapeutic exercise;

(II) Functional activities in the home;

(III) Community or work integration or reintegration;

(IV) Manual therapy, which includes mobilization and grades I through IV manipulation of joints and soft tissue but does not include grade V manipulations without completion of advanced training requirements as determined by the board;

(V) Therapeutic massage;

(VI) Prescription, application or fabrication of appropriate assistive, adaptive, protective or supportive devices or equipment;

(VII) Airway clearance techniques;

(VIII) Integumentary protection or repair techniques;

(IX) Wound care;

(X) Application of physical agents or modalities;

(XI) Mechanical modalities;

(XII) Patient related instruction.

(C) Reducing the risk of injury, impairment, functional limitation or disability, including the promotion and maintenance of fitness, health and wellness.

(ii) "Physical therapist" or "physiotherapist" means a person who is licensed to practice physical therapy pursuant to this act;

(iii) "Board" means the Wyoming board of physical therapy as established under the provisions of this act;

(iv) "Applicant" means any individual who submits a completed application to the board for issuance of a physical therapist license or a physical therapist assistant certificate;

(v) "Physical therapist assistant" means an individual who is certified pursuant to this act and who assists a licensed physical therapist in lawfully delegated components of physical therapy subject to the provisions of this act and rules and regulations of the board;

(vi) "Physical therapy services" means the care and services provided by a licensed physical therapist or a certified physical therapist assistant pursuant to this act;

(vii) "Consultation using telecommunication" means the provision of professional or expert opinion or advice to a physical therapist or other health care provider using telecommunication or computer technology from a distant location. It includes the review or transfer of patient records

or related information using audio, video or data communications;

(viii) "Jurisdiction" means the states, districts, territories or possessions of the United States;

(ix) "On site supervision" means the supervising physical therapist or physical therapist assistant is continuously present in the facility where the supervised services are provided, is immediately available to the person being supervised and maintains continued involvement in each treatment session;

(x) "Physical therapy aide" means a person trained under the direction of a licensed physical therapist who performs designated and supervised components of care related to physical therapy;

(xi) "Physical therapy diagnosis" means a systematic examination process that culminates in assigning a diagnostic label identifying the primary dysfunction towards which physical therapy treatment will be directed, but shall not include a medical diagnosis or a diagnosis of disease;

(xii) "This act" means W.S. 33-25-101 through 33-25-116.

33-25-102. Practice of physical therapy; license or certificate required; exceptions; false representations.

(a) No individual shall engage in the practice of physical therapy services nor hold himself out as being able to practice physical therapy in the state of Wyoming unless he is licensed or certified in accordance with the provisions of this act and such license or certificate is in good standing and has not been suspended or revoked, except nothing in this act shall:

(i) Prohibit any individual licensed in Wyoming under any other act from engaging in the practice for which he is licensed;

(ii) Prohibit students who are enrolled in educational courses of physical therapy at schools recognized by the board from performing acts of physical therapy incidental to their respective courses of study while under the direct supervision of a licensed physical therapist who is in compliance with subsection (c) of this section;

(iii) Apply to any individual employed by an agency, bureau or division of the federal government while in the discharge of official duties;

(iv) Repealed By Laws 2009, Ch. 165, § 2.

(b) No individual or business entity shall use in connection with his name or business, the words physical therapy, physical therapist, physiotherapy, physiotherapist, registered physical therapist, licensed physical therapist, doctor of physical therapy or the letters P.T., L.P.T., R.P.T., D.P.T., M.P.T., M.S.P.T. or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied in any manner unless the person is a physical therapist licensed to practice in accordance with this act. No individual or business entity shall use the title physical therapist assistant, the letters P.T.A. or any other words, abbreviations or insignia in connection with his name to indicate or imply that the person is a physical therapist assistant unless the person is certified as a physical therapist assistant in accordance with this act.

(c) A physical therapist may initiate physical therapy with or without a prescription from a licensed physician or other health care provider, except that a physical therapist shall refer a patient or client to another health care provider to diagnose or care for the patient or client if the physical therapist reasonably believes that symptoms or conditions may be present that require health care services beyond the scope of physical therapy practice, or physical therapy is contraindicated.

(i) Repealed by Laws 2019, ch. 12, § 2.

(ii) Repealed by Laws 2019, ch. 12, § 2.

(iii) Repealed by Laws 2019, ch. 12, § 2.

(d) Physical therapy aides may perform patient care activities as defined by the board under the on-site supervision of a licensed physical therapist or a certified physical therapist assistant.

(e) Prior to any physical therapy service, the patient or client shall be directed to posted information and delivered a handout explaining:

(i) The education level and degrees held by the treating physical therapist;

(ii) That coverage may not be available through governmental or worker's compensation programs unless prescribed by a physician, physician's assistant, dentist, chiropractor, podiatrist or nurse practitioner; and

(iii) That the patient's or client's insurance may not cover the service.

(f) The following persons are exempt from the licensure and certification requirements of this act:

(i) A person in a professional education program approved by the board who is satisfying supervised clinical education requirements related to the person's physical therapist education while under on-site supervision of a licensed physical therapist;

(ii) A physical therapist who is practicing exclusively through the United States armed services, public health service or veterans administration;

(iii) A physical therapist licensed to practice physical therapy in another jurisdiction while teaching, demonstrating, providing physical therapy in connection with teaching or participating in an educational seminar in Wyoming. An exemption under this paragraph shall not exceed sixty (60) days cumulatively in a calendar year;

(iv) A physical therapist licensed in another jurisdiction who provides consultation using telecommunication;

(v) A physical therapist licensed in another jurisdiction or credentialed in another country who provides therapy to individuals affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in the state. An exemption under this paragraph shall not exceed sixty (60) days cumulatively in a calendar year;

(vi) A physical therapist licensed in another jurisdiction who enters this state to provide physical therapy during a public health emergency as declared by the governor pursuant to W.S. 35-4-115(a)(i). Any physical therapist

practicing pursuant to this paragraph shall notify the board of the therapist's intent to practice and supply additional information as provided by rules of the board;

(vii) A physical therapist licensed in another jurisdiction who is forced to leave his residence or place of employment due to a declared local, state or national disaster or emergency and who seeks to practice physical therapy in Wyoming. An exemption under this paragraph shall be limited to sixty (60) days following the declaration of disaster or emergency. Any physical therapist practicing pursuant to this paragraph shall notify the board of the therapist's intent to practice and supply additional information as provided by rules of the board.

33-25-103. Board of physical therapy; established; members; terms; removal; compensation.

(a) There is established the Wyoming board of physical therapy which shall consist of three (3) physical therapists licensed pursuant to this act, one (1) public representative and one (1) medical doctor, appointed as follows:

(i) The physical therapist members shall be appointed by the governor. All shall be residents of Wyoming, possess unrestricted licenses to practice physical therapy in this state and have been practicing in this state for not less than three (3) years before appointment;

(ii) A medical doctor shall be appointed to the board by the governor. The medical doctor shall be a practicing physician who has practiced in Wyoming for a period of at least five (5) years immediately preceding the appointment;

(iii) The public member shall be appointed by the governor, shall be a resident of Wyoming and shall have resided in the state for not less than three (3) years.

(b) Terms of office for board members shall be for four (4) years, except that the expiring term of a member shall continue until a successor member has been appointed. Board members shall serve no more than two (2) consecutive terms. The governor may remove any member as provided in W.S. 9-1-202.

(c) Members of the board shall each receive from the physical therapy account compensation at the salary rate provided in W.S. 28-5-101(d) for each day actually spent in the

performance of their board duties along with per diem and mileage as provided in W.S. 33-1-302(a)(vii). Board members shall serve without compensation where there are insufficient monies in the account to pay the compensation.

(d) Vacancies on the board shall be filled in a like manner as are the original appointments, to complete the unexpired term left vacant.

(e) The members shall annually select a president and secretary who shall each serve a one (1) year term of office from the date of election.

(f) The board shall meet at least twice annually and at such other times as the board deems necessary. Action by the board shall be by majority vote. Three (3) members constitute a quorum.

33-25-104. Board of physical therapy; powers and duties generally.

(a) The board shall have the following powers and duties:

(i) Evaluate the qualifications of applicants for licensure and certification, conduct examinations for applicants, issue license or registration certificates to those who meet the requirements established by the board;

(ii) Revoke, suspend, restrict, condition, reprimand, refuse to renew or refuse to issue the license of any physical therapist or the certificate of any physical therapy assistant or applicant pursuant to W.S. 33-25-111;

(iii) Maintain current records listing the name of every licensed physical therapist and certified physical therapist assistant in this state, his business and home address, the date and number of his license or certification and, if known, his area or expertise, professional interest or credentials;

(A) Repealed By Laws 2009, Ch. 134, § 3.

(iv) Adopt rules and regulations to implement this act;

(v) Within the limitations provided in W.S. 33-25-113(a), set and from time to time revise fees as necessary to recover the expenses of administering this act;

(vi) Establish procedures for assessing the continuing professional competence of physical therapists and physical therapist assistants, including continuing education requirements that ensure that licensees' knowledge and abilities reflect current practices and technology;

(vii) Conduct investigations, hearings and proceedings concerning alleged violations of this act and board rules and regulations;

(viii) Inspect or duplicate patient medical records which relate to any alleged acts of misconduct, documented in the form of a formal complaint filed with the board, against any license or certificate holder and as authorized by the Health Insurance Portability and Accountability Act for regulatory bodies;

(ix) Report final disciplinary action taken against a license or certificate holder to the extent authorized or required by other state and federal laws.

33-25-105. License and certification requirements; foreign trained applicants.

(a) Application for licensure as a physical therapist shall be made on forms prescribed by the board, presenting to the satisfaction of the board the following:

(i) Evidence through the application or otherwise, as the board deems desirable with due regard to the paramount interests of the public, as to the honesty, truthfulness, integrity and competency of the applicant;

(ii) Evidence of graduation from an accredited program of physical therapy or physical therapy assistant education as set forth in rules and regulations;

(iii) A personal interview if requested by the board;

(iv) If not exempted under W.S. 33-25-108, receipt of a passing score on a physical therapy examination as set forth in board rules and regulations.

(b) A physical therapist applicant whose application is based on a diploma issued to him by a physical therapy school outside the United States shall:

(i) Complete the application forms and pay the application fee prescribed by rules of the board;

(ii) Furnish evidence satisfactory to the board of the completion of a physical therapy school resident course of professional instruction substantially equivalent to that required in paragraph (a)(ii) of this section. A professional education program accredited by the same accrediting agency approved by the board for programs within the United States shall be deemed substantially equivalent. In all other instances, "substantially equivalent" means a program that:

(A) Prepares the applicant to engage in the practice of physical therapy without restriction;

(B) Is recognized by the ministry of education of the country in which it is located.

(iii) Undergo a credentials evaluation directed by the board which determines the applicant has met the uniform criteria for educational requirements prescribed by board rules;

(iv) Complete any additional education required by the board;

(v) Pass a board approved English proficiency examination if the applicant's native language is not English;

(vi) If not exempted under W.S. 33-25-108, receive a passing score on an examination approved by the board and prescribed by board rules;

(vii) Attend a personal interview if requested by the board.

(c) An applicant for certification as a physical therapist assistant shall:

(i) Complete the application process including payment of fees;

(ii) Submit proof of graduation from a physical therapist assistant education program accredited by a national accreditation agency approved by the board;

(iii) If not exempted under W.S. 33-25-108, receive a passing score on an examination approved by the board and prescribed by board rules;

(iv) Meet with the board or a subcommittee of the board if requested.

33-25-106. Examinations.

(a) All applicants shall be required to pass an examination prior to their being licensed or certified as provided in this article unless otherwise exempted from examination pursuant to W.S. 33-25-108. The examinations shall be approved by the board.

(b) Repealed By Laws 2009, Ch. 134, § 3.

(c) Repealed By Laws 2009, Ch. 134, § 3.

(d) Repealed By Laws 2009, Ch. 134, § 3.

(e) The physical therapist examination shall be a national examination which tests entry level competence related to physical therapy theory, examination and evaluation, diagnosis, prognosis, treatment intervention, prevention and consultation.

(f) The physical therapy assistant examination shall test for requisite knowledge and skills in the technical application of physical therapy.

(g) If the board determines that an applicant has engaged in or attempted to engage in conduct that subverts or undermines the integrity of the examination process, the board may disqualify the applicant from taking or retaking the examination for a specified period of time.

33-25-107. License; certificate of registration.

(a) The board shall issue a license or certificate to each applicant who meets the requirements for licensure or certification without examination or who passes the examination and meets the standards established herein for licensure or certification.

(b) Each individual licensed as a physical therapist in this state is authorized to use the letters "P.T." after his name, and may represent himself to the public as a licensed physical therapist.

(c) Each individual certified as a physical therapist assistant shall be entitled to use the letters "P.T.A." after his name, and may represent himself to the public as a certified physical therapist assistant.

33-25-108. Licensure or certification by endorsement.

(a) The board shall license as a physical therapist or certify as a physical therapist assistant without examination an applicant who:

(i) Submits a complete application for licensure or certification by endorsement including payment of all applicable fees;

(ii) Provides verification that the applicant is licensed or registered without restriction as a physical therapist or licensed, registered or certified without restriction as a physical therapist assistant by another jurisdiction;

(iii) Demonstrates that the requirements for license, registration or certification in the other jurisdiction were, at the date of licensure or registration, substantially equal to the requirements for licensing or certification in this act;

(iv) Has not had any professional discipline and is not subject to any investigation or pending disciplinary action in any other jurisdiction;

(v) Meets with the board or a subcommittee of the board if requested.

33-25-109. Repealed By Laws 2009, Ch. 134, § 3.

33-25-110. License or certificate expiration and reissuance.

(a) All permanent licenses and certificates issued pursuant to this act shall expire on October 1 of the year next succeeding their issuance.

(b) A license or certificate may be renewed by submitting a timely, sufficient and complete application, payment of the required fee and verification of continuing competence.

(c) A license or certificate which has expired may be reissued upon submission by the applicant of a completed application, payment of fees, demonstration that the applicant meets all current requirements for licensure or certification under this act and verification of continuing competence.

33-25-111. Discipline; denial or suspension of license or certificate; grounds.

(a) The board may revoke, suspend, restrict, condition, reprimand, refuse to issue or refuse to renew the license or certification of any individual who:

(i) Practices physical therapy or acts as a physical therapist assistant in violation of the provisions of this act;

(ii) Has practiced or attempts to practice fraud or deceit in:

(A) Procuring or attempting to procure a license or certificate;

(B) Filing or reporting any health care information, including but not limited to client documentation, agency records or other essential health documents;

(C) Signing any report or record as a physical therapist or physical therapist assistant;

(D) Representing authority to practice physical therapy;

(E) Submitting any information or record to the board.

(iii) Commits negligence or incompetence in the practice of physical therapy or engages in any act inconsistent with uniform and reasonable standards of physical therapy practice as defined by board rules and regulations, whether with or without injury to a patient;

(iv) Has been convicted of a felony or a misdemeanor that relates adversely to the practice of physical therapy or the ability to practice physical therapy, in the courts of this state, another jurisdiction or another country. As used in this paragraph, conviction includes a finding or verdict of guilt, an admission of guilt, a plea of nolo contendere or a plea agreement where the defendant has pled guilty yet not admitted to all the facts that comprise the crime;

(v) Unlawfully uses or possesses controlled substances, or excessively indulges in the use of alcoholic beverages;

(vi) Has treated or has undertaken to treat human ailments otherwise than by physical therapy as defined in this act;

(vii) Has had his license to practice physical therapy or certification to act as a physical therapist assistant refused, revoked or suspended or has had other disciplinary action taken in another jurisdiction or country;

(viii) Has negligently failed to refer a patient whose condition is beyond the training or ability of the physical therapist to another professional qualified to diagnose or care for the condition;

(ix) Has engaged in any conduct or practice contrary to recognized standards of ethics of the physical therapy profession where the conduct or practice might constitute a danger to the health, safety or welfare of the patient or the public;

(x) Engages directly or indirectly in the division, transferring, assigning, rebating, or refunding of fees received for professional services or profits by means of a credit or other valuable consideration as an unearned commission, discount or gratuity with any person who has referred a patient, or with any relative or business associate of the referring person. Nothing in this paragraph shall be construed as prohibiting the members of any regularly and properly organized business entity comprised of or including physical therapists from making any division of their total fees among themselves as they determine by contract necessary;

(xi) Has been judged mentally incompetent by a court of competent jurisdiction;

(xii) Fails to refer a patient or client or post information as required by W.S. 33-25-102(c) and (e);

(xiii) Has knowingly engaged in an act which the license or certificate holder knew was beyond the scope of the individual's license or certificate or performed acts without sufficient education, knowledge or ability to competently apply physical therapy principles and skills;

(xiv) Is unfit or incompetent to practice physical therapy by reason of negligence, habits or other causes including but not limited to inability to exercise reasonable skill and care for patients by reasons of physical disability, mental disability or the use of drugs, narcotics, alcohol, chemicals or other substance that affects mental faculties;

(xv) Knowingly fails to report to the board any violation of this act or rules and regulations of the board;

(xvi) Violates any provisions of this act, rules and regulations of the board or lawfully issued disciplinary order of the board;

(xvii) Has engaged or attempted to engage in conduct that subverts or undermines the integrity of the examination or the examination process including but not limited to utilizing recalled or memorized examination questions, failing to comply with all test center security procedures, communicating with other examinees during the examination or copying or sharing examination questions or portions of questions;

(xviii) Has failed to maintain adequate patient records that include identification of the patient, evaluation of objective findings, a diagnosis, a plan of care, a treatment record and a discharge plan;

(xix) Has failed to properly supervise physical therapist assistants or physical therapy aides;

(xx) Repealed by Laws 2018, ch. 80, § 3.

(xxi) Has interfered with an investigation or disciplinary proceeding by:

(A) Failing to provide the board with requested information or documents, including patient medical records;

(B) Misrepresentation of material facts;

(C) Threatening, harassing or intimidating any patient, witness or board member during the course of an investigation.

(xxii) Has failed to maintain patient confidentiality, including confidentiality of records relating to consultation by telecommunication, without documented patient authorization or as otherwise required by law.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-25-112. Hearing and appeal procedures.

(a) All disciplinary actions, denials of applications and hearings shall be conducted in accordance with the provisions of the Wyoming Administrative Procedure Act.

(b) Except as provided by W.S. 33-25-111(b), all board decisions concerning revocation or suspension of a license or registration shall require an affirmative vote of three (3) board members.

(c) In any appeal procedure the board shall be represented by an attorney from the staff of the attorney general.

33-25-113. Fees.

(a) The board, pursuant to W.S. 33-1-201, shall establish fees for examination, licensure or certification, licensure or certification by endorsement, renewal and reissuance.

(b) All money shall be received and collected as provided by law. The state treasurer shall credit the money to a separate account which is subject at all times to the warrant of the state auditor, drawn upon written requisition of the president, and attested by the secretary of the board of physical therapy,

with seal attached, for the payment of any expenses made by the board.

(c) Repealed by Laws 1985, ch. 216, § 3.

33-25-114. Penalties.

Each violation of any provision of this act is a misdemeanor and is punishable by fine of not more than seven hundred fifty dollars ($750.00) or by imprisonment for not more than six (6) months, or both.

33-25-115. Actions against board members; defense.

(a) Members, agents and employees of the board and any person reporting information to the board under oath shall be immune from personal liability with respect to acts done and actions taken in good faith without fraud or malice.

(b) The immunity provided by this section shall extend to the members of any professional review committee, investigators and witnesses appearing before the board.

(c) The state shall defend and hold harmless any member of the board from any action at law resulting from any action taken in good faith in the course of his official duties.

33-25-116. Injunctive relief; grounds.

(a) The board may petition in its own name for an injunction to an appropriate court to enjoin:

(i) Any person violating W.S. 33-25-102(a), unless specifically exempt from licensure or certification pursuant to W.S. 33-25-102(f);

(ii) Any license or certificate holder who is in violation of this act from practicing physical therapy;

(iii) Any person, firm, corporation, institution, association, business or other entity from employing any individual to practice physical therapy who is not licensed or certified as required by this act.

CHAPTER 26 - PHYSICIANS AND SURGEONS

ARTICLE 1 - GENERAL PROVISIONS

33-26-101. Short title.

This chapter is known and may be cited as the "Medical Practice Act".

33-26-102. Definitions.

(a) As used in this chapter:

(i) Repealed by Laws 1991, ch. 143, § 2.

(ii) "A.O.A." means the American Osteopathic Association;

(iii) "Board" means the Wyoming state board of medicine;

(iv) "Errant conduct" means conduct by a licensee which may constitute grounds for discipline as set forth in this act;

(v) "Repealed by Laws 1991, ch. 143, § 2.

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

(vii) "Impaired" means a person who is unable to practice medicine with reasonable skill and safety to patients by reason of one (1) or more of the following:

(A) Medical incompetence;

(B) Mental illness;

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

(D) Chemical or alcohol impairment, addiction, dependence or abuse.

(viii) "Lapsed" means the status of a license when the licensee fails to renew the license by July 1 of any year or

when the holder of a temporary license fails to appear for an interview at the next board meeting following the date of issuance or fails to submit a written request for extension of a temporary license or when a written request for extension is not approved by the board;

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

(x) "Licensee" means any person licensed by the board under this chapter;

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

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

(B) Offers or undertakes to prevent, diagnose, correct or treat, in any manner, by any means, method or device, any human disease, illness, pain, wound, fracture, infirmity, defect or abnormal physical or mental condition, injury, deformity or ailment, including the management of pregnancy and parturition; or

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

(D) Practices osteopathy; or

(E) Offers or undertakes to prescribe, order, give or administer drugs which can only be obtained by prescription according to law; or

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

(xii) "Reactivation" after a license has lapsed means the completion of all requirements set forth in W.S. 33-26-305(c);

(xiii) Repealed by Laws 2018, ch. 80, § 3.

(xiv) "USMLE" means the United States medical licensing examination;

(xv) "L.C.M.E." means the liaison committee on medical education;

(xvi) "A.C.G.M.E." means accreditation council for graduate medical education;

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

(A) Repealed By Laws 2003, Ch. 190, § 3.

(B) Studied at a medical school outside of the United States, Puerto Rico or Canada;

(C) Completed all of the formal requirements of the foreign medical school, except internship or social service;

(D) Attained a score satisfactory to the sponsoring medical school on a screening examination; and

(E) Passed the foreign medical graduate examination in the medical sciences, parts I and II of the examination of the national board of medical examiners, or steps 1 and 2 of the USMLE.

(xviii) "FLEX examination" means the federation of state medical boards licensing examination;

(xix) "R.C.P.S.C." means the royal college of physicians and surgeons of Canada;

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

(xxi) "This act" means the Medical Practice Act;

(xxii) "Board counsel" means an attorney designated by the board to provide legal counsel to the board and its staff in the conduct of the board's business;

(xxiii) "Board prosecutor" means an attorney designated by the board to prosecute, and to provide legal counsel to interviewers and petitioners in, disciplinary cases pending before the board pursuant to this act and the Wyoming Administrative Procedure Act;

(xxiv) "COMLEX" means the comprehensive osteopathic medical licensing examination, administered by the national board of osteopathic medical examiners;

(xxv) "Condition" means a specific requirement or prohibition imposed by any medical licensing board of any jurisdiction, or by any health care facility on an applicant's or licensee's clinical privileges at that facility, that shall be fulfilled by an applicant or licensee in order to obtain or continue to hold a license in that jurisdiction, or clinical privileges at that facility;

(xxvi) "E.C.F.M.G." means the educational commission for foreign medical graduates;

(xxvii) "Restriction" means a limitation placed by any medical licensing board of any jurisdiction on an applicant's or licensee's scope of practice in that jurisdiction, or by any health care facility on an applicant's or licensee's clinical privileges at that facility;

(xxviii) "SPEX examination" means the federation of state medical boards special purpose post-licensure competency examination;

(xxix) "Telemedicine" means the practice of medicine by electronic communication or other means from a physician in a location to a patient in another location, with or without an intervening health care provider.

33-26-103. Applicability of chapter.

(a) This chapter does not apply to:

(i) Persons rendering medical assistance without compensation at the scene of an emergency;

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

(iii) Commissioned medical officers of the United States armed services and medical officers of the United States public health service or the United States department of veterans affairs in the discharge of their official duties or within federally controlled facilities or enclaves, provided that the persons who are licensees of the board shall be subject to the provisions of this act and further provided that all such persons shall be the holder of a full and unrestricted license to practice medicine in one (1) or more jurisdictions of the United States;

(iv) Any individual residing in and licensed in good standing to practice medicine in another state or country brought into this state for consultation by a physician licensed to practice medicine in this state, provided the physician licensed in this state notifies the board of the consultation in compliance with regulations adopted by the board;

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

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

(vii) The gratuitous domestic administration of family remedies;

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

(ix) Repealed By Laws 2003, Ch. 190, § 3.

(x) Any person who does not represent himself to be a licensed health care professional who offers health care advice or nonprescription medicine to another person in a social or educational situation in any manner otherwise lawful.

ARTICLE 2 - WYOMING STATE BOARD OF MEDICINE

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

(a) The Wyoming state board of medicine shall consist of five (5) physicians licensed to practice medicine in Wyoming, not less than one (1) of whom shall possess the degree of doctor of osteopathy and not less than two (2) of whom shall possess the degree of doctor of medicine, one (1) physician assistant and two (2) lay members, appointed by the governor by and with the consent of the senate as required by W.S. 28-12-101 through 28-12-103. Board members appointed by the governor shall serve at the pleasure of the governor. The board members shall annually elect a president, a vice-president, and a secretary.

(b) Board members shall serve four (4) year terms. No board member shall serve more than three (3) consecutive terms.

(c) Physician and physician assistant members shall reside in, hold a full and unrestricted license and actively practice in this state. Lay members shall reside in this state.

(d) The governor shall appoint a new board member if a vacancy occurs. A person appointed to fill a vacancy shall serve for the unexpired portion of the vacated term. A vacancy occurs if a member:

(i) Is absent from three (3) consecutive meetings;

(ii) No longer holds a full and unrestricted license to practice in this state or no longer engages in active practice in this state;

(iii) Resigns; or

(iv) Is removed by the governor.

(e) A quorum of the board consists of five (5) board members, including a lay member, unless otherwise specified in subsection (f) of this section.

(f) If the board president determines that due to conflicts of interest or other circumstances it may not be possible to seat a quorum of board members to hear a disciplinary case brought pursuant to this act, the president may submit a written request to the governor for the appointment

of one (1) or more acting board members to hear the disciplinary case in question. Upon receipt of the request, the governor shall appoint the requested number of temporary board members for the sole purpose of hearing the disciplinary case in question. Only persons who previously served as members of the board shall be eligible for temporary appointment to hear disciplinary cases before the board. Appointments made under this subsection shall not require the consent of the senate pursuant to W.S. 28-12-101 through 28-12-103. Persons appointed pursuant to this subsection shall be compensated and have their expenses reimbursed in the same manner as regular board members under W.S. 33-26-203(c). The appointment of a person under this subsection shall automatically terminate upon the entering of a final order in the disciplinary case for which he was appointed.

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

(a) The board shall pass upon the qualifications and determine the fitness of all persons desiring to practice medicine in this state.

(b) The board is empowered and directed to:

(i) Grant, refuse to grant, suspend, restrict, revoke, reinstate or renew licenses to practice medicine;

(ii) Investigate allegations and take disciplinary action on the following grounds:

(A) A licensee is impaired or has engaged in errant conduct;

(B) A person has violated an applicable provision of this chapter or the board's regulations.

(iii) Conduct informal interviews and contested case proceedings;

(iv) Adopt a seal;

(v) Adopt, amend, repeal, enforce and promulgate reasonable rules and regulations necessary to implement the provisions of this chapter;

(vi) Develop standards governing the delegation of a licensee's medical responsibilities to nonphysicians;

(vii) Publish annually and submit to the governor a report which includes the following information:

(A) A summary of the kind and number of action taken by the board including dates, types and origin of oral or written complaints received and case summaries of physicians whose licenses have been suspended or revoked and any other disciplinary actions;

(B) Board fiscal transactions for the preceding year, the amount of its accumulated cash and securities and a balance sheet showing its financial condition by means of an actuarial valuation of board assets and liabilities.

(viii) Publicize information regarding the filing of complaints;

(ix) Comply with all applicable federal law;

(x) Verify the status of licenses and privileges held by licensees and applicants for licensure with the federation of state medical boards, medical licensing boards in other jurisdictions and federal data banks, and to provide verification of the status of licenses held in this state by licensees to the entities specified in this paragraph;

(xi) Annually review any licensee whose license is restricted or is issued subject to any condition;

(xii) Participate in and contract with a program or programs to assist in the return to practice of licensees who have exhibited disruptive behaviors, substance dependence or abuse or are suffering from physical or mental impairment;

(xiii) Take all reasonable action, including the promulgation of rules and regulations, necessary to enforce this chapter;

(xiv) Adopt, amend, repeal, enforce and promulgate reasonable rules and regulations necessary to implement and administer continuing medical education requirements of its licensees. The board shall require licensees who are registered with the board of pharmacy to dispense a controlled substance in this state to complete one (1) hour of continuing education related to the responsible prescribing of controlled substances or the treatment of substance abuse disorders every two (2) years.

(xv) Publish nonbinding advisory opinions or other guidance on the application and interpretation of this act and the rules and regulations promulgated pursuant to this act;

(xvi) Request criminal history background information for purposes of licensure and discipline, as authorized under W.S. 7-19-106(a);

(xvii) Use, retain or employ investigators, the offices of the attorney general, the state division of criminal investigation, any other investigatory or fact finding agency and medical specialty consultants, as necessary, to investigate and evaluate complaints against licensees and possible violations of this act and the board's rules;

(xviii) Adopt rules and regulations for the practice of medicine in Wyoming by physicians and physician assistants not otherwise licensed in Wyoming in the event of a public health emergency or pandemic;

(xix) Adopt rules and regulations for the practice of telemedicine;

(xx) Operate and publish a public registry of qualified physicians registered to perform stem cell therapy pursuant to the Stem Cell Freedom Act.

33-26-203. Board; employment and salary of executive director; and other employees; compensation of members.

(a) The board may employ or contract with an executive director, board counsel, board prosecutor and other necessary staff. The executive director shall not be a board member.

(b) The executive director's compensation and terms of employment shall, and board counsel's and the board prosecutor's compensation may, be set by the board. The compensation of other staff shall be set by the human resources division of the department of administration and information.

(c) Board members shall receive salary in the same manner and amount as members of the Wyoming legislature and shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii), incurred in the performance of their official duties. Any incidental expenses necessarily incurred by the

board or any member, if approved by the board, shall be paid from the account from fees collected pursuant to this chapter.

ARTICLE 3 - LICENSING

33-26-301. License required.

(a) No person shall practice medicine in this state without a license granted by the board, or as otherwise provided by law.

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

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

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

(iii) A restricted or conditional license;

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

(v) A medical training license pursuant to W.S. 33-26-304(c);

(vi) An emeritus license, allowing retired physicians to provide health care without remuneration, provided the qualifications for and the conditions of this license shall be established by rule;

(vii) A volunteer license, allowing physicians not otherwise licensed in Wyoming to practice medicine in the state without remuneration, provided the qualifications for and conditions of this license shall be established by rule;

(viii) An administrative medicine license for physicians not providing patient care, provided the qualifications for and the conditions of this license shall be established by rule.

33-26-302. USMLE examination.

(a) The board shall adopt regulations for the qualification for and administration of the USMLE.

(b) Repealed By Laws 2003, Ch. 190, § 3.

(c) Repealed By Laws 2003, Ch. 190, § 3.

(d) Repealed By Laws 2003, Ch. 190, § 3.

(e) Repealed By Laws 2003, Ch. 190, § 3.

(f) Repealed By Laws 2003, Ch. 190, § 3.

33-26-303. Requirements for granting license.

(a) The board may grant a license to practice medicine in this state as provided in the Interstate Medical Licensure Compact or, under this article, to any applicant who demonstrates, to the board, that he:

(i) Repealed By Laws 2003, Ch. 190, § 3.

(ii) Has graduated from a school of medicine accredited by the L.C.M.E., a school of osteopathy accredited by the A.O.A., a Canadian accredited school of medicine or has been certified by the E.C.F.M.G.;

(iii) Repealed By Laws 2003, Ch. 190, § 3.

(iv) Has provided written evidence that he has completed at least one (1) year of postgraduate training in an A.C.G.M.E, A.O.A. or R.C.P.S.C. accredited program;

(v) Has presented other credentials and qualifications equivalent to or exceeding the criteria in paragraph (iv) of this subsection as may be considered by the board to demonstrate competency to practice medicine in this state;

(vi) Has successfully completed all three (3) parts of the USMLE, national boards, the FLEX, a board approved, state constructed licensing examination, the examination by the licentiate of the medical council of Canada or the COMLEX, provided the conditions and requirements for completion of all parts of the examinations shall be established by board rule;

(vii) Has completed an application form provided or approved by the board;

(viii) Has paid the appropriate fees pursuant to W.S. 33-26-307;

(ix) Has completed to the satisfaction of a majority of board members, if required pursuant to board rule, a personal interview consisting of inquiry and oral response to medical knowledge, personal and professional history and intentions for practicing medicine in this state; and

(x) Repealed By Laws 2009, Ch. 201, § 2.

(xi) Meets any additional requirements that the board may impose by regulation which are necessary to implement this act.

(b) A person who has pled guilty to or has been convicted of a felony or any crime that is a felony under Wyoming law in any state or federal court or in any court of similar jurisdiction in another country may apply for licensure provided, the board may deny licensure based upon the plea or conviction alone.

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

(d) A person whose clinical privileges at a health care facility have been revoked, suspended, restricted, had conditions placed upon them or been voluntarily or involuntarily resigned, or against whom a clinical privilege action is pending at a health care facility, may apply for licensure provided, however, the board may deny licensure based upon the revocation, suspension, restrictions, conditions, resignation of privileges or pending clinical privilege action alone.

33-26-304. Temporary license to practice medicine; medical training license; application; qualifications.

(a) The board may issue a temporary license for a term that expires at 8:00 a.m. on the first day of the next regularly scheduled board meeting to a person who:

(i) Completes an application as approved by the board for temporary licensure;

(ii) Meets all licensing requirements of W.S. 33-26-303 except that the board may defer the interview required by W.S. 33-26-303(a)(ix) at its discretion until no later than the next board meeting;

(iii) Pays a temporary license fee in an amount set by the board.

(b) The board, in its discretion may extend a temporary license for an additional term no longer than 8:00 a.m. on the first day of the second regularly scheduled board meeting following the date of the initial issuance of a temporary license.

(c) The board may issue a medical training license for a term that expires at 12:01 a.m. July 1 of each year to a person who:

(i) Has signed a contract with an A.C.G.M.E. accredited residency program located in this state;

(ii) Has graduated from a school of medicine accredited by the L.C.M.E., a school of osteopathy accredited by the A.O.A. or a Canadian accredited school of medicine, or has been certified by the E.C.F.M.G.;

(iii) Has successfully completed steps one (1) and two (2) of the USMLE or the COMLEX;

(iv) Is under the supervision of residency faculty;

(v) Has completed an application form provided by the board;

(vi) Has paid the appropriate fees pursuant to W.S. 33-26-307; and

(vii) Repealed By Laws 2009, Ch. 201, § 2.

(viii) Meets any additional requirements that the board may impose by regulation which are necessary to implement this act.

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

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

(f) A person whose clinical privileges at a health care facility have been revoked, suspended, restricted, had conditions placed upon them or been voluntarily or involuntarily resigned, or against whom a clinical privilege action is pending at a health care facility, may apply for licensure provided, however, the board may deny licensure based upon the revocation, suspension, restrictions, conditions, resignation of privileges or pending clinical privilege action alone.

33-26-305. Annual renewal; expiration; reactivation of lapsed and inactive licenses; restoration of emeritus licenses to active status; duplicates.

(a) All licenses other than temporary licenses and medical training licenses shall lapse annually on a date or dates to be established by rules adopted by the board. A licensee may renew his license each year by submitting a renewal application containing information required by the board, accompanied by proof of compliance with and fulfillment of continuing medical education requirements of the board in the manner set forth in the board's continuing medical education rules and regulations and a renewal fee to the board in an amount set by the board pursuant to W.S. 33-26-307. The licensee additionally shall report any disciplinary action pending or taken by a state examining board, a health care entity or the grievance committee of a medical society during the preceding year.

(b) Repealed By Laws 2003, Ch. 190, § 3.

(c) The board may reactivate a lapsed or inactive license if the applicant meets the requirements established by the rules and regulations promulgated by the board.

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

(e) The board may restore an emeritus license to active status if the applicant meets the requirements established by the rules and regulations promulgated by the board.

33-26-306. Repealed by Laws 1995, ch. 129, § 2.

33-26-307. Fees.

(a) The board shall set by regulation appropriate license application, renewal and reactivation fees, examination fees and fees for information verification or document production and other services of the board to be charged under this chapter.

(i) Repealed By Laws 2003, Ch. 190, § 3.

(ii) Repealed By Laws 2003, Ch. 190, § 3.

(iii) Repealed By Laws 2003, Ch. 190, § 3.

(iv) Repealed By Laws 2003, Ch. 190, § 3.

(v) Repealed By Laws 2003, Ch. 190, § 3.

(vi) Repealed By Laws 2003, Ch. 190, § 3.

(vii) Repealed By Laws 2003, Ch. 190, § 3.

(b) All money received or collected under this chapter shall be paid to the state treasurer for deposit in a separate account. The money in the account is subject at all times to the warrant of the state auditor drawn upon written requisition attested by the executive director of the board for the payment of any board expenses.

ARTICLE 4 - INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS

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

(a) The board shall investigate, upon a written and signed complaint or by its own motion, any information that if proven would fall within the jurisdiction of the board and would constitute a violation of this act.

(b) Before holding a contested case hearing, the board shall conduct an informal interview with the licensee unless the licensee waives an interview.

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

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

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

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

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

(i) Renewing, obtaining or attempting to obtain or renew a license by bribery, fraud or misrepresentation;

(ii) Impersonating another licensee or practicing medicine under a false or assumed name;

(iii) Making false or misleading statements regarding the licensee's skill or the efficacy or value of his treatment or remedy for a human disease, injury, deformity, ailment, pregnancy or delivery of infants;

(iv) Permitting or allowing any person to use his diploma, license or certificate of registration;

(v) Advertising the practice of medicine in a misleading, false or deceptive manner;

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

(vii) Repealed by Laws 2018, ch. 80, § 3.

(viii) Conviction of or pleading guilty or nolo contendere to a felony or any crime that is a felony under Wyoming law in any jurisdiction;

(ix) Aiding or abetting the practice of medicine by a person not licensed by the board;

(x) Violating or attempting to violate or assist in the violation of any provision of this chapter or any other applicable provision of law;

(xi) Except as permitted by law, repeatedly prescribing or administering, selling or supplying any drug legally classified as a narcotic, addicting or scheduled drug to a known abuser;

(xii) Repeatedly prescribing, selling, supplying or administering any drug legally classified as a narcotic, addicting or scheduled drug to a parent, spouse or child of the applicant or licensee, or to himself;

(xiii) Presigning blank prescription forms;

(xiv) Failing or refusing to properly guard against the spread of contagious, infectious or communicable diseases;

(xv) Failure to appropriately supervise nonphysicians to whom the licensee has delegated medical responsibilities;

(xvi) Delegating responsibilities to a person who is not qualified by training, experience or licensure;

(xvii) Delegating medical responsibilities to a person who is unable to safely, skillfully and competently provide medical care to patients or that are beyond the scope of the specialty areas in which the licensee and the person are trained and experienced;

(xviii) Willful and consistent utilization of medical service or treatment which is inappropriate or unnecessary;

(xix) A manifest incapacity to practice medicine with reasonable skill and safety to patients;

(xx) Possession of any physical or mental disability including deterioration due to aging which renders the practice of medicine unsafe;

(xxi) Use of a drug or intoxicant to such a degree as to render the licensee unable to practice medicine or surgery with reasonable skill and safety to patients;

(xxii) Practicing medicine below the applicable standard of care, regardless of causation or damage;

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

(xxiv) Failure to report a personal injury claim as required by W.S. 33-26-409;

(xxv) Suspension, probation, imposition of conditions or restrictions, relinquishment, surrender or revocation of a license to practice medicine in another jurisdiction;

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

(A) Adversely affects clinical privileges for a period of thirty (30) or more consecutive days;

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

(C) Results in the surrender of clinical privileges in return for the health care entity not conducting

an investigation for possible professional incompetence or improper professional conduct.

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

(A) Repealed By Laws 2003, Ch. 190, § 3.

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

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

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

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

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

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

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

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

(K) Engaging in conduct that relates adversely to the practice of medicine or to the ability to practice medicine, including but not limited to conviction of or pleading guilty or nolo contendere to domestic abuse, stalking, sexual assault, sexual abuse or unlawful exploitation of a minor, indecent exposure, incest or distribution of pornography;

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

(N) Improperly terminating a physician-patient relationship;

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

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

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

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

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

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

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

(xxix) Repealed By Laws 2003, Ch. 190, § 3.

(xxx) Repealed By Laws 2003, Ch. 190, § 3.

(xxxi) Violation of any board rule or regulation;

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

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

(xxxiv) Violating any final order, consent decree or stipulation between the board and the licensee;

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

(xxxvi) Violating W.S. 35-4-1001.

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

(c) The board shall revoke the license of any physician if the physician is convicted of violating any provision of W.S. 35-6-401 through 35-6-404.

33-26-403. Impaired physicians.

(a) The board may order a licensee to undergo one (1) or more mental, physical or medical competency examinations by examiners deemed appropriate by the board if it has reasonable cause to believe that the licensee may be impaired. If a disciplinary proceeding is pending against the licensee at the time of the order, the proceeding shall be stayed until the results of the examination have been finalized and submitted to the board.

(b) Every licensee is deemed to have consented to and shall submit to a board ordered mental, physical, or medical competency examination and to have waived all objections to the

production of the report of the examination to the board and the admissibility of the report of the examination in any board proceedings in which the licensee is or may become a respondent. If a licensee fails to submit to an examination when ordered by the board, the board may initiate a disciplinary proceeding against the licensee or amend a pending complaint to include a claim based upon a violation of this section.

(c) Repealed by Laws 2006, Chapter 58, § 2.

(d) The licensee may submit additional information to the board, including but not limited to medical reports, consultations or laboratory reports obtained through an examination performed by a practitioner designated by the licensee.

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

33-26-404. Voluntary and mandatory revocation; restriction; suspension.

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

(b) Unless the board and the licensee have agreed to the relinquishment of or imposition of restrictions or conditions on a license, the board shall conduct a proceeding to refuse to renew or reinstate, revoke, restrict or suspend a license on the grounds set forth in W.S. 33-26-402(a) as a contested case under the Wyoming Administrative Procedure Act.

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

(d) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the

withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-26-405. Order of the board.

(a) Following a hearing to refuse to renew or reinstate, revoke, restrict or suspend a license on the grounds set forth in W.S. 33-26-402(a), the board shall enter its order and findings pursuant to the Wyoming Administrative Procedure Act. The board may take one (1) or more of the following actions:

(i) Dismiss the proceedings;

(ii) Issue a public or private reprimand;

(iii) Order probation and provide terms;

(iv) Impose a civil fine not exceeding twenty-five thousand dollars ($25,000.00);

(v) Suspend the license;

(vi) Revoke the license;

(vii) Place restrictions on the license;

(viii) Assess part or all of the cost of the proceeding against a disciplined licensee;

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

(x) Place the licensee on probation.

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

(i) Restricting the practice to certain areas of medicine or forbidding the practice of certain areas of medicine;

(ii) Requiring the licensee to practice medicine under the supervision of another physician in a clinic or other controlled setting, and setting the conditions of the licensee's practice of medicine;

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

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

(a) A person whose license has been voluntarily relinquished, revoked, restricted or suspended, or had conditions or restrictions placed upon his license, voluntarily or by action of the board, may petition for reinstatement of his license or for removal of any restrictions or conditions placed upon his license pursuant to W.S. 33-26-405 not less than six (6) months after final judicial review of a board order accepting relinquishment of, or revoking, restricting, placing conditions upon or suspending the petitioner's license or six (6) months after the date of the board order if there is no judicial review.

(b) The petitioner shall submit a petition in writing to the board that, at a minimum, sets forth and provides information regarding the petitioner's fulfillment of any and all conditions or compliance with all restrictions imposed upon petitioner by any prior order of the board or success in correcting the conduct that formed the basis for revocation or relinquishment of petitioner's license.

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

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

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

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

(i) Reinstating the license;

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

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

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

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

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

(g) Notwithstanding subsections (a) through (d) of this section, if a license is suspended under W.S. 33-26-404(d), the license may be reissued without a hearing as provided in this section upon receipt from the department of family services of notice that the applicant has complied with the terms of the court order that resulted in the suspension or restriction of the license under W.S. 33-26-404(d).

33-26-407. Judicial review.

(a) Judicial review of the findings of the board may be obtained pursuant to the Wyoming Administrative Procedure Act. All final administrative orders of the board shall remain effective pending any judicial review, except where the board finds that the licensee's continued practice presents no danger to the public.

(b) In any disciplinary proceeding against a licensee, the board shall bear the burden of proving a violation of this act by clear and convincing evidence.

33-26-408. Protected action and communication.

(a) There shall be no liability on the part of and no action for damages against:

(i) Board and examination committee members acting within the scope of their functions without malice and in the reasonable belief that their actions were warranted;

(ii) Any person providing information voluntarily or pursuant to a subpoena, in good faith to a peer review committee or in good faith to the board or the examining committee without malice and in reasonable belief that the information is accurate.

(b) All board records shall be maintained and protected from harm.

(c) Final findings of fact, conclusions of law, orders of the board entered and any consent decree, stipulation or agreement to which the board is a party in any disciplinary docket of the board are public documents. The board may order, under special circumstances and upon entry of specific findings setting forth those circumstances, that a consent decree, stipulation or agreement to which the board is a party in any disciplinary docket is not a public document.

(d) The board shall promptly report and provide all final orders entered by it to the chief of the medical staff and hospital administrator of each hospital in which the licensee has medical staff privileges and to all appropriate agencies including the federation of state medical boards, the national practitioner data bank and other state medical boards.

(e) This section shall not be construed to prohibit the United States or the state of Wyoming from obtaining information from the board concerning a physician who is the subject of a criminal investigation. Upon petition to a state or federal district court, supported by affidavit, the judge may order the Wyoming board of medicine to release records of any proceedings, testimony of witnesses and reports or investigation for in-camera inspection by the judge, or the judge may deny the petition for failure to show good cause. The petition shall state the nature of the criminal investigation and the identity of the physician who is under investigation. If the judge grants the petition and orders the board to produce the board's records for in-camera inspection, the board shall comply within ten (10) days after entry of the order or as otherwise ordered by the court. Upon receipt of the records, the judge shall

inspect them to determine what material, if any, is relevant to the criminal investigation. Material deemed to be relevant shall be made available to the investigation if otherwise admissible under the Wyoming Rules of Evidence. All records and material deemed by the court to be irrelevant or otherwise inadmissible under the Wyoming Rules of Evidence shall be returned to the board and the contents thereof shall not be divulged.

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

(i) Investigative notes, attorney's notes and work product and reports, pleadings, correspondence, witness statements and deposition transcripts and copies of original medical and prescription records in the possession of the board, whether acquired by the board, by any agent of the board or by any agency that has cooperated with or provided information to the board regarding the investigation of a disciplinary docket; and

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

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

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

(j) This section shall not be construed to prohibit the board from publishing in a directory or otherwise disclosing, general information about its licensees and former licensees including names, practice addresses, dates of licensure, licensure by other states, areas of practice, education, training and specialty board certifications.

33-26-409. Health care entity reports required; malpractice.

(a) Each health care entity shall report:

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

(ii) Any action that:

(A) Adversely affects the clinical privileges of a licensee for a period exceeding thirty (30) days;

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

(I) While the licensee is under investigation by the entity for possible incompetence or improper professional conduct; or

(II) In return for not conducting an investigation as specified in this subparagraph; or

(C) In the case of an entity which is a professional society, takes a professional review action which adversely affects the membership of a licensee in the society.

(b) Each licensee shall report to the board any personal injury or wrongful death claim made because of any alleged act, error or omission of the licensee. Failure to report the claim shall be grounds for disciplinary action by the board. As used in this subsection, "claim" means a properly filed complaint with the district court which names the licensee as defendant or a third party defendant and alleges that damages sustained by the plaintiff are due to an alleged act, error or omission of the licensee while engaged in the practice of medicine.

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

(d) Other reports required by this section shall be made within ninety (90) days of the time the claim comes to the attention of the person responsible for reporting. Reports shall be in the form and contain information required by the board. Any entity or person subject to the reporting requirements of this section shall be subject to a fine up to one hundred dollars ($100.00) for each violation of this section. Each day that a requirement of this section is not met shall constitute a separate violation. In the event that the board is required to bring a civil action to enforce this section, the violating party shall additionally be liable to the board for all reasonable attorney's fees and costs incurred by the board in prosecuting the action.

33-26-410. Effect of violation.

(a) Any person engaged in the practice of medicine or aiding and abetting another in the practice of medicine without a license granted by the board is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for not more than one (1) year, or both. Each violation constitutes a separate offense for which the penalty in this subsection may be assessed.

(b) Any person filing or attempting to file as his own the diploma of another or forged affidavit of identification is guilty of a felony and upon conviction shall be imprisoned in the penitentiary for a term not exceeding three (3) years.

(c) The attorney general, the board, any county or district attorney or any citizen may obtain an injunction in the name of the state of Wyoming upon the relation of a complainant enjoining any person from engaging in the practice of medicine without a license. The district court of the district in which the offending person resides or the district court of Laramie county has original jurisdiction of any such injunction proceedings. Any defendant who is enjoined and who thereafter violates the injunction shall be punished for contempt of court by a fine of not less than two hundred dollars ($200.00) or more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for not less than six (6) months or not more than one (1) year, or both. An injunction may be issued without proof of actual damage sustained and upon proof of one (1) or more acts constituting practice of medicine without a license. The standard of proof of any violation of this subsection shall be by a preponderance of the evidence.

ARTICLE 5 - PHYSICIAN ASSISTANTS

33-26-501. Definitions.

(a) As used in this article:

(i) Repealed by Laws 2021, ch. 81, § 3.

(ii) "License" means a license to practice medicine as a physician assistant in this state;

(iii) "Physician assistant" means any person who:

(A) Graduates from a physician assistant education program approved by CAAHEP or its predecessor or successor agency;

(B) Satisfactorily completes a certification examination administered by NCCPA or other national physician assistant certifying agency established for such purposes which has been reviewed and approved by the board, and is currently certified;

(C) Repealed by Laws 2021, ch. 81, § 3.

(iv) "Certification examination" means the initial certifying examination approved by the board for the certification of physician assistants including, but not limited to, the examination administered by NCCPA or other national physician assistant certifying agency established for such purpose which has been reviewed and approved by the board;

(v) Repealed by Laws 2021, ch. 81, § 3.

(vi) Repealed by Laws 2021, ch. 81, § 3.

(vii) Repealed by Laws 2021, ch. 81, § 3.

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

(ix) "CAHEA" means the committee on allied health education and accreditation;

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

33-26-502. Scope of W.S. 33-26-501 through 33-26-511; signature authority.

(a) This article does not apply to persons enrolled in a physician assistant education program.

(b) A physician assistant is an individual who practices medicine. A physician assistant is qualified by the individual's education, training and experience to provide a broad range of diagnostic, therapeutic and health promotion and disease prevention services. A physician assistant may collaborate with or refer to the appropriate member of a healthcare team as indicated by the condition of the patient and the education, experience and competence of the physician assistant and current standard of care. The degree of collaboration shall be determined at the practice level, which may include decisions made by the employer, group, hospital service or the credentialing and privileging systems.

(c) Repealed By Laws 2003, Ch. 190, § 3.

(d) Nothing in this article shall be construed to conflict with or alter the provisions and requirements of W.S. 33-26-101 through 33-26-410 and 33-26-601 et seq.

(e) Except as otherwise provided by law and including the restriction in W.S. 33-26-510(c), a physician assistant may fulfill any requirement for a signature, certification, stamp, verification, affidavit, endorsement or other acknowledgement by a physician.

33-26-503. Board powers and duties.

(a) The board shall pass upon the qualifications and determine the fitness of all persons desiring to practice as physician assistants.

(b) The board shall:

(i) Grant, refuse to grant, revoke and reinstate licenses;

(ii) Investigate allegations that a physician assistant has engaged in conduct constituting a ground for revocation in W.S. 33-26-402 or 33-26-508;

(iii) Conduct informal interviews and contested cases;

(iv) Promulgate regulations governing the practice of physician assistants;

(v) Appoint members to serve on an advisory committee to the board of medicine. A majority of the members of the advisory committee shall be physician assistants. The committee members are responsible to and shall serve at the board's pleasure. The advisory committee shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board, including but not be limited to:

(A) Applications for licensure;

(B) Physician assistant education;

(C) Scope of practice;

(D) Licensure requirements;

(E) Continuing medical education.

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

(vii) Repealed by Laws 2021, ch. 81, § 3.

33-26-504. License required; application; qualifications; consideration of applications.

(a) No person shall practice as a physician assistant or represent oneself as a physician assistant without a license granted by the board.

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

(i) Repealed By Laws 2003, Ch. 190, § 3.

(ii) Has graduated from a physician assistant program accredited by CAAHEP or its predecessor or successor organization;

(iii) Has satisfactorily completed a certification examination administered by NCCPA or other national certifying agency established for such purposes which has been reviewed and approved by the board and is currently certified;

(iv) Completes an application form; and

(v) Pays the fees set forth in W.S. 33-26-507.

(c) The board may issue a temporary license to any person who successfully completes a CAAHEP or other board approved program for the education and training of a physician assistant but has not passed a certification examination. To allow the opportunity to take the next available certification examination, any temporary license issued pursuant to this subsection shall be issued for a period not to exceed one (1) year and under conditions as the board determines pursuant to W.S. 33-26-505. The board may adopt rules to ensure that persons receiving a temporary license under this subsection are supervised by a physician assistant with not less than five (5) years of licensed experience who is approved by the board or by a physician who is approved by the board.

(d) Physician assistants approved by the board prior to the effective date of this act are not required to be currently certified by the NCCPA. Graduation from a CAHEA approved program is considered equivalent to a CAAHEP program for purposes of licensure.

(e) Repealed by Laws 2021, ch. 81, § 3.

(f) Repealed by Laws 2021, ch. 81, § 3.

(g) Repealed by Laws 2021, ch. 81, § 3.

33-26-505. Temporary license.

(a) The board may grant a temporary license to practice as a physician assistant to a person who:

(i) Completes a temporary license application;

(ii) Meets the requirements of W.S. 33-26-504(b); and

(iii) Pays the temporary license fee prescribed in W.S. 33-26-507.

(b) A temporary license is valid until the next board meeting following the date of issuance. The board may extend the temporary license at its discretion upon a showing of good cause for a period not to exceed one (1) year from the original date of issuance of the temporary license.

33-26-506. Term of license; renewal; duplicates.

(a) All licenses other than temporary licenses expire annually on December 31. A physician assistant may renew his license by completing and submitting a renewal application form published by the board and renewal fee to the board prior to expiration of his current license.

(b) The board may reinstate a lapsed license if the applicant pays a reinstatement fee and meets the requirements for the granting of an initial license.

(c) A physician assistant may apply to the board for a duplicate license if his license is stolen, lost or destroyed. Upon proof of proper identification and submission of such other information as the board may require, the board shall issue a duplicate license bearing on its face the word "DUPLICATE" and establish and require payment of appropriate charges for a duplicate license.

(d) Repealed By Laws 2003, Ch. 190, § 3.

33-26-507. License fees.

(a) The board shall, by regulation set appropriate license application, renewal and reactivation fees, examination fees and fees for information verification or document production and other services of the board to be charged under this chapter.

(i) Repealed By Laws 2003, Ch. 190, § 3.

(ii) Repealed By Laws 2003, Ch. 190, § 3.

(iii) Repealed By Laws 2003, Ch. 190, § 3.

(b) Fees shall be deposited as provided in W.S. 33-26-307(b).

33-26-508. Suspension, restriction, revocation or nonrenewal of license.

(a) The board may refuse to renew, and may revoke, suspend or restrict a license or take other disciplinary action, including the imposition of conditions or restrictions upon a license on one (1) or more of the grounds enumerated under W.S. 33-26-402 provided that each reference in W.S. 33-26-402(a) to the "practice of medicine," "practice medicine," or like phrase shall be deemed the "practice as a physician assistant" for purposes of this section.

(b) Upon a finding of ineligibility for licensure, refusal to grant, suspension, restriction, refusal to renew or revocation of a license under subsection (a) of this section, the board shall adopt and enter its written order and findings.

(c) Repealed by Laws 2003, Ch. 190, § 3.

(d) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

(e) The board shall revoke the license of any physician assistant if the physician assistant is convicted of violating any provision of W.S. 35-6-401 through 35-6-404.

33-26-509. Reinstatement.

(a) Except as provided in subsection (b) of this section, any person whose license has been revoked, restricted or suspended under this chapter, voluntarily or by action of the board, may petition for reinstatement of his license or for removal of any restrictions or conditions placed upon his license pursuant to W.S. 33-26-508 not less than six (6) months after final judicial review of a board order revoking, restricting or suspending the petitioner's license or six (6) months after the date of the board order if there is no judicial review or six (6) months after the date of the board agreement to accept a relinquished, restricted or conditioned license. The petitioner shall submit a written petition to the board that, at

a minimum, sets forth and provides information regarding the petitioner's fulfillment of any and all conditions or compliance with all restrictions imposed upon petitioner by any prior order of the board or success in correcting the conduct that formed the basis for revocation of petitioner's license.

(b) If a license is suspended under W.S. 33-26-508(d), the license may be reinstated without a hearing as provided in this section upon receipt from the department of family services of notice that the applicant has complied with the terms of the court order that resulted in the suspension or restriction of the license under W.S. 33-26-508(d).

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

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

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

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

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

(i) Reinstating the license;

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

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

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

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

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

33-26-510. Prescription of drugs.

(a) Repealed by Laws 1991, ch. 132, § 2.

(b) Repealed by Laws 1991, ch. 132, § 2.

(c) A physician assistant shall not prescribe schedule I drugs as defined by W.S. 35-7-1013 through 35-7-1014. A physician assistant may prescribe schedule II, III, IV or V drugs as defined by W.S. 35-7-1015 through 35-7-1022. A physician assistant may dispense prepackaged medications in rural clinics when pharmacy services are not physically available. The board shall, after consultation with the state board of pharmacy, promulgate rules and regulations governing the prescription of medications by a physician assistant.

33-26-511. Penalties.

Any person practicing as a physician assistant or representing that he is a physician assistant without a license or any person employing an unlicensed person to practice as a physician assistant is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for not more than one (1) year, or both. Each violation constitutes a separate offense for which the penalty in this section may be assessed.

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

(a) A licensee may request the board, in writing, to accept the voluntary relinquishment, restriction or suspension of his license. The board may, but shall not be required to accept the relinquished license, grant the request for

restriction or suspension, attach conditions to the license or waive the commencement of any proceedings under this article. The board shall put in writing any agreement with the licensee. Removal of a voluntary relinquishment, restriction or suspension is subject to the procedure for reinstatement of a license pursuant to W.S. 33-26-509.

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

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

33-26-513. Advertising and display of license requirement.

(a) Any advertisement for health care services that names a person practicing medicine as a physician assistant shall identify the license held under this article. The advertisement shall be free from deceptive or misleading information.

(b) A person practicing medicine as a physician assistant shall conspicuously post and affirmatively communicate to the patient the license held under this article. Posting and communication shall include:

(i) Wearing a photo identification name tag during all patient encounters. The name tag shall:

(A) Include a recent photograph of the licensed physician assistant;

(B) Include the license holder's name;

(C) Include the license held under this article;

(D) Be of a sufficient size for a patient to read the contents of the name tag; and

(E) Be worn in a conspicuous manner so as to be visible and apparent to the patient.

(ii) Displaying in a conspicuous place in the office wherein the practice of medicine is conducted a license

certificate or other writing issued by the board that clearly identifies the license held under this article. The certificate or other writing shall be of sufficient size so as to be visible and apparent to all current and prospective patients;

(iii) Compliance with these posting and communication requirements in each practice setting.

(c) A person practicing medicine as a physician assistant and working in a setting that does not involve direct patient care interaction is not subject to the posting and communication requirements in subsection (b) of this section.

ARTICLE 6 - VOLUNTEER PHYSICIANS AND PHYSICIAN ASSISTANTS

33-26-601. Emeritus physician and physician assistant licenses.

(a) As used in this section, "low income uninsured person" has the same meaning as in W.S. 33-15-131(a).

(b) For purposes of this section, a person shall be considered retired from practice if the person's license has expired.

(c) The state board of medicine may issue, with or without examination, an emeritus physician or emeritus physician assistant license to a person who is retired from practice so that the person may provide medical services. The board shall deny issuance of an emeritus physician or emeritus physician assistant license to a person who is not qualified under this section to hold an emeritus license.

(d) An application for an emeritus license shall include all of the following:

(i) A copy of the applicant's medical education and postgraduate training documents certified as true and accurate by the state licensing authority with whom the physician or physician's assistant holds current licensure or has most recently held current licensure;

(ii) A copy of the applicant's most recent license authorizing the practice of medicine issued by a jurisdiction in the United States that licenses persons to practice medicine;

(iii) Evidence of one (1) of the following, as applicable:

(A) That the applicant has maintained for at least ten (10) years immediately prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice allopathic or osteopathic medicine or to practice as a physician assistant; or

(B) That the applicant has practiced for at least ten (10) years immediately prior to retirement in good standing as a doctor of allopathic or osteopathic medicine or as a physician assistant in one (1) or more of the branches of the United States armed services; and

(iv) A notarized statement from the applicant, on a form prescribed by the board, that the applicant:

(A) Will not accept any form of remuneration for any medical services rendered while in possession of an emeritus license; and

(B) Repealed By Laws 2009, Ch. 201, § 2.

(C) Will provide any other documentation that the board reasonably may require.

(e) The holder of an emeritus license may provide medical services on the premises of a health care facility or a medical practice in this state and to low income uninsured persons. The holder shall not accept any form of remuneration for providing medical services while in possession of the license. The board may revoke an emeritus license on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the license.

(f) An emeritus license shall be valid for a period of one (1) year, unless earlier revoked under subsection (e) of this section or pursuant to title 33, chapter 26 of the Wyoming statutes. An emeritus license may be renewed upon the application of the holder. The board shall maintain a register of all persons who hold emeritus licenses. The board shall not charge a fee for issuing or renewing a license pursuant to this section.

(g) To be eligible for renewal of an emeritus license, the holder of the license shall certify to the board completion of

any continuing education required under this chapter as if the holder of the license were in active practice. The board shall not renew a license if the holder has not complied with the continuing education requirements. A health care facility or a medical practice in which the holder of an emeritus license provides medical services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing education.

(h) The board shall issue to each person who qualifies under this section an emeritus license. The emeritus medical license shall permit the general practice of medicine under this chapter. The emeritus physician assistant license shall permit the practices authorized for physician assistants under W.S. 33-26-501 through 33-26-512.

(j) Except as provided in this section, any person holding an emeritus license issued by the board under this section shall be subject to the requirements of this chapter and the jurisdiction of the board.

(k) The board shall adopt rules to administer and enforce this section.

ARTICLE 7 - INTERSTATE MEDICAL LICENSURE COMPACT

33-26-701. Short title.

This act shall be known and may be cited as the "Interstate Medical Licensure Compact."

33-26-702. Compact provisions generally.

The Interstate Medical Licensure Compact is enacted into law and entered into on behalf of this state with all other states legally joining in the compact in a form substantially as follows.

ARTICLE I

Purpose

In order to strengthen access to health care and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of

state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter and therefore requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

ARTICLE II

Definitions

(a) In this compact:

(i) "Bylaws" means those bylaws established by the interstate commission pursuant to article XI for its governance or for directing and controlling its actions and conduct;

(ii) "Commissioner" means the voting representative appointed by each member board pursuant to article XI;

(iii) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board;

(iv) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact;

(v) "Interstate commission" means the interstate commission created pursuant to article XI;

(vi) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization;

(vii) "Medical practice act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state;

(viii) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation and education of physicians as directed by the state government;

(ix) "Member state" means a state that has enacted the compact;

(x) "Practice of medicine" means the clinical prevention, diagnosis or treatment of human disease, injury or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state;

(xi) "Physician" means any person who:

(A) Is a graduate of a medical school accredited by the liaison committee on medical education, the commission on osteopathic college accreditation or a medical school listed in the international medical education directory or its equivalent;

(B) Passed each component of the United States medical licensing examination (USMLE) or the comprehensive osteopathic medical licensing examination (COMLEX-USA) within three (3) attempts or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(C) Successfully completed graduate medical education approved by the accreditation council for graduate medical education or the American osteopathic association;

(D) Holds specialty certification or a time unlimited specialty certificate recognized by the American board of medical specialties or the American osteopathic association's bureau of osteopathic specialists;

(E) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(F) Has never been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(G) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;

(H) Has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration; and

(J) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction.

(xii) "Offense" means a felony, gross misdemeanor or crime of moral turpitude;

(xiii) "Rule" means a written statement by the interstate commission promulgated pursuant to article XII of the compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact or an organizational, procedural or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state and includes the amendment, repeal or suspension of an existing rule;

(xiv) "State" means any state, commonwealth, district or territory of the United States;

(xv) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

ARTICLE III

Eligibility

(a) A physician must meet the eligibility requirements as defined in article II(a)(xi) to receive an expedited license under the terms and provisions of the compact.

(b) A physician who does not meet the requirements of article II(a)(xi) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

ARTICLE IV

Designation of State of Principal License

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state and the state is:

(i) The state of primary residence for the physician;

(ii) The state where at least twenty-five percent (25%) of the practice of medicine occurs;

(iii) The location of the physician's employer; or

(iv) If no state qualifies under paragraph (a)(i), (ii) or (iii) of this article, the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a) of this article.

(c) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

ARTICLE V

Application and issuance of expedited licensure

(a) A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission, subject to the following:

(i) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where primary sources have already been verified by the state of principal license;

(ii) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. § 731.202;

(iii) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification under subsection (b) of this article, physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection (a) of this article, including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) of this article and any fees under subsection (c) of this article, a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained though the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.

(g) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees and the issuance of an expedited license.

ARTICLE VI

Fees for Expedited Licensure

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

(b) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

ARTICLE VII

Renewal and Continued Participation

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

(i) Maintains a full and unrestricted license in a state of principal license;

(ii) Has not been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(iii) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and

(iv) Has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected under subsection (c) of this article, a member board shall renew the physician's license.

(e) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

(f) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

ARTICLE VIII

Coordinated Information System

(a) The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under article V.

(b) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

(d) Member boards may report any nonpublic complaint, disciplinary or investigatory information not required by subsection (c) of this article, to the interstate commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal and used only for investigatory or disciplinary matters.

(g) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

ARTICLE IX

Joint Investigations

(a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

ARTICLE X

Disciplinary Actions

(a) Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided and:

(i) Impose the same or lesser sanction against the physician so long as such sanctions are consistent with the medical practice act of that state; or

(ii) Pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately without further action necessary by the other member board, for ninety (90) days upon entry of the order by the disciplining board, to permit the member board to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety (90) day suspension period in a manner consistent with the medical practice act of that state.

ARTICLE XI

Interstate Medical Licensure Compact Commission

(a) The member states hereby create the "Interstate Medical Licensure Compact Commission."

(b) The purpose of the interstate commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(c) The interstate commission shall be a body corporate and shall have all the responsibilities, powers and duties set forth in the compact and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

(d) The interstate commission shall consist of two (2) voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and

osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one (1) representative from each member board. A commissioner shall be:

(i) An allopathic or osteopathic physician appointed to a member board;

(ii) An executive director, executive secretary or similar executive of a member board; or

(iii) A member of the public appointed to a member board.

(e) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

(g) Each commissioner participating at a meeting of the interstate commission is entitled to one (1) vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d) of this article.

(h) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds (2/3) vote of the commissioners present that an open meeting would be likely to:

(i) Relate solely to the internal personnel practices and procedures of the interstate commission;

(ii) Discuss matters specifically exempted from disclosure by federal statute;

(iii) Discuss trade secrets, commercial or financial information that is privileged or confidential;

(iv) Involve accusing a person of a crime or formally censuring a person;

(v) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(vi) Discuss investigative records compiled for law enforcement purposes; or

(vii) Specifically relate to the participation in a civil action or other legal proceeding.

(j) The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(k) The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.

(m) The interstate commission shall establish an executive committee, which shall include officers, members and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules and other such duties as necessary.

(n) The interstate commission may establish other committees for governance and administration of the compact.

ARTICLE XII

Powers and Duties of the Interstate Commission

(a) The interstate commission shall have the duty and power to:

(i) Oversee and maintain the administration of the compact;

(ii) Promulgate rules which shall be binding to the extent and in the manner provided for in the compact;

(iii) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules and actions;

(iv) Enforce compliance with compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(v) Establish and appoint committees including, but not limited to, an executive committee as required by article XI, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;

(vi) Pay or provide for the payment of the expenses related to the establishment, organization and ongoing activities of the interstate commission;

(vii) Establish and maintain one (1) or more offices;

(viii) Borrow, accept, hire or contract for services of personnel;

(ix) Purchase and maintain insurance and bonds;

(x) Employ an executive director who shall have such powers to employ, select or appoint employees, agents or consultants and to determine their qualifications, define their duties and fix their compensation;

(xi) Establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

(xii) Accept donations and grants of money, equipment, supplies, materials and services and to receive, utilize and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;

(xiii) Lease, purchase, accept contributions or donations of or otherwise to own, hold, improve or use, any property, real, personal or mixed;

(xiv) Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(xv) Establish a budget and make expenditures;

(xvi) Adopt a seal and bylaws governing the management and operation of the interstate commission;

(xvii) Report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;

(xviii) Coordinate education, training and public awareness regarding the compact, its implementation and its operation;

(xix) Maintain records in accordance with the bylaws;

(xx) Seek and obtain trademarks, copyrights and patents; and

(xxi) Perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

ARTICLE XIII

Finance Powers

(a) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(b) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(c) The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

ARTICLE XIV

Organization and operation of the Interstate Commission

(a) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within twelve (12) months of the first interstate commission meeting.

(b) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.

(c) Officers selected in subsection (b) of this article shall serve without remuneration from the interstate commission.

(d) The officers and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or omission that occurred, or that the officer or employee had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities provided that an officer or employee shall not be protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of the officer or employee. The immunity provided by this article shall be subject to the following:

(i) The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of the officer's or employee's employment or duties for acts, errors or omissions occurring within the officer's or employee's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect the officer or employee from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of the officer or employee;

(ii) The interstate commission shall defend the executive director, its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend an interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the officer or employee;

(iii) To the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the officers and employees arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities or that the officers and employees had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the officers or employees.

ARTICLE XV

Rulemaking functions of the Interstate Commission

(a) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 2010 and subsequent amendments thereto.

(c) Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

ARTICLE XVI

Oversight of Interstate Compact

(a) The executive, legislative and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact which may affect the powers, responsibilities or actions of the interstate commission.

(c) The interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact or promulgated rules.

ARTICLE XVII

Enforcement of Interstate Compact

(a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(b) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XVIII

Default Procedures

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact or the rules and bylaws of the interstate commission promulgated under the compact.

(b) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact or the bylaws or promulgated rules, the interstate commission shall:

(i) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

(ii) Provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges and benefits conferred by the compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

(e) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state or the withdrawal of a member state.

(f) The member state which has been terminated is responsible for all dues, obligations and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(g) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(h) The defaulting state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The

prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

ARTICLE XIX

Dispute Resolution

(a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states or member boards.

(b) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

ARTICLE XX

Member States, Effective Date and Amendments

(a) Any state is eligible to become a member state of the compact.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.

(c) The governors of nonmember states or their designees, shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

(d) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XXI

Withdrawal

(a) Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact by

specifically repealing the statute which enacted the compact into law.

(b) Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

(d) The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice provided under subsection (c) of this article.

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(g) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

ARTICLE XXII

Dissolution

(a) The compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

(b) Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XXIII

Severability and Construction

(a) The provisions of the compact shall be severable and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of the compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XXIV

Binding Effect of Compact and Other Laws

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(d) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

33-26-703. Interstate commission members.

Pursuant to article XI(d) of the Interstate Medical Licensure Compact, the governor shall appoint two (2) voting representatives to the interstate medical licensure compact commission. The representatives shall serve staggered two (2) year terms as commissioners.

CHAPTER 27 - PSYCHOLOGY AND BEHAVIOR ANALYSTS

ARTICLE 1 - GENERAL PROVISIONS

33-27-101. Repealed by Laws 1993, ch. 182, § 2.

33-27-102. Repealed by Laws 1993, ch. 182, § 2.

33-27-103. Repealed by Laws 1993, ch. 182, § 2.

33-27-104. Repealed by Laws 1993, ch. 182, § 2.

33-27-105. Repealed by Laws 1993, ch. 182, § 2.

33-27-106. Repealed by Laws 1993, ch. 182, § 2.

33-27-107. Repealed by Laws 1993, ch. 182, § 2.

33-27-108. Repealed by Laws 1993, ch. 182, § 2.

33-27-109. Repealed by Laws 1993, ch. 182, § 2.

33-27-110. Repealed by Laws 1993, ch. 182, § 2.

33-27-111. Repealed by Laws 1993, ch. 182, § 2.

33-27-112. Repealed by Laws 1993, ch. 182, § 2.

33-27-113. Definitions.

(a) As used in this act:

(i) "Board" means the Wyoming state board of psychology;

(ii) "Institution of higher education" means any regionally accredited institution of higher education in the United States, including a professional school, that offers a full-time doctoral course of study in psychology as defined in the rules of the board. For Canadian universities, it means an institution of higher education that holds recognized membership in the association of universities and colleges of Canada. Institutions of higher education outside the United States and Canada will be evaluated on a case-by-case basis by the board;

(iii) "Practice of psychology" means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures, for the purpose of any one (1) or any combination of the following:

(A) Preventing, eliminating, evaluating or assessing symptomatic, maladaptive or undesired behavior;

(B) Enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health;

(C) Consulting in legal decision making;

(D) Psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning;

(E) Psychoanalysis, psychotherapy, hypnosis, biofeedback and behavior analysis and therapy;

(F) Diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as of psychological aspects of physical illness, accident, injury or disability;

(G) Psychoeducational evaluation, therapy, remediation and consultation.

(iv) "Practice of school psychology" means rendering or offering to render to individuals, groups, organizations, government agencies or the public any of the following services:

(A) Evaluation, diagnosis, or test interpretation limited to assessment of intellectual ability, learning patterns, achievement, motivation, personality or neurological factors directly related to learning problems in an educational setting;

(B) Counseling services for children or adults for amelioration or prevention of educationally related learning problems.

(v) "Psychologist" means a person licensed to practice psychology;

(vi) "Representation as a psychologist or school psychologist" means using any title or description of services incorporating the words psychology, psychological or psychologist;

(vii) Repealed By Laws 2009, Ch. 154, § 2.

(viii) "Sexual exploitation of a client or patient" means:

(A) Any verbal behavior by a psychologist or school psychologist which involves offers of exchange of professional services for some form of sexual gratification; or

(B) Unlawful or unprofessional sexual contact with a client or patient.

(ix) "Specialist in school psychology" means a person who holds at least a masters degree in school psychology or a degree considered equivalent by the board as described in the rules and regulations and who is certified by the board;

(x) "Certifying entity" means the behavior analyst certification board or another entity as specified by rule of the board whose programs to credential practitioners of behavior analysis are accredited by the national commission on certifying agencies, the American national standards institute or a similar successor accrediting organization and which reasonably ensures that persons certified have the qualifications, education and experience necessary to protect public health and safety and to provide services that are customary and professional;

(xi) "Licensed assistant behavior analyst" means a person licensed under this act for the practice of behavior analysis and who is supervised in accordance with W.S. 33-27-124(c);

(xii) "Licensed behavior analyst" means a person licensed under this act for the practice of behavior analysis;

(xiii) "Practice of behavior analysis" means the design, implementation and evaluation of instructional and environmental modifications based on scientific research and direct and indirect observation and measurement of behavior and

environment to produce socially significant improvements in human behavior. The "practice of behavior analysis" includes the empirical identification of functional relations between behavior and environmental factors. The "practice of behavior analysis" does not include psychotherapy, cognitive therapy, psychoanalysis, hypnotherapy, counseling, psychological testing, personality, intellectual or neuropsychological assessments or the diagnosis of psychological disorders;

(xiv) "This act" means W.S. 33-27-113 through 33-27-125.

(b) A person not otherwise exempt from this act is engaged in the practice of psychology when the person advertises or represents that he is authorized to practice psychology and performs any of the activities enumerated in paragraph (a)(iii) of this section without regard to whether payment is received for services rendered.

33-27-114. Exemptions.

(a) Nothing in this act shall be construed to prevent members of other recognized professions who are licensed, certified or regulated under the laws of this state as defined in the rules and regulations from rendering services consistent with their professional training and code of ethics, provided that they do not represent themselves to be psychologists.

(b) Individuals who have been certified as school psychologists by the Wyoming professional teaching standards board shall be permitted to use the terms "school psychologist" or "certified school psychologist" within the school setting. Those persons shall be restricted in their practice to employment within schools and educational institutions and those settings under the purview of the professional teaching standards board unless they are also licensed under this act or licensed under W.S. 33-38-101 through 33-38-110.

(c) Duly recognized members of the clergy shall not be restricted from functioning in their ministerial capacity, provided they do not represent themselves to be psychologists.

(d) Nothing in this act shall be construed to prevent the teaching of psychology, the conducting of psychological research, or the provision of industrial or organizational consultation provided that such teaching, research or consultation does not involve the delivery or supervision of

direct psychological services to individuals who are themselves rather than a third party the intended beneficiaries of the services without regard to the source or extent of payment for services rendered. Nothing in this act shall prevent the provision of expert testimony by psychologists who are exempted by this act. Persons holding an earned doctoral degree in psychology from an institution of higher education may use the title "psychologist" in conjunction with the activities permitted in this subsection.

(e) Nothing in this act shall be construed to prevent the persons described in this subsection from engaging in activities defined as the practice of psychology, provided that the persons shall not represent themselves by the title "psychologist." The persons may use the terms "psychological trainee," "psychological intern," "psychological resident" or "psychological practitioner" and shall perform their activities under the supervision and responsibility of a licensed psychologist in accordance with the rules promulgated by the board. This subsection shall only apply to:

(i) A matriculated graduate student in psychology whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher education;

(ii) An individual pursuing postdoctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under the provisions of this act; or

(iii) A qualified practitioner holding a master's degree or doctoral degree in psychology from a program approved by the board while working under the supervision of a licensed psychologist. The board, in its rules and regulations, shall establish:

(A) The qualifications for use of the title "psychological practitioner";

(B) The number of practitioners that a psychologist may employ;

(C) Conditions under which they may practice;

(D) The process of certification with the board; and

(E) Appropriate fees.

(f) Nothing in this act shall be construed to prevent specialists in school psychology from engaging in activities defined as the practice of school psychology, provided that they shall not represent themselves by the title "psychologist." These persons may perform their activities under the supervision and responsibility of a psychologist in accordance with the rules promulgated by the board. The board, in its rules and regulations, shall establish:

(i) Qualifications for use of the title "specialist in school psychology";

(ii) The number of specialists that a psychologist may employ;

(iii) Conditions under which they may be supervised or practice;

(iv) The process of certification with the board; and

(v) Appropriate fees.

(g) Nothing in this act may be construed to require employees or contractors of a state agency to be licensed under this act in order to perform their official duties related to the evaluation, auditing or designing of programs, provided those employees or contractors do not hold themselves out to be psychologists.

(h) Nothing in this act shall prevent a person from providing the psychological services authorized by the Psychology Interjurisdictional Compact, W.S. 33-27-202, if the person satisfies all the standards and conditions required by the compact and complies with all compact participation requirements imposed pursuant to rules adopted by the board.

33-27-115. State board of psychology.

(a) The Wyoming state board of psychology shall consist of six (6) licensed psychologists, two (2) licensed behavior analysts, and one (1) public member appointed by the governor. Each member shall be a resident of this state. Each member who is a psychologist shall be licensed under this act and shall have a minimum of three (3) years of post-licensure experience.

At least one (1) member who is a psychologist shall be engaged full time in the doctoral teaching and training of psychologists, and at least two (2) members who are psychologists shall be engaged full time in the professional practice of psychology. Each member who is a behavior analyst shall be licensed under this act and shall have a minimum of three (3) years of post-licensure experience, except as provided by subsection (c) of this section. The composition of the board shall to the greatest extent practicable represent both the public and private sectors of the practices of psychology and behavior analysis. Public members shall not be psychologists, behavior analysts, assistant behavior analysts, applicants or former applicants for licensure or certification under this act, members of another health profession, or members of a household that includes a person licensed or certified under this act. Board members shall be appointed who are free from conflict of interest in performing the duties of the board.

(b) Before making appointment to the board, the governor shall solicit a list of nominations from the Wyoming psychological association but is not limited to appointing board members from that list. The appointments shall be with the advice and consent of the senate in accordance with W.S. 28-12-101 through 28-12-103.

(c) The term of office shall be five (5) years with provision for reappointment for one (1) additional term. A member may be reappointed for an additional two (2) terms after at least two (2) years off the board. The two (2) members of the board who are required to be licensed behavior analysts shall have staggered terms. One (1) behavior analyst member shall be appointed for five (5) years and one (1) behavior analyst member shall be appointed for three (3) years. Notwithstanding the requirements under subsection (a) of this section, the initial two (2) behavior analyst members appointed to the board by the governor shall not be required to be licensed in this state before their appointment but shall obtain licensure during their board tenure in order to be reappointed as a board member and shall otherwise be qualified to practice behavior analysis under this act.

(i) Repealed by Laws 2022, ch. 47, § 3.

(ii) Repealed by Laws 2022, ch. 47, § 3.

(iii) Repealed by Laws 2022, ch. 47, § 3.

(iv) Repealed by Laws 2022, ch. 47, § 3.

(d) The governor may remove any board member pursuant to W.S. 9-1-202. Any vacancy in the membership of the board occurring other than by expiration of term shall be filled by appointment by the governor for the unexpired term.

(e) Board members shall serve without compensation other than per diem and mileage as provided in W.S. 33-1-302(a)(vii).

33-27-116. Powers and duties of the board.

(a) In accordance with this act and rules and regulations promulgated under it, the board shall determine a person's initial and continuing qualifications and fitness to practice psychology or behavior analysis, proceed against the unlawful and unlicensed practice of psychology or behavior analysis and otherwise enforce this act.

(b) The board shall adopt rules in accordance with the provisions of the Wyoming Administrative Procedure Act which are reasonable and necessary to administer this act. The powers conferred on the board by this act shall be liberally construed to protect the health, safety and the welfare of the people of this state.

(c) The board shall hold a regular annual meeting in which it shall select from its members a chair and a vice-chair. The secretary of the board shall be appointed by the board from its membership. A quorum of the board shall consist of the majority of its members at any meeting.

(d) Other regular meetings shall be held at such times as the rules of the board may provide. Special meetings may be held at such times as may be deemed necessary or advisable by the chair or the majority of board members or upon request of the governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board.

(e) The board shall, as required by W.S. 9-2-1014, report to the governor concerning the work of the board.

(f) The board shall establish reasonable fees for the issuance and renewal of licenses, certificates and its other services in its rules promulgated in accordance with the Wyoming Administrative Procedure Act as specified in W.S. 33-1-201.

(g) The board may accept grants and gifts from individuals, associations, corporations, foundations and institutions to carry on its functions.

(h) The board shall adopt an official seal.

(j) The board may require continuing education on the part of those persons licensed or certified under this act to qualify for renewal, the terms of which shall be specified in the rules and regulations.

(k) Each year the board shall publish a list of all persons licensed or certified under this act and a copy of that list will be made available for the public at the board's office.

(m) A member of the board or any employee or agent of the board shall not be held civilly liable for any act performed in good faith and within the scope of the duties of the board.

(n) The board may employ or contract with an executive secretary and other necessary staff. The executive secretary shall not be a member of the board. The board may set the salary for the executive secretary.

(o) The board shall request criminal history background information as authorized under W.S. 7-19-106(a)(xxxvii) for all initial applicants and all renewal applicants every two (2) years as provided by rule of the board.

(p) The board shall administer the provisions of the Psychology Interjurisdictional Compact pursuant to W.S. 33-27-201 and 33-27-202, including factoring the annual assessment required under the compact into its biennial budget, and may promulgate reasonable rules for the orderly administration of the compact. The board shall immediately advise the legislature's joint labor, health and social services interim committee if the board determines that any assessment levied against Wyoming pursuant to the Psychology Interjurisdictional Compact is excessive when compared to the benefits of compact participation or if any assessment is not proportionally adjusted to reflect the number of licensed psychologists in Wyoming compared to the number of licensed psychologists in other compact states.

(q) Pursuant to the Psychology Interjurisdictional Compact, W.S. 33-27-201 and 33-27-202, and consistent with W.S.

7-19-106(a)(xxviii) and 7-19-201(a)(xxv), the board shall require an identity history summary, as defined in the compact, for all applicants for licensure as a psychologist and shall require applicants to submit to a background investigation including fingerprints or the submission of other biometric data compliant with the requirements of the federal bureau of investigation or other designee with similar authority.

(r) The board shall require every person licensed under this act who has not previously completed an identity history summary, as defined in the Psychology Interjurisdictional Compact, W.S. 33-27-201 and 33-27-202, including the required background investigation as provided for by the compact and consistent with W.S. 7-19-106(a)(xxviii), 7-19-201(a)(xxv) and 33-27-116(p), to do so as part of the person's next license renewal.

33-27-117. Requirements for licensure; psychology.

(a) The board shall issue a license as a psychologist to any applicant who files an application upon a form and in a manner as prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the applicant's competence and of the following which evidence shall comply with rules and regulations of the board:

(i) Repealed by Laws 2022, ch. 47, § 3.

(ii) The applicant's receipt of a doctoral degree from a program of graduate study in psychology as defined in the rules and regulations, awarded by an institution of higher education;

(iii) The applicant's completion of two (2) years of supervised professional experience which may be completed prior and subsequent to the granting of the degree required under paragraph (ii) of this subsection;

(iv) The applicant's successful completion of the examination for professional practice in psychology and any other written or oral examinations prescribed by the board. The acceptable level of performance for all examinations and policies regarding reexamination of failed applicants shall be determined by the board.

(b) The board may waive any examination if a psychologist has been licensed in another jurisdiction and if the

requirements for licensure in that jurisdiction are equal to, or exceed, the requirements for licensure in this state.

(c) A person licensed as a psychologist or school psychologist in this state on June 30, 2009 shall be deemed to have met all requirements for licensure under this act and shall be eligible for renewal of licensure as a psychologist in accordance with this act.

(d) The board may issue a provisional license to an applicant who does not meet all the requirements in this section if the board finds that:

(i) A need for psychological services exists in a rural part of Wyoming; and

(ii) The applicant is employed by a state or community mental health center.

(e) The board may issue a temporary license to an applicant who is licensed or certified by a board of psychology of another United States state or territory, or of a foreign country or province whose standards are equal to or exceed the requirements for licensure as a psychologist in this state. A temporary licensee may offer services as a psychologist in this state for not more than thirty (30) working days in any year without holding a permanent license issued under this act. The temporary licensee shall report the nature and extent of the licensee's practice in this state to the board if that practice exceeds twenty (20) working days in any one (1) calendar year.

(f) Notwithstanding the licensure requirements provided by this section, the board shall extend authority to perform the psychological services authorized by the Psychology Interjurisdictional Compact, W.S. 33-27-202, to any person who satisfies all the conditions and standards required by the compact and who complies with all compact participation requirements imposed pursuant to rules adopted by the board.

(g) Persons providing psychological services pursuant to the Psychology Interjurisdictional Compact, W.S. 33-27-202, shall be required to obtain an E.Passport and an interjurisdictional practice certificate issued by the Association of State and Provincial Psychology Boards.

33-27-118. Limitation of practice.

The board shall ensure through rules and regulations and enforcement that those persons licensed or certified under this act, including persons providing psychological services pursuant to the Psychology Interjurisdictional Compact, W.S. 33-27-202, limit their practice to demonstrated areas of competence.

33-27-119. Practice without license.

(a) Repealed By Laws 2009, Ch. 154, § 2.

(b) Unless exempt under W.S. 33-27-114 or 33-27-125, any person who represents himself as a psychologist and who engages in the practice of psychology or represents himself as a behavior analyst or assistant behavior analyst and who engages in the practice of behavior analysis in violation of this act, is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00), imprisonment for not more than six (6) months, or both. Each violation shall constitute a separate offense.

(c) Any person filing or attempting to file as his own, a diploma or license of another or a forged affidavit of identification shall be guilty of a felony and shall be subject to the punishment prescribed for forgery under W.S. 6-3-602.

(d) Any person whose license to practice as a psychologist, behavior analyst or assistant behavior analyst in any jurisdiction has been suspended or revoked and which license has not been reinstated shall not practice psychology or behavior analysis in this state, nor shall any person provide psychological services under the Psychology Interjurisdictional Compact, W.S. 33-27-202, when the person's practice rights have been removed pursuant to the terms of the Psychology Interjurisdictional Compact. The board may suspend or revoke the license of any person under this subsection, and, if applicable, take all action consistent with the Psychology Interjurisdictional Compact. The board may issue a new license whenever it deems the issuance to be safe and just and, if applicable, when consistent with the terms of the Psychology Interjurisdictional Compact.

(e) The board on its own motion may investigate any evidence or allegation that appears to show that any person is or may be in violation of any provision of this act or the Psychology Interjurisdictional Compact, W.S. 33-27-202.

33-27-120. Grounds for denial, suspension or revocation of license and other disciplinary sanctions.

(a) A psychologist, behavior analyst or assistant behavior analyst and anyone under his supervision shall conduct his professional activities in conformity with ethical and professional standards as promulgated by rule of the board.

(b) After notice and a hearing, the board may revoke, refuse to renew, reprimand, censure, limit the scope of practice, place on probation with or without terms, conditions or limitations or suspend licenses to practice psychology or behavior analysis for any of the following acts or offenses:

(i) Fraud in applying for or procuring a license to practice psychology or behavior analysis;

(ii) Immoral, unprofessional or dishonorable conduct as defined in the rules and regulations promulgated by the board;

(iii) Practicing psychology or behavior analysis in a manner which endangers the welfare of clients or patients;

(iv) Conviction of a felony that interferes with the ability to practice psychology or behavior analysis as defined by rule of the board;

(v) Conviction of any felony or conviction of any crime or offense that reflects the inability of the practitioner to practice with due regard for the health and safety of clients or patients. A copy of the conviction certified by the clerk of the court entering the conviction is conclusive evidence of the conviction;

(vi) Harassment, intimidation or abuse, sexual or otherwise, of a client or patient;

(vii) Sexual exploitation of a client or patient as defined by W.S. 33-27-113(a)(viii);

(viii) Use of untruthful or deceptive or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment, including functioning outside of one's professional competence established by education, training and experience;

(ix) Malpractice or negligence in the practice of psychology or behavior analysis;

(x) Aiding or abetting the practice of psychology or behavior analysis by a person not licensed by the board;

(xi) Fraud in filing medicare or medicaid claims or in filing claims to any third party payor;

(xii) Exercising undue influence to exploit a client, patient, student or supervisee for financial or other personal advantage to the practitioner or a third party;

(xiii) The suspension or revocation by another jurisdiction of a license to practice psychology or behavior analysis or the suspension or revocation of a behavior analysis certification issued by the certifying entity;

(xiv) Refusal to appear before the board after having been ordered to do so in writing by the chair of the board;

(xv) Making any fraudulent or untrue statement to the board;

(xvi) Violation of the code of ethics adopted in the rules and regulations of the board;

(xvii) Inability to practice psychology or behavior analysis with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals or any other substance or as a result of any mental or physical condition; or

(xviii) Providing psychology services under the Psychology Interjurisdictional Compact, W.S. 33-27-202, without satisfying the standards and conditions imposed by the compact or without complying with rules promulgated by the board related to providing psychological services under the compact.

(c) With respect to evidence of any conviction or the suspension or revocation of a license for the purposes of subsection (b) of this section, a certified copy of the record of conviction from the court entering the conviction, from the state suspending or revoking the license, or from the coordinated licensure information system operated under the Psychology Interjurisdictional Compact, W.S. 33-27-202, shall be conclusive evidence thereof.

(d) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

(e) For purposes of this section, "conviction" means and includes a plea of guilty, nolo contendere and a verdict of guilty upon which a judgment of conviction may be rendered.

33-27-121. Determination of mental or physical impairment.

(a) If the board has reasonable grounds to suspect that a person licensed or certified under this act lacks the mental or physical capacity to practice with reasonable skill and safety to patients or clients, the board may require that person to submit to psychological, physical or other medical examinations to determine his capacity to practice competently. Failure or refusal to undergo requested examinations shall be grounds to suspend or revoke the license. The board shall specify in its rules and regulations the nature of the examinations, the appeal process, and who shall bear the cost of the examinations.

(b) If the board has reasonable grounds to suspect that an applicant may be using controlled substances or is otherwise mentally or physically impaired, the board may require the applicant to undergo any psychological, physical or other examination necessary as specified in the rules and regulations to determine the applicant's ability to competently practice.

33-27-122. Board hearings and investigations.

(a) The board may investigate or cause to be investigated any allegation or evidence that appears to show that a psychologist, behavior analyst or assistant behavior analyst licensed to practice in this jurisdiction, including a person providing psychological services pursuant to the Psychology Interjurisdictional Compact, W.S. 33-27-202, and anyone under his supervision is, or may be, in violation of this act, in violation of the Psychology Interjurisdictional Compact or in violation of any of the rules adopted by the board.

(b) Any person who in good faith reports a violation to the board shall be absolutely immune from civil liability for any statement or opinion made in the report.

(c) The board shall conduct hearings in accordance with the Wyoming Administrative Procedure Act and duly promulgated rules and regulations.

(d) The licensee may waive any or all of his rights to a formal adjudicatory proceeding.

(e) The board may conduct a default hearing if, after due notice, the individual fails or refuses to appear. The board shall have the authority to issue subpoenas for production of documents and witnesses and to administer oaths. The board may apply to a court of competent jurisdiction to compel compliance with a subpoena.

(f) A psychologist, behavior analyst or assistant behavior analyst may surrender his license when he is charged with any violation of this act, the Psychology Interjurisdictional Compact, W.S. 33-27-202 or board rules and regulations, and such surrender and acceptance by the board shall constitute acknowledgment by the person as an admission of guilt as charged. The circumstances of the surrender shall be reported in the same fashion as a revocation action.

(g) A psychologist, behavior analyst or assistant behavior analyst may request in writing to the board that a restriction be placed upon his license to practice. The board, in its discretion, may accept a surrender or grant a request for restriction and shall have the authority to attach restrictions to the license to practice within this state or otherwise to discipline the licensee.

(h) Subsequent to the holding of a hearing and the taking of evidence by the board as provided for in this section, if a majority of the board finds that a psychologist, behavior analyst or assistant behavior analyst is in violation of this act or the Psychology Interjurisdictional Compact, W.S. 33-27-202, or is guilty of any of the acts, offenses or conditions as enumerated by the board, the following actions may be taken:

(i) The board may revoke or suspend the license or ability to practice under the Psychology Interjurisdictional Compact, W.S. 33-27-202;

(ii) The board may suspend imposition of a revocation or suspension of a license or ability to practice under the Psychology Interjurisdictional Compact, W.S. 33-27-202;

(iii) The board may impose revocation or suspension of a license or ability to practice under the Psychology Interjurisdictional Compact, W.S. 33-27-202, but suspend enforcement thereof by placing the psychologist, behavior analyst or assistant behavior analyst on probation, which probation shall be revocable if the board finds the conditions of the probation order are not being followed. As a condition of probation the board may require the psychologist, behavior analyst or assistant behavior analyst to submit to care, counseling or treatment by a professional designated by the board. The expense of the action shall be borne by the probationer. The board may at any time modify the conditions of the probation and may include among them any reasonable condition for the purpose of the protection of the public, or for the purpose of the rehabilitation of the probationer, or both;

(iv) The board may require restitution when necessary; and

(v) The board may assess the costs of the disciplinary proceeding as specified in its rules and regulations.

(j) The board shall take all necessary action against a person violating the Psychology Interjurisdictional Compact, W.S. 33-27-202, as required by the compact.

33-27-123. Privileged communication.

(a) In judicial proceedings, whether civil, criminal, or juvenile, in legislative and administrative proceedings, in proceedings related to the Psychology Interjurisdictional Compact, W.S. 33-27-202, and in proceedings preliminary and ancillary thereto, a patient or client, or his guardian or personal representative, may refuse to disclose or prevent the disclosure of confidential information, including information contained in administrative records, communicated to a person licensed or otherwise authorized to practice under this act, the Psychology Interjurisdictional Compact, W.S. 33-27-202 or to persons reasonably believed by the patient or client to be so licensed, and their agents, for the purpose of diagnosis, evaluation or treatment of any mental or emotional condition or

disorder. The psychologist, behavior analyst or assistant behavior analyst shall not disclose any information communicated as described above in the absence of an express waiver of the privilege except in the following circumstances:

(i) Where abuse or harmful neglect of children, the elderly or disabled or incompetent individuals is known or reasonably suspected;

(ii) Where the validity of a will of a former patient or client is contested;

(iii) Where such information is necessary for the psychologist, behavior analyst or assistant behavior analyst to defend against a malpractice action brought by the patient or client;

(iv) Where an immediate threat of physical violence against a readily identifiable victim is disclosed to the psychologist, behavior analyst or assistant behavior analyst;

(v) In the context of civil commitment proceedings, where an immediate threat of self-inflicted damage is disclosed to the psychologist, behavior analyst or assistant behavior analyst;

(vi) Where the patient or client, by alleging mental or emotional damages in litigation, puts his mental state in issue and production of those materials by the patient or client is required by law;

(vii) Where the patient or client is examined pursuant to court order; or

(viii) In the context of investigations and hearings brought by the patient or client and conducted by the board where violations of this act or the Psychology Interjurisdictional Compact, W.S. 33-27-202 are at issue. Information that is deemed to be of sensitive nature shall be inspected by the board in camera and the board shall determine whether or not the information shall become a part of the record and subject to public disclosure.

33-27-124. Requirements for licensure; behavior analysis.

(a) The board shall issue a license as a behavior analyst or an assistant behavior analyst to any applicant who files an

application upon a form and in a manner as prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the applicant's competence and of the following which evidence shall comply with rules of the board:

(i) For licensure as a behavior analyst, the applicant holds a current certification as a board certified behavior analyst verified by the board with the certifying entity; or

(ii) For licensure as an assistant behavior analyst, the applicant holds a current certification as a board certified assistant behavior analyst verified by the board with the certifying entity.

(b) A license may be issued to any person who is verified by the board to be currently licensed as a behavior analyst or assistant behavior analyst and in good standing in another jurisdiction that has licensure requirements comparable to and who otherwise meets the requirements of this act.

(c) Any person licensed under this section as an assistant behavior analyst may engage in the practice of behavior analysis only under the supervision of a licensed behavior analyst or licensed psychologist in compliance with the requirements of the certifying entity and as provided by rule of the board.

33-27-125. Exemptions; behavior analysis.

(a) The following persons when practicing within the scope of their authority and their education and training may engage in acts included in the definition of the practice of behavior analysis under W.S. 33-27-113(a)(xiii) without being licensed as a behavior analyst or assistant behavior analyst under this act:

(i) Any member of another recognized profession who is licensed, certified or regulated under the laws of this state as defined in the rules of the board and is authorized to render services consistent with their professional training and code of ethics, provided that they do not represent themselves to be licensed behavior analysts or licensed assistant behavior analysts;

(ii) A psychologist licensed under this act or any person, as prescribed by rule of the board, acting under the psychologist's authority and direction;

(iii) A behavior analyst, including an applied animal behaviorist and animal trainer, who practices exclusively with non-humans;

(iv) Any person who provides general behavior analysis services to an organization when the services are for the sole benefit of the organization and do not involve providing services directly to any individual person;

(v) Any person while teaching behavior analysis or conducting behavior analytics research, provided that the teaching or research do not involve the direct delivery of behavior analysis services beyond the typical parameters of college or university instruction or applied research;

(vi) A matriculated college or university student or postdoctoral fellow whose applied behavior analysis activities are part of a defined program of study, course, practicum, internship or fellowship and are supervised by a behavior analyst licensed in this state or by a qualified faculty member as provided by rule of the board;

(vii) Any unlicensed person who is pursuing experience in applied behavior analysis consistent with the experience requirements of the certifying entity, provided such experience is supervised in accordance with the requirements of the certifying entity and as provided by rule of the board;

(viii) A behavior technician who delivers behavior analysis services under the supervision of a licensed behavior analyst or licensed assistant behavior analyst. A behavior technician shall not represent himself as a licensed behavior analyst or licensed assistant behavior analyst and shall only use titles that communicate his unlicensed status, such as "applied behavior analysis technician," "behavior technician" or "tutor." As used in this paragraph, "behavior technician" means a paraprofessional who practices under the supervision of a licensed behavior analyst or licensed assistant behavior analyst and who delivers services as assigned by the supervisor responsible for the technician's work. The services that may be assigned to a behavior technician shall not include designing assessment or intervention plans or procedures;

(ix) A caregiver of a recipient of behavior analysis services who delivers behavior analysis services to the recipient under the authority and direction of a licensed

behavior analyst or licensed assistant behavior analyst. The caregiver shall not represent themselves as a licensed behavior analyst or licensed assistant behavior analyst under this paragraph and shall deliver behavior analysis services only to the person who is receiving behavior analysis services from the licensed behavior analyst or licensed assistant behavior analyst who is supervising the caregiver; or

(x) Any person providing advice or counsel to a friend or relative in a nonprofessional and noncommercial setting and when no compensation is paid for the advice or counsel that is being provided.

ARTICLE 2 - PSYCHOLOGY INTERJURISDICTIONAL COMPACT

33-27-201. Short title.

This article shall be known and may be cited as the "Psychology Interjurisdictional Compact."

33-27-202. Compact provisions generally.

The Psychology Interjurisdictional Compact is enacted into law and entered into on behalf of this state with all other states legally joining in the Compact in a form substantially as follows:

ARTICLE I

PURPOSE

Whereas, states license psychologists in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

Whereas, this Compact is intended to regulate the day to day practice of telepsychology (i.e. the provision of psychological services using telecommunication technologies) by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

Whereas, this Compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for thirty (30) days within a calendar

year in the performance of their psychological practice as assigned by an appropriate authority;

Whereas, this Compact is intended to authorize State Psychology Regulatory Authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state;

Whereas, this Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety;

Whereas, this Compact does not apply when a psychologist is licensed in both the Home and Receiving States; and

Whereas, this Compact does not apply to permanent in-person, face-to-face practice; however, it does allow for authorization of temporary psychological practice.

Consistent with these principles, this Compact is designed to achieve the following purposes and objectives:

1. Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state where the psychologist is not licensed to practice psychology;

2. Enhance the states' ability to protect the public's health and safety, especially client/patient safety;

3. Encourage the cooperation of Compact States in the areas of psychology licensure and regulation;

4. Facilitate the exchange of information between Compact States regarding psychologist licensure, adverse actions and disciplinary history;

5. Promote compliance with the laws governing psychological practice in each Compact State; and

6. Invest all Compact States with the authority to hold licensed psychologists accountable through the mutual recognition of Compact State licenses.

ARTICLE II

DEFINITIONS

A. "Adverse Action" means any action taken by a State Psychology Regulatory Authority that finds a violation of a statute or regulation that is identified by the State Psychology Regulatory Authority as discipline and is a matter of public record;

B. "Association of State and Provincial Psychology Boards (ASPPB)" means the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities responsible for the licensure and registration of psychologists throughout the United States and Canada;

C. "Authority to Practice Interjurisdictional Telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under this Compact, in another Compact State;

D. "Bylaws" means those bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Article X of this Compact for its governance, or for directing and controlling its actions and conduct;

E. "Client/Patient" means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision and/or consulting services;

F. "Commissioner" means the voting representative appointed by each State Psychology Regulatory Authority pursuant to Article X of this Compact;

G. "Compact State" means a state, the District of Columbia or United States territory that has enacted this Compact legislation and which has not withdrawn pursuant to Article XIII, Section C of this Compact or been terminated pursuant to Article XII, Section B of this Compact;

H. "Coordinated Licensure Information System", also referred to as "Coordinated Database", means an integrated process for collecting, storing and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities;

I. "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons and/or processes;

J. "Day" means any part of a day in which psychological work is performed;

K. "Distant State" means the Compact State where a psychologist is physically present (not through the use of telecommunications technologies) to provide temporary in-person, face-to-face psychological services;

L. "E.Passport" means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines;

M. "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission;

N. "Home State" means a Compact State where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one (1) Compact State and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the Compact State where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one (1) Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed;

O. "Identity History Summary" means a summary of information retained by the FBI, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization or military service;

P. "In-Person, Face-to-Face" means interactions in which the psychologist and the client/patient are in the same physical space and that does not include interactions that may occur through the use of telecommunication technologies;

Q. "Interjurisdictional Practice Certificate (IPC)" means a certificate issued by the Association of State and Provincial

Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the State Psychology Regulatory Authority of intention to practice temporarily and verification of one's qualifications for such practice;

R. "License" means authorization by a State Psychology Regulatory Authority to engage in the independent practice of psychology, which would be unlawful without the authorization;

S. "Non-Compact State" means any State which is not at the time a Compact State;

T. "Psychologist" means an individual licensed for the independent practice of psychology;

U. "Psychology Interjurisdictional Compact Commission", also referred to as "Commission", means the national administration of which all Compact States are members;

V. "Receiving State" means a Compact State where the client/patient is physically located when the telepsychological services are delivered;

W. "Rule" means a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Article XI of this Compact that is of general applicability and that implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural or practice requirement of the Commission, and that has the force and effect of statutory law in a Compact State, and includes the amendment, repeal or suspension of an existing rule;

X. "Significant Investigatory Information" means:

1. Investigative information that a State Psychology Regulatory Authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or

2. Investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified and/or had an opportunity to respond.

Y. "State" means a state, commonwealth, territory or possession of the United States or the District of Columbia;

Z. "State Psychology Regulatory Authority" means the Board, office or other agency with the legislative mandate to license and regulate the practice of psychology;

AA. "Telepsychology" means the provision of psychological services using telecommunication technologies;

BB. "Temporary Authorization to Practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State;

CC. "Temporary In-Person, Face-to-Face Practice" means where a psychologist is physically present (not through the use of telecommunications technologies) in the Distant State to provide for psychology services for thirty (30) days within a calendar year and based on notification to the Distant State.

ARTICLE III

HOME STATE LICENSURE

A. The Home State shall be a Compact State where a psychologist is licensed to practice psychology.

B. A psychologist may hold one (1) or more Compact State licenses at a time. If the psychologist is licensed in more than one (1) Compact State, the Home State is the Compact State where the psychologist is physically present when the services are delivered as authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

C. Any Compact State may require a psychologist not previously licensed in a Compact State to obtain and retain a license to be authorized to practice in the Compact State under circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

D. Any Compact State may require a psychologist to obtain and retain a license to be authorized to practice in a Compact State under circumstances not authorized by Temporary Authorization to Practice under the terms of this Compact.

E. A Home State's license authorizes a psychologist to practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only if the Compact State:

1. Currently requires the psychologist to hold an active E.Passport;

2. Has a mechanism in place for receiving and investigating complaints about licensed persons;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation (FBI), or other designee with similar authority, no later than ten (10) years after activation of the Compact; and

5. Complies with the Bylaws and Rules of the Commission.

F. A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact State:

1. Currently requires the psychologist to hold an active Interjurisdictional Practice Certificate;

2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation (FBI), or other designee with similar authority, no later than ten (10) years after activation of the Compact; and

5. Complies with the Bylaws and Rules of the Commission.

ARTICLE IV

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

A. Compact States shall recognize the right of a psychologist, licensed in a Compact State in conformance with Article III of this Compact, to practice telepsychology in other Compact States (Receiving States) in which the psychologist is not licensed under the Authority to Practice Interjurisdictional Telepsychology as provided in the Compact.

B. To exercise the Authority to Practice Interjurisdictional Telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:

1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

a. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

b. A foreign college or university deemed to be equivalent to 1(a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

2. Hold a graduate degree in psychology that meets all of the following criteria:

a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

b. The psychology program must stand as a recognizable, coherent organizational entity within the institution;

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of three (3) academic years of full-time graduate study for doctoral degrees and a minimum of one (1) academic year of full-time graduate study for master's degrees;

j. The program includes an acceptable residency as defined by the Rules of the Commission.

3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;

4. Have no history of adverse action that violates the Rules of the Commission;

5. Have no criminal record history reported on an Identity History Summary that violates the Rules of the Commission;

6. Possess a current, active E.Passport;

7. Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the Rules of the Commission.

C. The Home State shall maintain authority over the license of any psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.

D. A psychologist practicing in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology shall be subject to the Receiving State's scope of practice. A Receiving State may, in accordance with that state's due process law, limit or revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State and may take any other necessary actions under the Receiving State's applicable law to protect the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state shall promptly notify the Home State and the Commission.

E. If a psychologist's license in any Home State, another Compact State or any Authority to Practice Interjurisdictional Telepsychology in any Receiving State is restricted, suspended or otherwise limited, the psychologist's E.Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a Compact State under the Authority to Practice Interjurisdictional Telepsychology.

ARTICLE V

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

A. Compact States shall also recognize the right of a psychologist, licensed in a Compact State in conformance with Article III of this Compact, to practice temporarily in other Compact States (Distant States) in which the psychologist is not licensed, as provided in this Compact.

B. To exercise the Temporary Authorization to Practice under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State shall:

1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

a. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

b. A foreign college or university deemed to be equivalent to 1(a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

2. Hold a graduate degree in psychology that meets the following criteria:

a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

b. The psychology program must stand as a recognizable, coherent organizational entity within the institution;

c. There must be clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of three (3) academic years of full-time graduate study for doctoral degrees and a minimum of one (1) academic year of full-time graduate study for master's degrees;

j. The program includes an acceptable residency as defined by the Rules of the Commission.

3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;

4. No history of adverse action that violates the Rules of the Commission;

5. No criminal record history that violates the Rules of the Commission;

6. Possess a current, active Interjurisdictional Practice Certificate;

7. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the Rules of the Commission.

C. A psychologist practicing in a Distant State under the Temporary Authorization to Practice shall practice within the scope of practice authorized by the Distant State.

D. A psychologist practicing in a Distant State under the Temporary Authorization to Practice will be subject to the Distant State's authority and law. A Distant State may, in accordance with that state's due process law, limit or revoke a psychologist's Temporary Authorization to Practice in the Distant State and may take any other necessary actions under the Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a Distant State takes action, the state shall promptly notify the Home State and the Commission.

E. If a psychologist's license in any Home State or another Compact State or any Temporary Authorization to Practice in any Distant State is restricted, suspended or otherwise limited, the Interjurisdictional Practice Certificate shall be revoked and therefore the psychologist shall not be eligible to practice in a Compact State under the Temporary Authorization to Practice.

ARTICLE VI

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A. A psychologist may practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in the Rules of the Commission, and under the following circumstances:

1. The psychologist initiates a client/patient contact in a Home State via telecommunications technologies with a client/patient in a Receiving State;

2. Other conditions regarding telepsychology as determined by Rules promulgated by the Commission.

ARTICLE VII

ADVERSE ACTIONS

A. A Home State shall have the power to impose adverse action against a psychologist's license issued by the Home State. A Distant State shall have the power to take adverse action on a psychologist's Temporary Authorization to Practice within that Distant State.

B. A Receiving State may take adverse action on a psychologist's Authority to Practice Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse action against a psychologist based on an adverse action taken by a Distant State regarding temporary in-person, face-to-face practice.

C. If a Home State takes adverse action against a psychologist's license, that psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is terminated and the Interjurisdictional Practice Certificate is revoked.

1. All Home State disciplinary orders which constitute adverse action shall be reported to the Commission in accordance with the Rules promulgated by the Commission. A Compact State shall report adverse actions in accordance with the Rules of the Commission;

2. In the event adverse action is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the Rules of the Commission;

3. Other actions may be imposed as determined by the Rules promulgated by the Commission.

D. A Home State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported

inappropriate conduct engaged in by a licensee which occurred in a Receiving State as it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law shall control in determining any adverse action against a psychologist's license.

E. A Distant State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under Temporary Authorization to Practice which occurred in that Distant State as it would if such conduct had occurred by a licensee within the Home State. In such cases, Distant State's law shall control in determining any adverse action against a psychologist's Temporary Authorization to Practice.

F. Nothing in this Compact shall override a Compact State's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the Compact State's law. Compact States shall prohibit psychologists who enter any alternative programs from providing telepsychology services under the Authority to Practice Interjurisdictional Telepsychology or under the Temporary Authorization to Practice in any other Compact State during the term of the alternative program.

G. No other judicial or administrative remedies shall be available to a psychologist in the event a Compact State imposes an adverse action pursuant to subsection C above.

ARTICLE VIII

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY

A. In addition to any other powers granted under state law, a Compact State's Psychology Regulatory Authority shall have the authority under this Compact to:

1. Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a Compact State's Psychology Regulatory Authority for the attendance and testimony of witnesses and/or the production of evidence from another Compact State shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own

proceedings. The issuing State Psychology Regulatory Authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

2. Issue cease and desist and/or injunctive relief orders to revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice;

3. During the course of any investigation, a psychologist may not change his/her Home State licensure. A Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The Home State Psychology Regulatory Authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States concerning the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The Commission may create additional rules for mandated or discretionary sharing of information by Compact States.

ARTICLE IX

COORDINATED LICENSURE INFORMATION SYSTEM

A. The Commission shall provide for the development and maintenance of a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this Compact is applicable in all Compact States as defined by the Rules of the Commission.

B. Notwithstanding any other provision of state law to the contrary, a Compact State shall submit a uniform data set to the Coordinated Database on all licensees as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Significant investigatory information;

4. Adverse actions against a psychologist's license;

5. An indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked;

6. Non-confidential information related to alternative program participation information;

7. Any denial of application for licensure and the reasons for such denial; and

8. Other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. The Coordinated Database administrator shall promptly notify all Compact States of any adverse action taken against, or significant investigative information on, any licensee in a Compact State.

D. Compact States reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information.

E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.

ARTICLE X

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

A. The Compact States hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

1. The Commission is a body politic and an instrumentality of the Compact States;

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of

competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings;

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting and Meetings.

1. The Commission shall consist of one (1) voting representative appointed by each Compact State who shall serve as that state's Commissioner. The State Psychology Regulatory Authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the Compact State. This delegate shall be limited to:

a. The Executive Director, Executive Secretary or similar executive;

b. Current member of the State Psychology Regulatory Authority of a Compact State; or

c. Designee empowered with the appropriate authority to act on behalf of the Compact State.

2. Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compact State in which the vacancy exists.

3. Each Commissioner shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

4. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

5. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI of this Compact.

6. The Commission may convene in a closed, non-public meeting if the Commission must discuss:

a. Non-compliance of a Compact State with its obligations under the Compact;

b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened or reasonably anticipated litigation against the Commission;

d. Negotiation of contracts for the purchase or sale of goods, services or real estate;

e. Accusation against any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information which is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee of the Commission charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal and state law.

7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting and the

reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

a. For the establishment and meetings of committees; and

b. Governing any general or specific delegation of any authority or function of the Commission.

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance at such meetings of interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed;

4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any Compact State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

6. Promulgating a Code of Ethics to address permissible and prohibited activities of Commission members and employees;

7. Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

8. The Commission shall publish its Bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compact States;

9. The Commission shall maintain its financial records in accordance with the Bylaws; and

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all Compact States;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Psychology Regulatory Authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compact State;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

8. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees comprised of Members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the Bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

E. The Executive Board. Persons elected pursuant to this paragraph shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Board shall be comprised of six (6) members:

a. Five (5) voting members who are elected from the current membership of the Commission by the Commission;

b. One (1) ex-officio, nonvoting member from the recognized membership organization that shall be composed of State and Provincial Psychology Regulatory Authorities.

2. The ex-officio member shall have served as staff or member on a State Psychology Regulatory Authority and will be selected by its respective organization.

3. The Commission may remove any member of the Executive Board as provided in Bylaws.

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to this Compact legislation, fees paid by Compact States such as annual dues, and any other applicable fees;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or Bylaws.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.

3. The Commission may levy on and collect an annual assessment from each Compact State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission which shall promulgate a rule binding upon all Compact States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Compact States, except by and with the authority of the Compact State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its Bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense and Indemnification

1. The members, officers, Executive Director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, Executive Director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, Executive Director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act,

error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE XI

RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the Compact States rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any Compact State.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission; and

2. On the website of each Compact States' Psychology Regulatory Authority or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and submit any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons who submit comments independently of each other;

2. A governmental subdivision or agency; or

3. A duly appointed person in an association that has at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated commissioner in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all commissioners, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the emergency rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety or welfare;

2. Prevent a loss of Commission or Compact State funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE XII

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

A. Oversight.

1. The Executive, Legislative and Judicial branches of state government in each Compact State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Compact State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

B. Default, Technical Assistance and Termination.

1. If the Commission determines that a Compact State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other Compact States of the nature of the default, the proposed means of remedying the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the Compact States, and all rights, privileges and benefits conferred by this Compact shall be terminated on the effective date of termination. A remedy of

the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other reasonable means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature and each of the Compact States.

4. A Compact State which has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.

5. The Commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the state of Georgia or the federal district where the Compact has its principal offices. The prevailing commissioner shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution.

1. Upon request by a Compact State, the Commission shall attempt to resolve disputes related to the Compact which arise among Compact States and between Compact and Non-Compact States.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the Commission.

D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote of the Commissioners, the Commission may initiate legal action in the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices against a Compact State in default to enforce compliance with the provisions of the Compact and its

promulgated Rules and Bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing commissioner shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE XIII

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

A. The Compact shall come into effect on the date on which the Compact is enacted into law in the seventh Compact State. The provisions which become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state which joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule which has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any Compact State may withdraw from this Compact by enacting a statute repealing the same.

1. A Compact State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Psychology Regulatory Authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a Compact State and a Non-Compact State which does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Compact States. No amendment to this Compact shall become effective and binding upon any Compact State until it is enacted into the law of all Compact States.

ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain in full force and effect as to the remaining Compact States.

CHAPTER 28 - REAL ESTATE BROKERS AND SALESPERSONS

ARTICLE 1 - GENERAL LICENSING PROVISIONS

33-28-101. Short title; license required.

This act shall be known and may be cited as the "Real Estate License Act." It is unlawful for any person to engage in or conduct, directly or indirectly, or to advertise or hold himself out as engaging in real estate activity or acting in the capacity of a licensee within this state without first obtaining a license as provided in this act.

33-28-102. Definitions.

(a) Repealed By Laws 2011, Ch. 104, § 2.

(b) As used in this act:

(i) "Active license" means a real estate license that has not been inactivated, suspended or revoked;

(ii) "Advance fee" means a fee claimed, charged or received for a listing, advertisement or offer to sell or lease real estate issued primarily for promoting the sale or lease of real estate;

(iii) "Aggregate limit" means a provision in an insurance contract limiting the maximum liability of an insurer for a series of losses in a given time period, such as the policy term;

(iv) "Associate broker" means an individual who has qualified as an associate broker under this act, is licensed by the commission under a responsible broker and does not have supervisory responsibilities;

(v) "Auction," when used as a noun, means a method of sale at a predetermined date and time, by means of one (1) or more exchanges between an auctioneer and prospective purchasers either in person verbally or physically, or by regular mail, telecommunications, the internet or an electronic transmission, the exchanges consisting of one (1) or more offers to sell made by the auctioneer and offers to purchase made by prospective purchasers, with the right to acceptance of offers to purchase residing with the auctioneer. "Auction" includes a sale of real estate in which there has been a solicitation or invitation by advertisement to the public in advance for bidding using sealed bids, provided that the bids are opened and there is a call for an advancement of the bids. "Auction" when used as a verb, means any act or conduct done for compensation or the expectation thereof and designed, intended or expected to affect the bidding or results of a real estate auction, including, but not limited to, serving as an auctioneer or ringman or encouraging, soliciting or receiving bids;

(vi) "Branch office" means any office location of a real estate company that is separate from a principal office and supervised by a responsible broker;

(vii) Repealed by Laws 2017, ch. 166, § 2.

(viii) "Buyer" means a person attempting to acquire real estate and includes a tenant as that term is commonly used in the rental, leasing or management of real estate;

(ix) "Buyer's agent" means a licensee who is authorized to represent and act on behalf of the buyer in a real estate transaction;

(x) "Commission" means the Wyoming real estate commission;

(xi) "Compensation" means any money, item of value or payment which is provided, promised or expected for the performance of any real estate activity;

(xii) "Cooperative transaction" means any real estate transaction in which licensees from more than one (1) real estate company participate, regardless of agency representation;

(xiii) "Customer" means a person who has expressed an interest in buying, selling or leasing real estate or who attends a showing of real estate without any agency relationship or a party to a real estate transaction who has established no intermediary or agency relationship with any licensee involved in the transaction;

(xiv) "Degree in real estate" means a degree from an accredited degree granting college or university, including a junior or community college, with a major course of study in real estate. A degree under this section shall at minimum require the successful completion of four (4) core courses of real estate principles and practices, real estate law, real estate appraisal and real estate finance, plus at least two (2) additional real estate related courses. These courses shall total at least eighteen (18) or more semester hours or twenty-seven (27) quarter hours;

(xv) "Designated licensee" means a licensee who is designated in writing by a responsible broker to serve as an agent for a seller or a buyer or as an intermediary in a real estate transaction;

(xvi) "Distance education course" means a course where instruction takes place when the teacher and the student are not in a traditional classroom setting and are separated by distance or time;

(xvii) "Equivalent coverage" means insurance coverage obtained independently of the group program available through the insurer under contract with the commission and subject to the provisions of this act;

(xviii) "Errors and omissions insurance" means professional liability insurance which provides insurance coverage to active licensees for errors and omissions made during the course of real estate transactions subject to the coverages, limitations and exclusions of the specific policy;

(xix) "Expired license" means a license for which the license period has expired;

(xx) "Extended reporting period" means a designated period of time after a claims-made policy has expired during which a claim may be made and coverage obtained as if the claim was made during the policy period;

(xxi) "Funds holder" means a title company, closing agent or attorney licensed in this state who holds items of value in trust for the parties to a real estate transaction;

(xxii) "Grace period" means January 1 to March 1 of each year during which an expired license may be renewed;

(xxiii) "Group program" means an insurance policy from an insurance provider selected by the commission through the competitive process as specified in this act;

(xxiv) "Inactive license" means a license that has been placed on inactive status at the request of the licensee and is not expired, terminated, suspended or revoked;

(xxv) "Individual coverage" means insurance coverage other than coverage from the group program which meets the requirements of the commission;

(xxvi) "In-house real estate transaction" means a real estate transaction in which the buyer and the seller have an agency, intermediary or customer relationship with licensees from the same real estate company;

(xxvii) "Interest in a transaction" means any advantage, benefit or profit, other than the agreed upon compensation, which may be realized by a licensee as the result of a purchase, sale or lease of real estate;

(xxviii) "Intermediary" means a licensee who assists one (1) or more parties throughout a contemplated real estate transaction without acting as an agent or advocate for any party to the transaction;

(xxix) "License" means the document issued by the commission certifying that the person named by the person's legal name on the document had fulfilled all requirements for licensure under this act;

(xxx) "Licensee" means any person issued a license by the commission;

(xxxi) "Like-license" means a license from another jurisdiction which is at an equivalent level of experience and responsibility as a comparable Wyoming license;

(xxxii) "Material to the transaction" means having importance, relevance or consequence to a person making a decision regarding the purchase, sale or lease of real estate. "Material to the transaction" does not include psychological considerations including, but not limited to, health issues, suicide, murder or crimes which have occurred on the property;

(xxxiii) "Offer" means any inducement, solicitation or attempt to encourage a person to acquire an interest in real estate which is made for gain or profit;

(xxxiv) "Offeree" means a person to whom an offer is made;

(xxxv) "Offeror" means the person making an offer;

(xxxvi) "Office" means a responsible broker's place of business where records are maintained;

(xxxvii) "Option" is a right that an owner may give to another person to purchase or lease the owner's real estate at a specific price;

(xxxviii) "Owner" means a person with a right to convey an ownership or leasehold interest in real estate;

(xxxix) "Person" means individuals, corporations, partnerships, associations or other public or private entities, foreign or domestic;

(xl) "Prior acts coverage" means insurance coverage for any claim made during a current policy period when the act or acts causing the claim or injuries for which the claim is made occurred prior to the inception of the current policy period;

(xli) "Proof of coverage" means a certificate of insurance demonstrating coverage of a policy of insurance equal to or exceeding the group coverage contracted for by the commission;

(xlii) "Property management" means the act of management for compensation of real estate for another,

including collection of rents, maintenance of the real estate and accounting of fees received for another;

(xliii) "Qualified insurance carrier" means an insurance carrier that:

(A) For the entire term of its contract shall provide the group plan of errors and omission insurance as provided in this act, maintains an A.M. Best rating of "B" or better and financial size category of class VI or higher;

(B) Is authorized by the Wyoming insurance department to do business in Wyoming as an insurance carrier for the policy term;

(C) Is and will remain qualified and authorized by the Wyoming insurance department to write policies of errors and omissions insurance in Wyoming for the policy term;

(D) After competitive bidding, has been notified by the commission that it is the successful bidder for the group plan to provide the errors and omissions insurance as specified in this act;

(E) Has entered into a contract to provide group errors and omissions plan in conformity with the contract, this act, applicable rules of the commission and other applicable law;

(F) Will collect premiums, maintain records and report names of those insured and a record of claims to the commission on a timely basis.

(xliv) "Real estate" means leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and whether the real estate is situated in this state or elsewhere but shall not apply to nor include mineral lands, rights or leases;

(xlv) "Real estate activity" occurs when an individual for another and for compensation performs any one or more of the following:

(A) Sells, exchanges, purchases, rents, manages or leases real estate;

(B) Offers to sell, exchange, purchase, rent, manage or lease real estate;

(C) Negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;

(D) Lists, offers, attempts or agrees to list real estate for sale, lease or exchange;

(E) Auctions, offers, attempts or agrees to auction real estate;

(F) Collects, offers, attempts or agrees to collect rent for the use of real estate;

(G) Advertises or holds himself out as being engaged in the business of buying, selling, exchanging, auctioning, renting or leasing real estate;

(H) Engages in the business of charging an advance fee in connection with any contract undertaken to promote the sale, auction or lease of real estate either through its listing in a publication issued for that purpose or for referral of information concerning the real estate to responsible brokers, associate brokers and salespersons;

(J) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;

(K) Assists or directs in the procuring of prospects calculated to result in the sale, exchange, lease or rental of real estate;

(M) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, lease or rental of real estate;

(N) Deals in time shares;

(O) Provides a broker's price opinion as provided in W.S. 33-28-125.

(xlvi) "Real estate company" means a domestic or foreign business entity that is authorized to conduct business

in Wyoming and licensed by the commission to conduct real estate activity;

(xlvii) "Real estate transaction" or "transaction" means any real estate activity under this section;

(xlviii) "Regular employee" means an individual who is employed by an owner of real estate on a salaried basis or paid wages which are not performance based, is subject to income tax withholding and FICA and whose duties are performed in the ordinary course of the owner's business or the management or operation of the owner's investments;

(xlix) "Responsible broker" means an individual who has an active responsible broker's license and who is responsible for the supervision of the activities of licensees associated with the real estate company or a responsible broker who operates a single license office or sole proprietorship;

(l) "Retroactive date" means the date when the first real estate errors and omissions coverage was effective insuring the named insured on a claims-made basis and since which time the insured has been continuously insured;

(li) "Salesperson" means an individual who has qualified as a salesperson under this act and is licensed by the commission under a responsible broker;

(lii) "Seller" means a person who is attempting to sell or exchange real estate and includes a landlord as that term is commonly used in the rental, leasing or management of real estate;

(liii) "Seller's agent" means a licensee who is authorized to represent and act for the seller in a real estate transaction;

(liv) "Short term rental" means the rental of real estate for thirty-one (31) days or less;

(lv) "Single-limit liability" means the maximum limit payable, per licensee, for damages arising out of the same error, omission or wrongful act;

(lvi) "Subagent" means a licensee authorized to represent and act on behalf of a real estate company in performing real estate activity for a principal. A subagent

shall owe the same obligations and responsibilities to the principal as a responsible broker;

(lvii) "Surrendered license" means a license that has been voluntarily terminated or surrendered by a licensee who, at the time of the voluntary termination or surrender, was under investigation or named in a formal administrative complaint and the surrender has been accepted by the commission;

(lviii) "Suspended license" means a license that has been temporarily suspended by the issuing authority;

(lix) "Time share" means any arrangement, whether by membership agreement, lease, rental agreement, license, use agreement or other means, whereby the purchaser receives a right to use or a freehold interest in accommodations, facilities or other real estate for a specific period of time during any given year, but not necessarily for consecutive years, and which extends for a period of more than one (1) year;

(lx) "Transaction manager" means a licensee designated in writing by the responsible broker to supervise a transaction. The transaction manager shall not be involved in the transaction and shall have the duties of an intermediary while supervising the transaction;

(lxi) "Written listing agreement" means any real estate employment agreement, including without limitation a buyer's brokerage agreement, a seller's listing contract and a property management contract. The authority created under a written listing agreement may not be assigned to another person without the written consent of all parties to the agreement;

(lxii) "Broker's price opinion" means an estimate prepared by a licensee that details the probable selling price of real estate and provides a varying level of detail about the real estate's condition, market and neighborhood and information about sales of comparable real estate;

(lxiii) "This act" means W.S. 33-28-101 through 33-28-401

33-28-103. Exemptions.

(a) The provisions of this act shall not apply to:

(i) An owner of real estate or to a member of his immediate family or to his regular employees with respect to property owned by him unless the owner, his immediate family or regular employee is a licensee;

(ii) An attorney in fact under a duly executed and recorded power of attorney to convey real estate from the owner or lessor, or the services rendered by an attorney-at-law in the performance of his duties as an attorney unless the attorney is a licensee;

(iii) Any individual acting as receiver, trustee in bankruptcy, administrator, executor, or guardian, or while acting under a court order or under the authority of a will or of a trust instrument or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency unless that individual is a licensee;

(iv) Any officer or employee of a federal agency in the conduct of his official duties, unless that individual is a licensee;

(v) Any officer or employee of the state government or any political subdivision thereof performing his official duties, unless that individual is a licensee;

(vi) Any person or employee acting as the resident manager for the owner or an employee acting as the resident manager for a responsible broker managing an apartment building, duplex, apartment complex or court, when the resident manager resides on the premises and is engaged in the leasing of real estate in connection with his employment, unless that individual is a licensee; or

(vii) A home owner's association formed and acting pursuant to its declaration and bylaws or a resort association formed and acting pursuant to its association agreement and bylaws.

33-28-104. Acts constituting person as licensee.

Any person who, for another, with the intention or upon the promise of receiving compensation offers, attempts or agrees to perform, or performs any single act of real estate activity, whether as a part of a transaction or as the entire transaction shall be deemed to be acting as a licensee within the meaning of this act.

33-28-105. Creation of commission; membership; terms; removal; chairman; powers and duties; director and duties thereof; other employees; compensation; disposition of fees.

(a) The Wyoming real estate commission is created to consist of five (5) commissioners, each of whom shall be a citizen of Wyoming, appointed by the governor with the advice and consent of the senate. Not less than three (3) or more than four (4) of the membership shall have been engaged in business as a licensee in Wyoming for at least five (5) years immediately preceding appointment. No more than one (1) commissioner shall be appointed from the same county to serve at the same time. The term of the members of the commission shall be for three (3) years and until their successors are appointed and qualified. Members appointed to fill vacancies shall be appointed in accordance with W.S. 28-12-101, and no member shall be appointed to succeed himself for more than one (1) full term. The governor may remove any commission member as provided in W.S. 9-1-202. The commission at its first meeting held after September 1 of each year shall select a chairman to serve for the following year. The commission has the power to regulate the issuance of licenses, to revoke or suspend licenses issued under this act, to censure licensees and may do all things necessary and proper to carry out the provisions of this act. The commission may, from time to time, promulgate and amend necessary and reasonable rules and regulations for these purposes. Appointments and terms shall be in accordance with W.S. 28-12-101 through 28-12-103.

(b) Repealed by Laws 1983, ch. 156, § 3.

(c) The commission shall employ a director. The director is subject to the rules and regulations of the human resources division of the department of administration and information. The director's salary shall be paid from the real estate commission account specified in subsection (g) of this section. The duties of the director shall include the following:

(i) Maintain and operate a suitable office for the commission;

(ii) Keep books, records and accounts of all activities of the commission;

(iii) Issue real estate responsible broker, associate broker, salesperson and real estate company licenses;

(iv) Make investigations of complaints and possible violations of the real estate laws and practices of licensees and to furnish information and recommendations to the commission for their action;

(v) Assist the commission with examinations to be given applicants for real estate licenses, and to conduct the examinations at the direction of the commission;

(vi) Assist the commission in holding educational clinics or meetings when deemed advisable with the aim of promoting higher standards of practice in the real estate profession;

(vii) Assist the commission in promulgating rules in compliance with the Wyoming Administrative Procedure Act, for the operation of the commission and the implementation of this law; and

(viii) Perform other duties as the commission prescribes.

(d) The commission shall employ other staff members to assist in the discharge of the duties imposed upon it by this act and shall prescribe the duties and fix the compensation of its staff members, subject to the rules and regulations of the human resources division of the department of administration and information. The office of the commission shall be maintained in Cheyenne and all files, records and property of the commission shall at all times remain in the Cheyenne office. No commission staff member may be a paid employee of any real estate association, real estate company or real estate licensee.

(e) Each member of the commission shall receive compensation from the real estate commission account for each day actually spent on his official duties including per diem and mileage as provided in W.S. 33-1-302(a)(vii) and salary in the amount provided by W.S. 28-5-101(d) for the performance of official duties.

(f) The commission shall adopt a seal, including the words Wyoming Real Estate Commission, Office of the Commission by which the acts of the commission shall be authenticated. Copies of all records and papers in the office of the commission, certified by the signature of the director and the seal of the commission, shall be received in evidence in all cases equally and with like effect as the originals.

(g) All fees collected by the commission shall be deposited in the state treasury. The state treasurer shall deposit the fees to the credit of the real estate commission account. Disbursements from the account shall not exceed the monies credited to it.

(h) The presence of three (3) members of the commission shall constitute a quorum. In the absence of the chairman, the member of the commission present who is senior in time of service shall serve as the presiding officer. The action of the majority of the members of the commission shall be deemed the action of the commission.

33-28-106. Application for license; qualifications; sworn statement; commission approval of course of study; statement of responsible broker; denial of license; issuing licenses.

(a) Any person desiring to act as a licensee shall file an application for a license with the commission. The application shall be in the form and detail as the commission shall prescribe and the individual applicant shall provide to the commission fingerprints and other information necessary for a criminal history record background check as provided in W.S. 7-19-201(a).

(b) Licenses shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity and competence to transact the business of a licensee in a manner which will safeguard the interests of the public, and only after satisfactory proof of the individual applicant's qualifications has been presented to the commission.

(c) Each applicant for a responsible broker's license shall:

(i) Have reached the age of majority;

(ii) Have first served actively for two (2) of the four (4) years immediately preceding the application as a real estate salesperson or associate broker; and

(iii) Submit other evidence through the application or otherwise, as the commission deems desirable with due regard to the paramount interests of the public, as to the honesty, truthfulness, integrity and competency of the individual applicant.

(d) Every member of a real estate company acting as a responsible broker for that real estate company who engages in any real estate activity shall obtain a responsible broker's license.

(e) Every applicant for a responsible broker's or associate broker's license shall state:

(i) The name of the real estate company with which he will be associated in the business of real estate;

(ii) The location of the place or places for which the license is desired;

(iii) The period of time, if any, which he has been engaged in the real estate business;

(iv) His present address, both of business and residence;

(v) Repealed By Laws 2005, ch. 96, § 2.

(vi) That he has or has not been refused a real estate license in this or any other state;

(vii) That his real estate license has or has not been revoked in this or any other state;

(viii) Evidence that he has completed not less than sixty (60) cumulative class hours in a course of study approved by the commission, given by instructors approved by the commission and has satisfactorily passed an examination covering material taught in each course.

(A) Repealed By Laws 2011, Ch. 104, § 2.

(B) Repealed By Laws 2011, Ch. 104, § 2.

(C) Repealed By Laws 2011, Ch. 104, § 2.

(D) Repealed By Laws 2011, Ch. 104, § 2.

(f) Each applicant for a salesperson's license shall:

(i) Repealed By Laws 2011, Ch. 104, § 2.

(ii) Repealed By Laws 2011, Ch. 104, § 2.

(iii) Repealed By Laws 2011, Ch. 104, § 2.

(iv) Repealed By Laws 2011, Ch. 104, § 2.

(v) Repealed By Laws 2011, Ch. 104, § 2.

(vi) Repealed By Laws 2011, Ch. 104, § 2.

(vii) Repealed By Laws 2011, Ch. 104, § 2.

(viii) Have reached the age of majority;

(ix) Submit other evidence as the commission deems desirable with due regard to the paramount interests of the public as to the honesty, truthfulness, integrity and competency of the individual applicant;

(x) Furnish the name of the real estate company with which he will be associated in the business of real estate;

(xi) Furnish the period of time, if any, that he has been engaged in the real estate business;

(xii) Furnish his present address;

(xiii) Furnish the name and address of his previous employer;

(xiv) Furnish a statement that he has or has not been refused a real estate license in this or any other state;

(xv) Furnish a statement that his real estate license has or has not been revoked in this or any other state;

(xvi) Furnish evidence that he has completed not less than thirty (30) class hours in a course of study approved by the commission, given by instructors approved by the commission and has satisfactorily passed an examination covering material taught in each course;

(xvii) Include a statement by the responsible broker in whose service the applicant is about to enter stating:

(A) The name and address of the responsible broker's real estate company;

(B) That in his opinion the applicant is honest, truthful and recommends the license be granted to the applicant;

(C) That the responsible broker will actively supervise and train the applicant during the period the requested license remains in effect.

(g) The commission may consider prior revocation, conduct or conviction in its determination of whether to grant an applicant a license if the applicant:

(i) Has been fined or disciplined or had his real estate license revoked, suspended, censured or placed on probation in any jurisdiction;

(ii) Is found to have committed any of the practices enumerated in W.S. 33-28-111 during the term of his prior licensure; or

(iii) Has been convicted of any felony that relates to the practice of real estate activity or to the ability to practice the duties of a responsible real estate licensee or any felony sexual offense or violent crime.

(h) The commission shall take into account the nature of the offense, any aggravating or extenuating circumstances, the time elapsed since the revocation, conduct or conviction, the rehabilitation or restitution performed by the applicant and other factors as the commission deems relevant.

(j) The commission may deny a license to any person who has been determined by the commission after hearing to have engaged in a licensed real estate activity without a license.

(k) The commission shall issue licenses in a form and size as the commission shall prescribe.

(m) A false statement of material fact made in an application shall in itself be sufficient grounds for the refusal of a license.

(n) Each individual applicant for an associate broker's license shall:

(i) Have reached the age of majority;

(ii) Have first served actively for two (2) of the four (4) years immediately preceding the application as a salesperson or shall furnish to the commission proof indicating that the applicant holds a degree in real estate from an accredited university or college; and

(iii) Submit other evidence through the application or otherwise, as the commission deems desirable with due regard to the paramount interests of the public as to the honesty, truthfulness, integrity and competency of the individual applicant.

(o) The commission shall:

(i) Approve courses that cover real estate principles, real estate law, real estate finance and related topics;

(ii) Promulgate rules and regulations to provide a process for challenging a course in lieu of evidence of completion of class hours;

(iii) Publish a list of approved real estate courses and keep the list updated annually;

(iv) On request, evaluate a specific course or courses which are not on the approved list and approve or disapprove the course.

33-28-107. Examinations; responsible broker, associate broker and salesperson's licenses.

(a) In addition to proof of honesty, trustworthiness and good reputation, each applicant desiring to become licensed as a real estate responsible broker, associate broker or a real estate salesperson shall execute and file an application for examination upon a form prescribed by the commission and shall pass a written examination prepared by or under the supervision of the commission. The examination shall be given at times and at places within the state as the commission shall prescribe. The examination for a salesperson's license shall include business ethics, composition, arithmetic, elementary principles of land economics and appraisal, a general knowledge of the statutes of this state relating to deeds, mortgages, contracts of sale, agency and the provisions of this act. The examinations for responsible broker and associate broker's licenses shall be

of a more exacting nature and scope and more stringent than the examination for a salesperson's license.

(b) No applicant shall engage in real estate activity until he has satisfactorily passed the examination, complied with the other requirements of this act and until a license has been issued to him.

(c) Repealed by Laws 1983, ch. 156, § 3.

33-28-108. Fees.

Pursuant to W.S. 33-1-201, the commission shall establish fees for examinations, original licenses, modified licenses, renewals, certifications, change of place of business and transfers. The fees shall be used to pay the expense of maintaining and operating the office of the commission and the enforcement of this act.

33-28-109. Responsible broker to establish a real estate company, maintain fixed principal office; change of address; branch offices; restrictions on associate brokers and salespersons.

(a) Each resident responsible broker shall lawfully establish at least one (1) but no more than three (3) real estate companies or sole proprietorships within Wyoming and acquire a license for each real estate company. Each resident responsible broker shall maintain a fixed principal office for each company or sole proprietorship within this state. A resident responsible broker operating as a sole proprietorship shall not be required to acquire an additional company license. The address of each office shall be designated on all licenses associated with the office and no license issued under this act shall authorize the licensee to transact real estate activity at any other address except a licensed branch office. In case of removal from a designated address, the responsible broker shall apply to the commission before the removal designating the new location of an office and paying the required fee, whereupon the commission shall issue a license for the new location for the unexpired period if the new location complies with the terms of this act.

(b) A responsible broker may conduct business from a branch office. A branch office shall use the same trade name or business name as the licensed real estate company. A company license shall be issued to the responsible broker for each

branch office the responsible broker maintains. Every branch office shall be under the direction and supervision of the responsible broker. A responsible broker requesting a branch office license shall also, in addition to the branch office application, submit a plan of supervision for the branch office for approval by the commission.

(c) An associate broker or salesperson shall not be associated or engaged under contract to any other responsible broker than is designated upon the license issued to the associate broker or salesperson. Upon termination of an associate broker's or salesperson's association or contractual relationship, his responsible broker shall immediately notify the commission for cancellation of the associate broker's or salesperson's license. Whenever a licensed associate broker or salesperson desires to change his contractual relationship from one (1) responsible broker to another, he shall notify the commission promptly in writing of the facts attendant thereon and pay the required fee. Upon application, the commission shall issue a new license under the new responsible broker. No associate broker or salesperson shall directly or indirectly associate himself with a responsible broker until he has been issued a license to do so with that responsible broker.

(d) No more than one (1) license to conduct real estate activity shall be issued to any responsible broker, associate broker or salesperson to be in effect at one (1) time except as provided in subsection (a) of this section.

33-28-110. Unlawful to compensate unlicensed person; licensing of like-licensed nonresidents; service of process on nonresidents.

(a) It is unlawful for any responsible broker to compensate any person who is not a licensee associated with his real estate company or a responsible broker for another real estate company for performing any real estate activity provided, however, that a responsible broker may pay compensation to a licensed broker of another state if the nonresident broker does not conduct any real estate activity in this state for which compensation is paid.

(b) A nonresident may be issued a Wyoming responsible broker's license if:

(i) The individual holds a like-license in his home state;

(ii) The individual is actively engaged in the real estate business and maintains a place of business in his home state;

(iii) The individual meets all the other requirements of this act and rules and regulations of the commission; and

(iv) The individual furnishes the commission a statement under seal of the commission of his home state evidencing that he is an active licensed responsible broker, or an equivalent, in good standing and has no complaints pending against him in his home state.

(c) Repealed By Laws 2011, Ch. 104, § 2.

(d) A nonresident may be issued a Wyoming associate broker or salesperson license if:

(i) The individual holds a like-license in his home state;

(ii) The individual is actively engaged in the real estate business in his home state;

(iii) The individual meets all the other requirements of this act and rules and regulations of the commission; and

(iv) The individual furnishes the commission a statement under seal of the commission of his home state evidencing that he holds an active license in good standing and has no complaints pending against him in his home state.

(e) Repealed By Laws 2007, Ch. 171, § 2.

(f) Prior to being issued a license, every nonresident licensee shall file with the commission a designation in writing which appoints the director of the commission to act as his licensed agent upon whom all judicial and other process or legal notices directed to the licensee may be served. Service upon the agent so designated shall be equivalent to personal service upon the licensee. Copies of the appointment, certified by the director of the commission, shall be received in evidence in any proceeding and shall be given the same force and effect as the original. In the written designation the licensee shall agree that any lawful process against the licensee which is served upon his appointed agent shall be of the same legal force and

validity as if served upon the licensee, and that the authority of the agent shall continue in force so long as any liability of the licensee remains outstanding in this state. Upon the receipt of any process or notice, the director shall mail a copy of the same by certified mail, return receipt requested, to the last known business address of the licensee.

(g) Repealed By Laws 2011, Ch. 104, § 2.

(h) Repealed By Laws 2011, Ch. 104, § 2.

(j) Repealed By Laws 2011, Ch. 104, § 2.

33-28-111. Censure of licensee and suspension or revocation of license; grounds.

(a) The commission shall upon a written sworn complaint or may upon its own motion investigate the actions of any licensee conducting real estate advertising, self promotion as a licensee or real estate activity regarding real estate located in Wyoming, impose an administrative fine not to exceed two thousand five hundred dollars ($2,500.00) for each separate offense and may censure a licensee, place a licensee on probation and set the terms of probation, suspend or revoke any license issued under this act for any of the following:

(i) Making any substantial misrepresentation, false promises or false or fraudulent representation;

(ii) Violation of this act or any rule of the commission;

(iii) Failing to disclose an interest in the transaction;

(iv) Soliciting the breach of a listing or a property management contract;

(v) Conducting real estate activity directly with a buyer or seller if the licensee knows the buyer or seller has an outstanding written agreement in connection with the real estate with another responsible broker;

(vi) Using advertising which:

(A) Is misleading or is inaccurate in any matter material to the transaction; or

(B) Uses a trade name, collective membership mark, service mark or logo name, mark or logo without authorization owned by another person unless authorized to do so.

(vii) Placing a sign on any property offering it for sale or rent without the written consent of the owner or his authorized agent;

(viii) Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent;

(ix) If a responsible broker, failing to supervise the activities of his associate broker or salesperson;

(x) Failing to advise the buyer and seller of all terms of the proposed sale at the time an offer is presented including estimated discounts and closing costs;

(xi) Unreasonably failing upon demand to surrender to the rightful owner, any document or instrument in his possession;

(xii) Unreasonably failing to produce documents of record in his possession or under his control concerning any real estate transaction under investigation by the commission;

(xiii) Failing to submit all offers to a seller or buyer;

(xiv) Commingling the money or other property of others with his own;

(xv) Accepting, giving or charging an undisclosed compensation, rebate or direct or indirect profit on expenditures made for others;

(xvi) Engaging in real estate activity as an associate broker or salesperson involving the representing or attempt to represent a responsible broker other than his responsible broker or a real estate company other than the real estate company under which he is licensed;

(xvii) Accepting compensation by an associate broker or salesperson from anyone other than his responsible broker;

(xviii) Acting for more than one (1) party in a transaction without the written acknowledgement of all parties for whom the licensee acts;

(xix) Guaranteeing or authorizing any person to guarantee future profits which may result from the resale of real estate;

(xx) Failing to obtain written listing agreements identifying the property to be sold or acquired and containing all terms and conditions under which the property is to be sold or acquired including the price or price range, the compensation to be paid, the signatures of all parties concerned and a definite expiration date;

(xxi) Failing to deliver within a reasonable time a completed copy of any document to all parties;

(xxii) Conviction of a felony that relates to the practice of real estate activity or to the ability to perform the duties of a licensee or any felony sexual offense or violent crime;

(xxiii) Compensating any unlicensed person for performing real estate activity;

(xxiv) Failing to specify he is being compensated by more than one (1) party and failing to notify all parties involved;

(xxv) Failing to account for any monies or property received from others;

(xxvi) Failing to keep the funds of others in an escrow or trust account, unless each person with an interest in the funds has agreed otherwise in writing;

(xxvii) Failing to deposit all financial instruments in an escrow or trust account within one (1) banking day in a financial institution in this state, unless each person with an interest in the funds has agreed otherwise in writing;

(xxviii) Failing upon consummation or termination of the transaction to give a full accounting of the monies and

property placed in escrow or trust showing dates of deposit, management and withdrawals;

(xxix) If a responsible broker:

(A) Failing to deliver to the parties in every real estate transaction at the time the transaction is closed a complete, detailed closing statement showing all of the receipts and disbursements handled by the licensees in his office for the parties unless a clear and accurate accounting is furnished by another real estate licensee or a funds holder;

(B) Repealed By Laws 2011, Ch. 104, § 2.

(C) Failing to retain true copies of statements required by this paragraph in his files;

(D) Failing to disclose, in every real estate transaction, the names of all real estate companies for which a responsible broker holds a license.

(xxx) Representing to any lender, guaranteeing agency or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(xxxi) Accepting other than cash as earnest money unless:

(A) The fact is communicated to the owner prior to the owner's acceptance of the offer to purchase; and

(B) The fact is shown in the earnest money receipt.

(xxxii) Refusing to appear or testify under oath at any hearing held by the commission;

(xxxiii) Receiving more than three (3) censures from the commission within a two (2) year period.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the commission, the commission shall notify the party named in the court order of the withholding, suspension or restriction of the license in

accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

(c) All administrative fines collected under this section shall be paid to the state treasurer to be credited to the public school fund of the county in which the violation occurred.

33-28-112. Enjoining violations of chapter; penalties for violation of injunction.

(a) Any person who violates or proposes to violate any provisions of this act, or any rules and regulations promulgated under this act, may be restrained or enjoined from the action at any time by an order issued by the district court. An action may be initiated by the attorney general or the district attorney for the county in which the violation has or is about to occur.

(b) Any defendant so enjoined who violates an injunction shall be punished for contempt of court by a fine of not more than two thousand five hundred dollars ($2,500.00) or by imprisonment in the county jail for not more than six (6) months or both.

(c) Repealed by Laws 1983, ch. 156, § 3.

33-28-113. Contested cases; independent hearing officers; appeals.

(a) The commission may contract with independent hearing officers to hear all contested cases arising under this act. The hearing officer shall not be an employee of the office of the attorney general, or an employee or member of the commission.

(b) All hearings shall be conducted pursuant to the Wyoming Administrative Procedure Act. A hearing officer has the power specified in W.S. 16-3-112(b). The hearing officer shall make in each contested case and forward to the commission written findings of fact and conclusions of law.

(c) Any judicial review of the administrative decision under the Administrative Procedure Act may be in the district court in the county where the violation allegedly occurred.

(d) Repealed by Laws 1983, ch. 156, § 3.

33-28-114. Conducting business without license prohibited; penalties; civil liability.

(a) Any individual performing real estate activity without first obtaining a license is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than two thousand five hundred dollars ($2,500.00) or by imprisonment in the county jail for a term not to exceed six (6) months. Upon conviction of a subsequent violation the individual shall be punished by a fine of not more than five thousand dollars ($5,000.00) or by imprisonment in the county jail for a term not to exceed one (1) year or both. If a corporation, partnership or association is convicted it shall be punished by a fine of not more than five thousand dollars ($5,000.00).

(b) If any person receives any money or the equivalent thereof as a fee, compensation or profit by or in consequence of a violation of any provision of this act, he shall, in addition, be liable to a penalty of not less than the amount of the sum of money so received and not more than three (3) times the sum so received as may be determined by the court, which penalty may be recovered in a court of competent jurisdiction by any person aggrieved.

33-28-115. Unlicensed person may not maintain action for fee.

No action or suit shall be instituted, nor recovery be had, in any court of this state by any person for compensation for any real estate activity unless the person was licensed by the commission under this act at the time of engaging in real estate activity.

33-28-116. Real estate institutes and seminars; assistance in sponsoring studies and programs.

(a) The commission may conduct or assist in conducting real estate institutes and seminars and incur and pay the necessary expenses in connection therewith. The institutes or seminars shall be open to all licensees and the public.

(b) The commission is authorized to assist libraries and educational institutions in sponsoring studies and programs for the purpose of raising the standards of the real estate business and the competency of licensees.

33-28-117. Directory of licensees.

The commission shall maintain and make publicly available a directory of licensees, including licenses suspended and revoked which shall contain other data as the commission may determine to be in the interest of real estate licensees and the public.

33-28-118. License renewals; continuing education; payment of fees; effect of failure to renew; inactive status.

(a) Licenses issued under this act may be renewed for successive three (3) year periods. The commission may establish a grace period for license renewal not to exceed sixty (60) days. The commission may establish a late fee for license renewal not to exceed seventy-five dollars ($75.00).

(b) The commission may adopt rules and regulations providing for mandatory continuing education allocable over each three (3) year period not to exceed sixty (60) hours.

(c) Failure to timely submit a complete renewal application including proof of required continuing education and renewal fees when due shall automatically cause a license to expire. Presentation of a check to the commission as a fee for either an original or renewal license or for examination for license, which is returned to the state treasurer unpaid, is cause for revocation or denial of license unless it is established that the dishonor of the check was not the fault of the applicant or licensee.

(d) Any licensee whose license has expired as provided in this section after the grace period has ended, shall comply with all requirements of a new applicant, including writing the appropriate examination, before a license will be reissued.

(e) Any real estate associate broker or salesperson who is not employed by or associated with a responsible broker, or any responsible broker who desires to become inactive, may renew his license in an inactive status prior to the renewal deadline established in this section, by submitting the renewal fee together with a completed renewal application on which he has noted his present inactive status.

(f) A license on inactive status for more than three (3) years shall not be reissued on an active status unless the licensee has first met the educational requirements under subsection (b) of this section.

(g) A license on an inactive status for less than three (3) years may be renewed on an active status prior to the renewal deadline by submitting the renewal fee together with a renewal application.

33-28-119. Advertising; licensing under one name; trade names; advertisement of licensees.

(a) Every real estate licensee, when promoting himself as a licensee, advertising or promoting his real estate activities, shall use the real estate company name under which he is licensed by the commission and shall use no slogans or phraseology in a manner which would indicate or suggest to the public that real estate may be listed or is being offered for sale, exchange, lease or rent by a private party not licensed by the commission.

(b) Repealed By Laws 2011, Ch. 104, § 2.

(c) No person shall act or advertise as a licensee in this state by use of letterheads, billboards, radio or television announcements or any other media of advertising, without first obtaining a license from the commission.

(d) No person shall conduct or promote a real estate company other than the real estate company under which the person or company is licensed by the commission.

(e) A trade name, with the permission of the owner of the trade name, may be used concurrently with the licensed name of the real estate company in the promotion or conduct of the responsible broker's business. On promotional materials the real estate company name shall be displayed in a conspicuous manner that the general public may easily identify, as prescribed in commission rules.

(f) A licensed responsible broker shall not advertise the sale, purchase, exchange or lease of real estate, unless owned by him, without including in the advertisement the real estate company name under which he is licensed by the commission.

(g) A licensed associate broker or salesperson shall not advertise the sale, purchase, exchange or lease of real estate, unless owned by him, without including in the advertisement the real estate company name under which he is licensed by the commission.

(h) A licensee shall not advertise the sale, purchase, exchange or lease of real estate owned by the licensee unless the advertisement includes the fact that an owner of the real estate is a licensee.

(j) If a licensee uses his individual name in advertising, the first and last name shall be included. A common shortened spelling of the first name of the licensee is permitted. The use of a nickname is permitted if the nickname is reflected on the license.

33-28-120. Assistance of attorney general; independent counsel.

(a) The attorney general shall render opinions to the commission on all questions of law relating to the interpretation and administration of this act. The attorney general shall act as attorney for the commission in all actions and proceedings brought by or against it under this act.

(b) In addition to or instead of the attorney general the commission may hire other legal counsel with the approval of the attorney general.

33-28-121. Temporary licenses to complete affairs of deceased brokers.

In the event of the death of a responsible broker who is the sole proprietor of a real estate company, upon application by his personal representative, the director shall issue, without examination and for a specified period of time, a temporary license to the personal representative, or to a licensed individual designated by him and approved by the director. The license shall authorize the holder of the temporary license to continue to transact business for the sole purpose of completing the affairs of the deceased responsible broker.

33-28-122. Responsible broker's trust accounts; disposition of interest; commingling with personal funds prohibited; disputed deposits; cooperative transactions.

(a) Every responsible broker licensed by the commission in this state shall comply with the following provisions for each licensed real estate company he supervises:

(i) Maintain an account in a financial institution in this state designated as a trust or escrow account in which all

down payments, earnest money deposits, advance listing fees or other trust funds received by him, his associate brokers or his salespersons on behalf of a principal or any other person shall be deposited unless all persons having an interest in the funds have agreed otherwise in writing. The account shall permit immediate withdrawal of the funds deposited therein. In lieu of maintaining a trust or escrow account under this paragraph, a responsible broker may use a funds holder;

(ii) Notify the real estate commission on forms it prescribes of the name of the financial institution in which a trust account is maintained and the name of the account. If the responsible broker uses a funds holder and deposits monies with the funds holder, his intention to use a funds holder and the name of the funds holder shall be disclosed to all parties to any contract, purchase agreement, lease or lease agreement negotiated by him. The responsible broker shall identify all funds holders used by the broker and notify the real estate commission in writing that he uses and deposits monies with the funds holder;

(iii) Permit the commission or its representative to examine the responsible broker's trust accounting records;

(iv) Upon cancellation of his license for any reason, maintain the trust account until all deposits have been properly disbursed.

(b) If a responsible broker's branch office maintains a separate trust account, the office shall maintain a separate bookkeeping system.

(c) A trust account maintained by a responsible broker under this section may be interest bearing or noninterest bearing. Any interest accrued on any deposit in a trust account shall be paid out as agreed in writing by all persons having an interest in the deposit. In the absence of a written agreement among all persons having an interest in the deposit, at the time all or any portion of any deposit is withdrawn and paid out, all interest accrued upon the funds withdrawn and paid out shall also be withdrawn and paid out to the person from whom the trust funds were received; provided, if the funds are required to be disbursed to more than one (1) person, each person entitled to receive any portion of the deposit shall also be paid a portion of the interest in the same proportion as the funds withdrawn and paid out to each person bears to the total deposit.

(d) A licensee is not entitled to any part of the earnest money or other item of value given to him in connection with any real estate transaction as part or all of his compensation or fee until the transaction has been consummated or terminated.

(e) No responsible broker shall permit an advance payment of funds belonging to others to be deposited in the responsible broker's personal account or be commingled with his personal funds. It will not be considered commingling if, when establishing the trust account, the responsible broker deposits some of his funds to keep the account open or to avoid charges for a minimum balance, so long as that deposit is identified at the time of deposit. No responsible broker shall use deposits in a trust account for a purpose other than the transaction for which they were provided.

(f) In the event of a dispute over the return or forfeiture of any deposit held by a responsible broker, the responsible broker shall continue to hold the deposit in a trust account until he has a written release from the parties consenting to its disposition, until a civil action is filed or the responsible broker interpleads all parties, at which time it may be paid to the court.

(g) Unless otherwise agreed by all parties to the contract, in a cooperative transaction in which the responsible broker working with a buyer receives cash or a check as earnest money, the responsible broker shall deliver the contract and the cash or check to the responsible broker working with the seller who shall deposit the cash or check in his trust account. If the responsible broker working with a buyer receives a promissory note, or thing of value, the note or thing of value shall be delivered with the contract to the responsible broker working with the seller, who shall hold the note or thing of value.

33-28-123. Retention of records.

Every responsible broker licensed by the commission in this state shall keep and maintain a full set of records of every real estate transaction in which he participates on behalf of or to assist any party to the transaction. The records shall be maintained not less than two (2) years from the latest date on which the real estate company participated in the transaction.

33-28-124. Act, error or omission in the rendering of real estate services.

A cause of action arising from an act, error or omission in the rendering of services provided by a licensee under this act shall be brought within the time limits provided under W.S. 1-3-107. Nothing in this section shall be construed to extend the limitation period specified in W.S. 33-28-203 for actions for payment from the real estate recovery account.

33-28-125. Broker's price opinions.

(a) A licensee may prepare a broker's price opinion:

(i) To a potential seller or third party, recommending a listing price of real estate;

(ii) To a potential buyer or third party, recommending a purchase price of real estate; or

(iii) To any third party, for any purpose permitted by law.

(b) Every printed or electronic broker's price opinion prepared as provided in subsection (a) of this section shall include the statement: "This is an opinion of price and is not a certified appraisal of the market value of the property. If such an appraisal is desired, the service of a certified appraiser must be obtained."

ARTICLE 2 - WYOMING REAL ESTATE RECOVERY AND EDUCATION FUNDS

33-28-201. Real estate recovery account created; funding of account; no liability of state.

(a) There is created a real estate recovery account which shall be under the direction of the commission under W.S. 33-28-201 through 33-28-206.

(b) Every person obtaining or renewing a license shall pay an additional fee of twenty dollars ($20.00) which shall be deposited in the real estate recovery fund account. When the balance of the real estate recovery fund account reaches twenty thousand dollars ($20,000.00) one-half (1/2) of the fee shall be deposited in the real estate recovery fund account and one-half (1/2) of the fee shall be deposited in the educational fund account. When the real estate recovery fund account balance reaches fifty thousand dollars ($50,000.00) all fees shall be deposited in the education fund account.

(c) No monies shall be appropriated from the general fund for payment of any expenses incurred under W.S. 33-28-201 through 33-28-206 and those expenses shall not be paid by the state.

33-28-202. Real estate recovery account created; payments; pro rata distribution when account insufficient; service of process; joinder of account.

(a) If any person obtains a final judgment in any court of competent jurisdiction against any licensee on the grounds of fraud, willful misrepresentation, deceit or conversion of trust funds arising directly out of any transaction which occurred when the licensee was licensed by the commission and in which the licensee performed any real estate activity, that person, within one (1) year of termination of all proceedings, including appeals, may file with the commission a verified petition in the court in which the judgment was entered for an order directing payment out of the real estate recovery account in the amount of actual damages included in the judgment and unpaid, and that a writ of execution has been returned unsatisfied, but for not more than ten thousand dollars ($10,000.00).

(b) If the payment from the real estate recovery account is insufficient to pay in full the valid claims of all who have claims on file at any time the money in the account shall be distributed among them in the ratio that their respective claims bear to the aggregate of the valid claims or in a manner that a court deems equitable. Distribution of any monies shall be among the persons entitled to share the monies without regard to the order of priority in which their respective judgments were obtained or their claims were filed.

(c) Any licensee who cannot personally be served with a copy of a summons and complaint through reasonable diligence, shall be deemed to have appointed the director of the commission as his agent for service of process for purposes of actions filed against him pursuant to subsection (a) of this section. Service of process pursuant to subsection (b) of this section shall be made under the Wyoming Rules of Civil Procedure.

(d) In lieu of the petition under subsection (a) of this section for an order directing payment out of the real estate recovery account, a person filing an action against a licensee of a type described in subsection (a) of this section may join the real estate recovery account as a limited third party defendant and have judgment rendered directly against the

account in the amount provided in subsection (a) of this section provided:

(i) Service of summons and complaint is made on the real estate commission;

(ii) The account may assert all defenses available to defendant licensee;

(iii) Plaintiff posts a bond in the amount of ten percent (10%) of the actual damages he seeks from the account to guarantee costs.

(e) The commission may defend any action against the fund on behalf of the fund and in the name of the defendant.

(f) Recovery against the bond required in paragraph (d)(iii) of this section shall be authorized by the court if it rules in favor of the commission on behalf of the fund.

33-28-203. Limitation on action for payment from account; notice of action; order of payment; showing required.

(a) No order for payment from the real estate recovery account shall be issued unless the suit in which the order subsequently results was commenced within one (1) year after the cause of action accrued. If any person commences an action for a judgment which may result in an order for payment from the account, the person shall notify the commission in writing of the commencement of the action. The commission, under W.S. 33-28-111, shall investigate the complaint and may hold a suspension or revocation hearing.

(b) If any person files a petition for an order directing payment from the real estate recovery account, the court may order payment out of the real estate recovery account under subsection (c) of this section if it finds:

(i) The petitioner is not a spouse of the judgment debtor or a person representing the spouse;

(ii) The petitioner has obtained a judgment of the kind described in W.S. 33-28-202(a); and

(iii) The judgment debtor has insufficient property upon which execution may be levied to satisfy the judgment or that a writ of execution has been returned unsatisfied.

(c) Upon receipt of an order by the court directing that payment be made out of the real estate recovery account, the state auditor shall draw a warrant for the payment of the amount directed upon a voucher approved by the commission and the state treasurer shall pay the amount directed out of the real estate recovery account.

33-28-204. Suspension of licenses following payment from account; reinstatement.

If the commission is required to make any payment from the real estate recovery account in settlement of a claim or toward the satisfaction of a judgment, the commission shall immediately suspend the judgment debtor's license. The judgment debtor shall not be licensed by the commission or have his license reinstated by the commission until he has repaid in full the amount paid from the real estate recovery account with interest thereon of eighteen percent (18%) per annum. Repayment under this section shall not prohibit the commission from acting in accordance with W.S. 33-28-111. A discharge in bankruptcy shall not relieve a person from the disabilities and penalties of the section.

33-28-205. Subrogation of commission to rights of judgment creditor.

If, upon order of any court, the commission has caused payment to be made from the real estate recovery account to a judgment creditor, the commission is subrogated to the rights of the judgment creditor with respect to the amount so paid. Any recovery by the commission under this section shall be deposited in the real estate recovery account.

33-28-206. Fund balances; use of education fund and interest from recovery fund.

(a) When the real estate recovery fund and education fund balances exceed fifty thousand dollars ($50,000.00) each, the commission shall not collect annual fees under W.S. 33-28-201(b).

(b) The commission may use the funds in the education fund, plus interest earned on the recovery fund, as appropriated by the legislature, for the purposes of raising the standards of practice in the real estate profession and the competency of licensees by:

(i) Promoting the advancement of education and research in the field of real estate for the benefit of those licensed under this act;

(ii) Underwriting educational seminars and all other similar forms of educational projects for the benefit of licensees;

(iii) Establishing a chair in real estate or courses at Wyoming state institutions of higher learning for the purpose of making those courses available to businesses and the general public;

(iv) Contracting for particular education or research projects in the field of real estate to further the purposes of this section.

ARTICLE 3 - BROKER RELATIONSHIPS

33-28-301. Repealed By Laws 2011, Ch. 104, § 2.

33-28-302. Relationships between licensees and the public.

(a) A responsible broker shall not be required to offer or engage in more than one (1) of the broker relationships. When engaged in any real estate activity, a licensee, with permission of the licensee's responsible broker, may act in any real estate transaction as an agent or intermediary or may work with the seller or buyer as a customer. The licensee's duties and obligations arising from that relationship shall be disclosed to the seller or buyer pursuant to this article.

(b) When engaged in any real estate activity, a licensee may act as an agent only pursuant to a written agreement with the seller or buyer which discloses the duties and responsibilities set forth in W.S. 33-28-303 or 33-28-304.

(c) When engaged in any real estate activity, a licensee may act as a subagent with the duties and responsibilities set forth in W.S. 33-28-303(g) only pursuant to a written agreement between the seller and the seller's agent authorizing an offer of subagency to other responsible brokers, or as an intermediary with the seller or buyer, pursuant to a written agreement that discloses the duties and responsibilities set forth in W.S. 33-28-305.

(d) Repealed By Laws 2009, Ch. 20, § 3.

(e) A licensee may work with a single party in separate transactions pursuant to different relationships, for example, selling one (1) property as a seller's agent and working with that seller in buying another property as an intermediary or buyer's agent, if the licensee complies with this article in establishing a separate relationship in writing for each transaction.

(f) A licensee may complete real estate forms and shall explain to the parties the effects thereof if the licensee is performing real estate activities in the transaction in which the forms are to be used.

(g) Every contract, duty or relationship within this article, including intermediary or customer relationships, imposes an obligation of good faith and fair dealing in its performance or enforcement.

(h) If a real estate company has more than one (1) licensee, the responsible broker and any licensee associated with or engaged by that responsible broker may be designated to work with the seller or the buyer as a designated licensee. For an in-house real estate transaction, the designated licensee shall be:

(i) A responsible broker;

(ii) An associate broker;

(iii) A salesperson under the direct supervision of a responsible broker, and the responsible broker is not a party to the real estate transaction; or

(iv) A salesperson who is under the direct supervision of a transaction manager.

(j) Licensees employed or engaged by the same responsible broker or across any companies the same responsible broker supervises may be designated licensees for different buyers or sellers in the same transaction. If the responsible broker is representing a buyer or a seller in an in-house transaction, the responsible broker shall immediately appoint a transaction manager unless the other licensee is an associate broker. If the responsible broker is representing a buyer or seller in a transaction involving two (2) or more companies the responsible broker manages, he shall immediately appoint a transaction

manager for each real estate company unless the other licensee is an associate broker. The responsible broker shall disclose in every real estate transaction to all parties involved the names of all real estate companies the responsible broker supervises. The simultaneous designations shall not constitute dual agency or require the responsible broker or licensee to act as an intermediary unless otherwise required by this article. A responsible broker or transaction manager shall have access to all necessary information but shall be prohibited from sharing any confidential information of any party to the transaction that the responsible broker or transaction manager may learn in the process of supervising the licensees or the transaction.

(k) A licensee may work as an agent for the seller treating the buyer as a customer or as an agent for the buyer treating the seller as a customer but not as an agent for both the seller and the buyer. A licensee may be designated to work as an intermediary for both the seller and the buyer in the same transaction pursuant to W.S. 33-28-307. The applicable designated relationship shall be disclosed in writing to the seller and buyer at the earliest reasonable opportunity. A designated licensee is not precluded from working with a buyer or seller in a real estate transaction solely because the licensee was precluded from representing that person in an earlier separate real estate transaction.

(m) No seller or buyer shall be vicariously liable for an agent's acts or omissions that have not been approved, directed or ratified by the seller or buyer.

(n) Nothing in this section shall be construed to limit the responsible broker's responsibility to supervise licensees associated with the responsible broker or real estate company or to shield the responsible broker from vicarious liability.

(o) A licensee shall not establish dual agency with any seller or buyer.

(p) A customer relationship shall exist between a licensee and any party to a real estate transaction unless a single agency or intermediary relationship is established through a written agreement between the licensee and the party or parties. When a buyer or seller has a written listing agreement with a licensee, another licensee may work with the other buyer or seller as a customer, having no written agreement, agency or intermediary relationship with any party. A licensee shall not owe any duty of confidentiality to a customer.

(q) Proprietary ownership interest of written listing agreements shall be vested in the responsible broker.

33-28-303. Seller's agent engaged by seller.

(a) A licensee engaged by a seller to act as a seller's agent has the following duties and obligations:

(i) To perform the terms of the written agreement made with the seller;

(ii) To exercise reasonable skill and care for the seller;

(iii) To promote the interests of the seller with the utmost good faith, loyalty and fidelity, including:

(A) To seek a price and terms which are acceptable to the seller, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale;

(B) To present all offers to and from the seller in a timely manner regardless of whether the property is subject to a contract for sale;

(C) To disclose to the seller adverse material facts actually known by the licensee;

(D) To counsel the seller as to any material benefits or risks of a transaction which are actually known by the licensee;

(E) To advise the seller to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(F) To account in a timely manner for all money and property received; and

(G) To inform the seller that the seller may be vicariously liable for the acts of the seller's agent or seller's subagent that are approved, directed or ratified by the seller.

(iv) To comply with all requirements of this article; and

(v) To comply with any applicable federal, state or local laws, rules, regulations or ordinances.

(b) The following information shall not be disclosed by a licensee acting as a seller's agent without the informed consent of the seller:

(i) That a seller is willing to accept less than the asking price for the property;

(ii) What the motivating factors are for the party selling the property;

(iii) That the seller will agree to financing terms other than those offered;

(iv) Any material information about the seller unless disclosure is required by law or failure to disclose the information would constitute fraud or dishonest dealing.

(c) A licensee acting as a seller's agent owes no duty or obligation to the buyer, except that a licensee shall disclose to any prospective buyer all adverse material facts actually known by the licensee. The adverse material facts may include adverse material facts pertaining to the title and the physical condition of the property, any material defects in the property and any environmental hazards affecting the property which are required by law to be disclosed. The licensee acting as a seller's agent shall not perpetuate a material misrepresentation of the seller which the licensee knows or should know is false.

(d) A seller's agent owes no duty to conduct an independent inspection of the property for the benefit of the buyer and owes no duty to independently verify the accuracy or completeness of any statement made by the seller or any independent inspector.

(e) A seller's agent may show alternative properties not owned by the seller to prospective buyers and may list competing properties for sale and not be deemed to have breached any duty or obligation to the seller.

(f) A seller may agree in writing with a seller's agent to extend an offer of subagency to other responsible brokers to cooperate in selling the real estate.

(g) Any responsible broker acting as a subagent on the seller's behalf shall have the obligations and responsibilities set forth in subsections (a) through (e) of this section.

33-28-304. Agent engaged by buyer.

(a) A licensee engaged by a buyer to act as a buyer's agent shall have the following duties and obligations:

(i) To perform the terms of the written agreement made with the buyer;

(ii) To exercise reasonable skill and care for the buyer;

(iii) To promote the interests of the buyer with the utmost good faith, loyalty and fidelity, including:

(A) To seek a price and terms which are acceptable to the buyer, except that the licensee shall not be obligated to seek other properties while the buyer is a party to a contract to purchase property;

(B) To present all offers to and from the buyer in a timely manner regardless of whether the buyer is already a party to a contract to purchase property;

(C) To disclose to the buyer adverse material facts actually known by the licensee;

(D) To counsel the buyer as to any material benefits or risks of a transaction which are actually known by the licensee;

(E) To advise the buyer to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(F) To account in a timely manner for all money and property received; and

(G) To inform the buyer that the buyer may be vicariously liable for the acts of the buyer's agent that are approved, directed or ratified by the buyer.

(iv) To comply with all requirements of this article; and

(v) To comply with any applicable federal, state or local laws, rules, regulations or ordinances.

(b) The following information shall not be disclosed by a licensee acting as a buyer's agent without the informed consent of the buyer:

(i) That a buyer is willing to pay more than the purchase price for the property;

(ii) What the motivating factors are for the party buying the property;

(iii) That the buyer will agree to financing terms other than those offered;

(iv) Any material information about the buyer unless disclosure is required by law or failure to disclose the information would constitute fraud or dishonest dealing.

(c) A licensee acting as a buyer's agent owes no duty or obligation to the seller, except that a licensee acting as a buyer's agent shall not make any material misrepresentation or fraudulent misrepresentation regarding an adverse material fact actually known by the licensee.

(d) A buyer's agent owes no duty to conduct an independent investigation of the buyer's financial condition and owes no duty to independently verify the accuracy or completeness of statements made by the buyer or any independent inspector.

(e) A buyer's agent may show properties in which the buyer is interested to other prospective buyers without breaching any duty or obligation to the buyer. Nothing in this section shall be construed to prohibit a buyer's agent from showing competing buyers the same property and from assisting competing buyers in attempting to purchase or lease a particular property.

33-28-305. Intermediary.

(a) A licensee engaged as an intermediary shall not act as an advocate or agent for either party and shall be limited to providing those services described in subsection (b)(ii) of this section.

(b) A licensee engaged as an intermediary shall owe to each party with whom the intermediary has contracted the following duties and obligations:

(i) To perform the terms of any written agreement made by the intermediary with any party or parties to the transaction, provided that the terms of the written agreement shall be consistent with this article;

(ii) To exercise reasonable skill and care as an intermediary, including:

(A) Presenting all offers and counteroffers in a timely manner regardless of whether the property is subject to a contract for sale;

(B) Advising the parties to obtain expert advice as to material matters about which the intermediary knows but the specifics of which are beyond the expertise of the intermediary;

(C) Accounting in a timely manner for all money and property received;

(D) Keeping the parties fully informed regarding the transaction;

(E) Obtaining the written consent of the parties before assisting the buyer and seller in the same real estate transaction;

(F) Assisting the parties in complying with the terms and conditions of any contract which may include closing the transaction;

(G) Disclosing to the parties any interests the intermediary may have which are adverse to the interest of either party;

(H) Disclosing to all prospective buyers any adverse material facts actually known by the intermediary, including but not limited to adverse material facts pertaining

to the title, the physical condition of the property, any defects in the property and any environmental hazards affecting the property required by law to be disclosed;

(J) Disclosing to any prospective seller all adverse material facts actually known by the intermediary, including but not limited to adverse material facts pertaining to the buyer's financial ability to perform the terms of the transaction; and

(K) Disclosing to the parties that an intermediary owes no fiduciary duty either to buyer or seller, is not allowed to negotiate on behalf of the buyer or seller, may be required to disclose information he learns about a property to the other party, and may be prohibited from disclosing information about the other party which if known could materially affect negotiations in the real estate transaction.

(iii) To comply with all requirements of this article; and

(iv) To comply with any applicable federal, state or local laws, rules, regulations or ordinances.

(c) The following information shall not be disclosed by an intermediary without the informed consent of all parties:

(i) That a buyer is willing to pay more than the purchase price offered for the property;

(ii) That a seller is willing to accept less than the asking price for the property;

(iii) What the motivating factors are for any party buying or selling the property; or

(iv) That a seller or buyer will agree to financing terms other than those offered.

(d) An intermediary has no duty to conduct an independent inspection of the property for the benefit of the buyer and has no duty to independently verify the accuracy or completeness of statements made by the seller, or independent inspectors.

(e) An intermediary has no duty to conduct an independent investigation of the buyer's financial condition or to verify the accuracy or completeness of any statement made by the buyer.

(f) An intermediary may do the following without breaching any obligation or responsibility:

(i) Show alternative properties not owned by the seller to a prospective buyer;

(ii) List competing properties for sale or lease; and

(iii) Show properties in which the buyer is interested to other prospective buyers.

(iv) Repealed By Laws 2011, Ch. 104, § 2.

(g) An intermediary may cooperate with other responsible brokers but shall not engage any subagents.

33-28-306. Relationship disclosures.

(a) For purposes of this section, open house showings, preliminary conversations and requests for factual information do not constitute discussions or arrangements incidental to a sale, purchase, exchange or lease of real estate. Prior to engaging in any discussion or arrangement incidental to a sale, purchase, exchange or lease of real estate and, prior to entering into any written agreement with a buyer or seller, a licensee shall make a written disclosure of applicable agency, intermediary or customer relationships that shall contain, at a minimum, all of the following:

(i) A description of all the different agency, intermediary and customer relationships allowed by this article and a statement that the compensation for different relationships is negotiable;

(ii) An explanation of the duties and obligations owed under each such relationship;

(iii) A conspicuous statement of duties and obligations owed by an agent but which are not owed by an intermediary;

(iv) A statement that any established relationship cannot be modified without the written consent of the buyer or

seller and that the buyer or seller may, but is not required to, negotiate different compensation as a condition of consenting to a change in relationship;

(v) A statement that an intermediary is not an agent or advocate for any party and has only the obligations set forth in W.S. 33-28-305;

(vi) A statement that the seller or buyer may be vicariously liable for acts of the agent, subagent or intermediary if the seller or buyer approves, directs or ratifies the acts; and

(vii) A statement that a customer shall not:

(A) Be required to sign any legal written agency agreement to view or tour real estate during house showings;

(B) Be afforded any confidentiality in any communication to or with the licensee.

(b) The written disclosure shall contain a signature line for the buyer or seller to acknowledge receipt of the disclosure. The disclosure and acknowledgment, by itself, shall not constitute a contract or agreement with the licensee. Until the buyer or seller executes such acknowledgment, no representation agreement shall be executed or valid except, provided if a buyer or seller refuses to sign the disclosure after presentation by the licensee:

(i) The licensee may document the refusal with a signed acknowledgement by the licensee and continue with the transaction or with providing services to a customer; and

(ii) The disclosure and acknowledgement shall be attached to and may become incorporated into any written agreements with the buyer or seller as prescribed in W.S. 33-28-302(b) and (c).

(c) A licensee who has established an agency relationship, a subagency relationship or an intermediary relationship with a seller or buyer shall provide notice of that relationship to any other party to the transaction at the earliest reasonable opportunity.

(d) Disclosures made in accordance with this article shall be sufficient to disclose agency, intermediary and customer

relationships to the parties to the transaction and to the public.

33-28-307. Change from agent to intermediary.

(a) For in-house transactions, a licensee acting as an agent to a buyer or seller with respect to a particular real estate transaction may instead act as an intermediary to the parties when:

(i) Repealed By Laws 2009, Ch. 20, § 3.

(ii) Both parties execute a written consent, at the earliest reasonable opportunity after the events creating the potential conflict in agency relationships develops. The written consent shall contain a conspicuous statement of the duties and obligations that would no longer be owed to the parties if the licensee becomes an intermediary and not an agent.

33-28-308. Compensation.

(a) In any real estate transaction, the responsible broker's compensation may be paid by the seller, the buyer, a third party, or by the sharing or splitting of compensation between responsible brokers.

(b) Payment of compensation shall not be construed to establish an agency relationship or intermediary relationship between the responsible broker and the party who paid the compensation.

(c) A seller may agree that an intermediary, buyer's agent, subagent or a licensee working with a buyer as a customer may share in the compensation paid by the seller with another responsible broker.

(d) A buyer may agree that a seller's agent, intermediary, subagent or a licensee working with a seller as a customer may share in the compensation paid by the buyer with another responsible broker.

(e) A buyer's agent shall obtain the written approval of the buyer before the buyer's agent may propose to the seller's agent that the buyer's agent be compensated by sharing compensation paid by the seller.

(f) Prior to entering into a written agreement with the seller and buyer, or prior to entering into a contract to buy or sell, the responsible broker shall disclose in writing to the seller and buyer to the transaction, the agency, intermediary or customer relationships of all parties, persons and entities paying compensation to the responsible broker.

(g) A responsible broker may be compensated by more than one (1) party for services in a transaction, if those parties have consented in writing to the shared payment prior to seller and buyer entering into a contract to buy or sell.

(h) An agreement authorizing a responsible broker who originally agreed in writing to act as an agent to a buyer or seller with respect to a particular real estate transaction to act instead as an intermediary to that party, shall provide that the party agreeing to the new relationship shall not be liable for any compensation greater than the compensation the party would have been liable to pay under the initial agreement. Any contract provision in violation of this subsection is void and unenforceable.

33-28-309. Disclosure type.

Any disclosure under W.S. 33-28-306 shall be in a font size of 12 point or greater.

33-28-310. Licensees working with buyers and sellers as customers; duties; exceptions.

(a) A licensee working with a buyer or seller who is a customer shall owe the following duties and obligations to the buyer or seller:

(i) To exercise reasonable skill and care including:

(A) Presenting all offers and counteroffers in a timely manner regardless of whether the property is subject to a contract for sale;

(B) Advising the parties to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(C) Accounting in a timely manner for all money and property received by the licensee;

(D) Keeping the parties fully informed regarding the transaction;

(E) Assisting the parties in complying with the terms and conditions of any contract which may include closing the transaction;

(F) Disclosing to all prospective buyers any adverse material facts actually known by the licensee, including but not limited to adverse material facts pertaining to the title, the physical condition of the property, any defects in the property and any environmental hazards affecting the property required by law to be disclosed;

(G) Disclosing to any prospective seller all adverse material facts actually known by the licensee, including but not limited to adverse material facts pertaining to the buyer's financial ability to perform the terms of the transaction.

(ii) To comply with all requirements of this article;

(iii) To comply with any applicable federal, state or local laws, rules, regulations or ordinances.

(b) A licensee has no duty to conduct an independent inspection of the property for the benefit of the buyer and has no duty to independently verify the accuracy or completeness of statements made by the seller or independent inspectors.

(c) A licensee has no duty to conduct an independent investigation of the buyer's financial condition or to verify the accuracy of completeness of any statement made by the buyer.

(d) A licensee may do the following without breaching any obligation or responsibility:

(i) Show alternative properties not owned by the seller to a prospective buyer;

(ii) List competing properties for sale or lease;

(iii) Show properties in which the buyer is interested to other prospective buyers; and

(iv) Serve as an agent, subagent or intermediary for the same or for different parties in other real estate transactions.

(e) A licensee working with a buyer or seller who is a customer shall provide the customer an agency disclosure.

33-28-311. Licensees working with landlords and tenants.

(a) For the purposes of this article, a licensee shall be deemed to be working with:

(i) The landlord as an agent or intermediary pursuant to a written agreement; and

(ii) The tenant who is a customer unless otherwise provided for in writing between the parties.

ARTICLE 4 - ERRORS AND OMISSIONS INSURANCE

33-28-401. Errors and omissions insurance; rulemaking authority; commission duties; certificate of coverage; administrative fee.

(a) Beginning January 1, 2008, an applicant for a real estate license pursuant to W.S. 33-28-106, a licensee renewing a license or an inactive licensee activating a license pursuant to W.S. 33-28-118, shall submit proof of insurance coverage through the group program provided pursuant to this section or through certification of individual coverage. All licensees shall obtain and maintain errors and omissions insurance coverage under the group program or individual coverage.

(b) The commission shall make errors and omissions insurance available to all licensees by contracting with an insurer for a group program after competitive bidding. Any group program obtained by the commission shall be available to all licensees and shall prevent the insurer from canceling any licensee. Licensees may obtain errors and omissions insurance independently if the coverage complies with the minimum requirements established by the commission.

(c) The commission shall promulgate rules and regulations necessary to specify the terms and conditions of coverage required under this section, including the minimum limits and terms of the coverage, the permissible deductible and permissible exemptions. Each licensee shall be notified of the

required terms and conditions at least thirty (30) days prior to the license renewal date. Each licensee who elects not to participate in the group program administered by the commission shall file a certificate of coverage showing compliance with the required terms and conditions with the commission by the license renewal date.

(d) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who elect to participate in the group program, at a reasonable annual premium not to exceed three hundred dollars ($300.00) per licensee, the errors and omissions insurance requirement of this section shall not apply during the year for which the commission cannot obtain the errors and omissions insurance coverage. The maximum premium amount shall be adjusted annually by the annual rate of inflation in this state for the preceding twelve (12) month period as calculated by the department of administration and information.

(e) The commission shall charge and collect an administrative fee in addition to the premium paid from each licensee who obtains errors and omissions insurance through the group program. This administrative fee shall be of an amount sufficient to cover the administration of this section and shall not exceed ten percent (10%) of the premium. The maximum premium specified in subsection (d) of this section applies only to premium cost and not to any administrative fee charged.

(f) Repealed By Laws 2011, Ch. 104, § 2.

CHAPTER 29 - SURVEYORS AND ENGINEERS

33-29-101. Repealed by Laws 1987, ch. 169, § 3.

33-29-102. Repealed by Laws 1987, ch. 169, § 3.

33-29-103. Repealed by Laws 1987, ch. 169, § 3.

33-29-104. Repealed by Laws 1987, ch. 169, § 3.

33-29-105. Repealed by Laws 1987, ch. 169, § 3.

33-29-106. Repealed by Laws 1987, ch. 169, § 3.

33-29-107. Repealed by Laws 1987, ch. 169, § 3.

33-29-108. Repealed by Laws 1987, ch. 169, § 3.

33-29-109. Repealed by Laws 1987, ch. 169, § 3.

33-29-110. Repealed by Laws 1987, ch. 169, § 3.

33-29-111. Renumbered by Laws 1987, ch. 169, § 2.

33-29-112. Repealed by Laws 1987, ch. 169, § 3.

33-29-113. Repealed by Laws 1987, ch. 169, § 3.

33-29-114. Repealed By Laws 2013, Ch. 11, § 5.

33-29-115. Repealed By Laws 2013, Ch. 11, § 5.

33-29-116. Repealed By Laws 2013, Ch. 11, § 5.

33-29-117. Repealed By Laws 2013, Ch. 11, § 5.

33-29-118. Repealed By Laws 2013, Ch. 11, § 5.

33-29-119. Repealed By Laws 2013, Ch. 11, § 5.

33-29-120. Repealed By Laws 2013, Ch. 11, § 5.

33-29-121. Repealed By Laws 2013, Ch. 11, § 5.

33-29-122. Repealed By Laws 2013, Ch. 11, § 5.

33-29-123. Repealed By Laws 2013, Ch. 11, § 5.

33-29-124. Repealed By Laws 2013, Ch. 11, § 5.

33-29-125. Repealed By Laws 2013, Ch. 11, § 5.

33-29-126. Repealed By Laws 2013, Ch. 11, § 5.

33-29-127. Repealed By Laws 2013, Ch. 11, § 5.

33-29-128. Repealed By Laws 2013, Ch. 11, § 5.

33-29-129. Repealed By Laws 2013, Ch. 11, § 5.

33-29-130. Repealed By Laws 2013, Ch. 11, § 5.

33-29-131. Repealed By Laws 2013, Ch. 11, § 5.

33-29-132. Repealed By Laws 2013, Ch. 11, § 5.

33-29-133. Repealed By Laws 2013, Ch. 11, § 5.

33-29-134. Repealed By Laws 2013, Ch. 11, § 5.

33-29-135. Repealed By Laws 2013, Ch. 11, § 5.

33-29-136. Repealed By Laws 2013, Ch. 11, § 5.

33-29-137. Repealed By Laws 2013, Ch. 11, § 5.

33-29-138. Repealed By Laws 2013, Ch. 11, § 5.

33-29-139. Repealed By Laws 2013, Ch. 11, § 5.

33-29-140. Amended and Renumbered as 33-29-901 By Laws 2013, Ch. 11, § 3.

33-29-141. Amended and Renumbered as 33-29-902 By Laws 2013, Ch. 11, § 3.

33-29-142. Amended and Renumbered as 33-29-903 By Laws 2013, Ch. 11, § 3.

33-29-143. Amended and Renumbered as 33-29-904 By Laws 2013, Ch. 11, § 3.

33-29-144. Renumbered as 33-29-905 By Laws 2013, Ch. 11, § 4.

33-29-145. Renumbered as 33-29-906 By Laws 2013, Ch. 11, § 4.

33-29-146. Amended and Renumbered as 33-29-907 By Laws 2013, Ch. 11, § 3.

33-29-147. Amended and Renumbered as 33-29-908 By Laws 2013, Ch. 11, § 3.

33-29-148. Amended and Renumbered as 33-29-909 By Laws 2013, Ch. 11, § 3.

33-29-149. Renumbered as 33-29-910 By Laws 2013, Ch. 11, § 4.

ARTICLE 2 - GENERAL PROVISIONS

33-29-201. Definitions.

(a) As used in this act:

(i) "Board" means the Wyoming board of professional engineers and professional land surveyors;

(ii) "Business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership or any other form of business except a sole proprietorship;

(iii) "Engineer intern" means an individual who is certified by the board as an engineer intern;

(iv) "Jurisdiction" means a licensing agency, including agencies outside of the United States;

(v) "Land surveyor intern" means an individual who is certified by the board as a land surveyor intern;

(vi) "Licensee" means a professional engineer or professional land surveyor licensed by the board;

(vii) "Practice of professional engineering" means performing for others or offering to perform for others any "professional service" or "professional creative work" requiring engineering education, training and experience and special knowledge of mathematics, physics and engineering sciences. An individual performs "a professional service" or "professional creative work" in the practice of professional engineering if he:

(A) Represents himself to be a professional engineer by sign, advertisement, letterhead, card, verbal claim or any other manner;

(B) Quotes a fee for a professional engineering service;

(C) Executes a contract or agreement for a professional engineering service;

(D) Teaches upper division engineering design subjects as a professional engineer at a college or university;

(E) Performs research investigations as a professional engineer;

(F) Testifies as an expert in professional engineering; or

(G) Holds himself out as able to perform or does perform, as a professional engineer, any similar service defined by board rule as the practice of professional engineering.

(viii) "Practice of professional land surveying" means performing for others or offering to perform for others "professional services" which involve the application of special knowledge or principles of mathematics and methods of measurement for the determination and preservation of land boundaries and for the determination of land features and forms. An individual performs a "professional service" in the practice of professional land surveying if he:

(A) As a professional land surveyor, makes geometric measurements and gathers related information pertaining to the physical or legal features of the earth, improvements on the earth and the space above, on or below the earth;

(B) Teaches, as a professional land surveyor, upper division university level land surveying design subjects;

(C) Performs professional land surveying research as a professional land surveyor;

(D) As a professional land surveyor, creates work product relating to land surveying such as graphics, data, maps, plans, reports and descriptions;

(E) Represents himself to be a professional land surveyor by sign, advertisement, letterhead, card, verbal claim or any other way;

(F) Testifies as an expert in professional land surveying; or

(G) Holds himself out as able to perform or does perform, as a professional land surveyor, any similar service defined by board rule as professional land surveying.

(ix) "Professional engineer" means an individual who, by reason of intensive preparation in the use of mathematics, physics and engineering sciences including the principles and methods of engineering analysis and design, is qualified to practice professional engineering and is licensed under this act;

(x) "Professional land surveyor" means an individual who by reason of specialized knowledge in the technique of measuring land, mathematics, physical and applied sciences, and legal requirements of surveying real property, is qualified to practice professional land surveying and is licensed under this act;

(xi) "Responsible charge" means the exercise of direct control or the personal supervision of engineering work by a professional engineer or surveying work by a professional land surveyor;

(xii) "This act" means W.S. 33-29-201 through 33-29-801.

ARTICLE 3 - WYOMING BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

33-29-301. Creation of board.

(a) The Wyoming board of professional engineers and professional land surveyors is created to regulate the practice of professional engineering and professional land surveying in order to safeguard life, health and property and to promote the public welfare. The board shall consist of eight (8) members appointed by the governor for a term of four (4) years and the state engineer who shall serve during his term in office. The board shall be composed of:

(i) The state engineer;

(ii) Four (4) professional engineers. One (1) shall teach engineering at the university level. Two (2) shall be in private practice;

(iii) Three (3) professional land surveyors. Two (2) shall be in private practice; and

(iv) One (1) member who is neither a professional engineer nor a professional land surveyor.

(b) The governor may remove any board member he appoints in accordance with W.S. 9-1-202.

33-29-302. Qualifications of board members.

(a) Appointed members of the board shall have been residents of Wyoming for at least five (5) years immediately prior to appointment, shall be residents during their appointment and shall be citizens of the United States.

(b) Professional engineer members shall have engaged in the practice of engineering as licensed professional engineers for at least twelve (12) years and shall have been in responsible charge for at least five (5) years.

(c) Professional land surveyor members shall have been engaged in the practice of land surveying as licensed professional land surveyors for at least twelve (12) years and shall have been in responsible charge for at least five (5) years.

33-29-303. Compensation of board members.

Members of the board shall receive compensation for each day or part of a day in which they engage in the performance of their board duties at the same rate provided members of the state legislature under W.S. 28-5-101 and shall receive per diem and mileage, incurred in the performance of their board duties. Compensation and expenses incurred by the board or any member shall be approved by the board. Compensation and expenses shall be paid only from the fees collected by the board. This section shall not apply to the state engineer.

33-29-304. Organization of board.

(a) The board shall meet as often as needed, but not less than four (4) times a year.

(b) The board shall elect the following officers biennially to serve not more than two (2) consecutive terms: a chairperson, a vice chairperson and a secretary-treasurer.

(c) Five (5) members of the board constitute a quorum.

(d) The board is hereby transferred to the department of the state engineer under a Type 3 transfer as defined in W.S. 9-2-1707(b)(iii).

33-29-305. Powers of board.

(a) The board shall have the powers necessary to enforce this act, including the power to:

(i) Promulgate rules and regulations necessary to enforce this act;

(ii) Promulgate rules and regulations necessary to regulate the practice of professional engineering and professional land surveying, including qualifications for intern certificates and professional licenses, professional conduct, continuing education, discipline and license status categories;

(iii) Conduct hearings, take testimony, administer oaths, subpoena witnesses and issue subpoenas for the production of documents or data;

(iv) Use investigators, the office of the attorney general and consultants to investigate and evaluate possible violations of this act or the board's rules;

(v) Adopt an official seal for the board and adopt a professional seal for the use of licensees;

(vi) Employ a board administrator and such additional staff as necessary to administer and enforce this act and board rules;

(vii) Appoint advisory committees comprised of persons who may or may not be members of the board to undertake tasks assigned by the board. The board may reimburse committee members for reasonable incidental expenses incurred in the conduct of board business;

(viii) Establish and collect fees pursuant to W.S. 33-1-201. All fees collected by the board shall be deposited by the state treasurer to the credit of the Wyoming board of professional engineers and professional land surveyors account;

(ix) Pay for membership to regional and national organizations and expenses incurred by board members to attend organization meetings;

(x) Use electronic transmissions.

33-29-306. Professional engineers and professional land surveyors account.

All fees and other revenues received by the board shall be deposited by the state treasurer to the credit of the Wyoming board of professional engineers and professional land surveyors account. All monies in the account may be appropriated for the use of the board. The account shall be used by the board to defray costs incurred in the administration of this act. Disbursements from the account shall not exceed the monies credited to it.

33-29-307. Immunity from personal liability.

Any person reporting information to the board under oath and members, agents, investigators and employees of the board are immune from personal liability with respect to acts done and actions taken in good faith without fraud or malice.

33-29-308. Confidentiality of records.

(a) The following records and papers of the board are confidential and are not public records:

(i) Letters of inquiry and reference concerning applicants;

(ii) Completed applications and verification and inquiry forms;

(iii) Transcripts of educational institutions;

(iv) Investigative and disciplinary matters dismissed without action; and

(v) Files relating to complaints and investigations until a formal hearing is concluded or until final disciplinary action is taken if no hearing is commenced. This paragraph does not prevent use of the board files in a hearing.

ARTICLE 4 - LICENSE REQUIREMENTS

33-29-401. Professional license required.

Except as provided in this act, no individual shall engage in the practice of professional engineering or professional land surveying unless the individual holds the appropriate license issued by the board.

33-29-402. Requirements for intern certificate.

(a) An applicant for a certificate as an engineer intern shall submit evidence satisfactory to the board showing that the applicant:

(i) Is possessed of a background that does not evidence conduct adverse to the practice of engineering or to the ability to practice as an engineer intern;

(ii) Has graduated from a curriculum approved by the board of at least four (4) years; and

(iii) Has passed an examination in the fundamentals of engineering.

(b) An applicant for a certificate as a land surveyor intern shall submit evidence satisfactory to the board showing that the applicant:

(i) Is possessed of a background that does not evidence conduct adverse to the practice of land surveying or to the ability to practice as a land surveyor intern;

(ii) Has passed an examination in the fundamentals of land surveying;

(iii) Has one (1) of the following educational/experience backgrounds:

(A) Has graduated from a curriculum approved by the board of at least four (4) years that contains at least thirty (30) semester credit hours in surveying approved by the board; or

(B) Has graduated from a curriculum approved by the board of at least two (2) years that contains at least thirty (30) semester credit hours in surveying approved by the board plus two (2) years of combined office and field experience in land surveying, of which one (1) year shall have been in charge of land surveying projects under the supervision of a licensed professional land surveyor.

(c) An engineer intern or land surveyor intern shall not practice as a professional engineer or a professional land surveyor.

33-29-403. Requirements for professional license.

(a) An applicant for a license as a professional engineer who has not graduated from a doctoral curriculum in engineering approved by the board shall submit evidence satisfactory to the board showing that the applicant:

(i) Is possessed of a background that does not evidence conduct adverse to the practice of engineering or to the ability to practice engineering;

(ii) Has passed an examination in the principles and practice of engineering; and

(iii) Has one (1) of the following:

(A) Has met the requirements for an engineer intern certificate and has four (4) years of engineering experience in increasing responsibility and scope of a grade and character that evidence the applicant is competent to practice as a professional engineer; or

(B) Has graduated from a curriculum approved by the board of at least four (4) years and has been actively engaged in engineering practice of a character satisfactory to the board for at least ten (10) years after graduation.

(b) An applicant for a license as a professional engineer who has graduated from a doctoral curriculum in engineering approved by the board shall submit evidence satisfactory to the board showing that the applicant:

(i) Is possessed of a background that does not evidence conduct adverse to the practice of engineering or to the ability to practice engineering;

(ii) Has passed any examinations required by rule of the board to establish competence at a professional level in Wyoming licensing laws and professional ethics; and

(iii) Has four (4) years of engineering experience in increasing responsibility and scope of a grade and character

that evidence the applicant is competent to practice as a professional engineer.

(c) An applicant for a license as a professional land surveyor shall submit evidence satisfactory to the board showing that the applicant:

(i) Is possessed of a background that does not evidence conduct adverse to the practice of land surveying or to the ability to practice land surveying;

(ii) Has passed the examination in the principles and practice of land surveying;

(iii) Has met the requirements for a land surveyor intern certificate; and

(iv) Has four (4) years of land surveying experience in increasing responsibility and scope of a grade and character that evidence the applicant is competent to practice as a professional land surveyor. This experience shall be in addition to that described in W.S. 33-29-402(b)(iii).

(d) The board may by rule and regulation modify the requirements of this section as they relate to the licensure of a member of the faculty of the University of Wyoming teaching upper division engineering or land surveying courses.

33-29-404. Application for license.

(a) An applicant for a license or certificate under this act shall submit an application on a form and in the manner prescribed by the board.

(b) In addition to information required by the board, the application shall contain a statement under oath of the applicant's education and engineering or land surveying work experience.

(c) The board may accept an applicant's records from the national council of examiners for engineering and surveying or its successor organization as a substitute for the information required in this act.

33-29-405. Fees.

The board shall establish fees in accordance with W.S. 33-1-201 as necessary to provide for the administration of this act, including license and certificate application fees and fees for services provided by the board. Application fees shall accompany the application. Application fees are nonrefundable.

33-29-406. License on the basis of comity.

(a) An applicant who holds a license issued by another jurisdiction to practice professional engineering or professional land surveying may be issued a professional license provided:

(i) The applicant has submitted evidence satisfactory to the board that the applicant has a background that does not evidence conduct adverse to the practice of engineering or land surveying or to the ability to practice engineering or land surveying;

(ii) The applicant has passed any examinations required by rule of the board to establish competence at a professional level in Wyoming licensing laws and professional ethics; and

(iii) The applicant:

(A) Meets the education, experience and examination requirements equivalent to the requirements in effect in Wyoming at the time the applicant's license was issued by the other jurisdiction; or

(B) Meets requirements established by the national council of examiners for engineering and surveying or its successor organization that the board has determined are equivalent to the requirements for a professional license in Wyoming.

(b) An applicant who holds a license issued by another jurisdiction to practice professional engineering or professional land surveying, and who has held the license for fifteen (15) years immediately prior to submitting the application, may be issued a professional license provided the applicant:

(i) Is possessed of a background that does not evidence conduct adverse to the practice of engineering or land

surveying or to the ability to practice engineering or land surveying; and

(ii) Has passed any examination required by rule of the board to establish competence at a professional level in Wyoming licensing laws and professional ethics.

ARTICLE 5 - LICENSE RENEWAL

33-29-501. Renewal of licenses.

(a) The board shall provide for the biennial renewal of a license. The board may adopt a system under which licenses are renewed on a staggered basis.

(b) An individual whose license has expired shall not engage in activities that require a license until the license has been renewed or until a new license has been obtained.

(c) An individual whose license has been expired for less than two (2) years may renew the license by paying the required annual renewal fee and a late fee.

(d) An individual whose license has been expired for more than two (2) years may not renew the license. The individual may obtain a new license by complying with the requirements of this act for obtaining an original license.

(e) An individual who renews his license shall comply with the continuing professional competency requirements adopted by board rule for license renewals.

33-29-502. Continuity of current licenses.

Any individual holding a certificate of registration in this state that is valid and active on July 1, 2013, shall be deemed to be licensed under this act.

ARTICLE 6 - PRACTICE OF PROFESSIONAL ENGINEERING AND PROFESSIONAL LAND SURVEYING

33-29-601. Professional seal.

(a) The board shall adopt a seal for the use of professional engineers and professional land surveyors.

(b) Whenever the professional seal is applied, the licensee's signature and the date shall also be included.

(c) The professional seal, signature and date shall be placed on all final designs, specifications, maps, land surveys, reports, plats, drawings and plans filed or recorded pursuant to W.S. 33-29-801.

(d) The application of a professional seal shall constitute certification that:

(i) The work was done by the professional licensee or under his responsible charge; and

(ii) The licensee is competent in the subject matter.

(e) A licensee shall not:

(i) Permit the use of his seal by another; or

(ii) Use his seal when his license has expired, is inactive or has been revoked or suspended.

(f) An individual who is not licensed shall not use the seal of a licensee.

33-29-602. Practice through business entities; registration.

(a) Professional engineers and professional land surveyors may practice professional engineering or professional land surveying through a business entity provided:

(i) The business entity has registered with the board;

(ii) The business entity has submitted the following to the board:

(A) A description of the engineering or land surveying services to be practiced in the state; and

(B) A designation of an individual or individuals in responsible charge. A change in the individual or individuals in responsible charge shall be filed with the board within thirty (30) days of the change.

(iii) All final maps, plats, plans, designs and other documents filed or recorded under W.S. 33-29-801 shall be dated and bear the signature and seal of a professional engineer or professional land surveyor in responsible charge of the work; and

(iv) All personnel of the business entity who act on its behalf as engineers or land surveyors in this state shall be licensed professional engineers or licensed professional land surveyors or shall be exempted from the license requirement under W.S. 33-29-604(a)(iii). No business entity shall be relieved of responsibility for the conduct or acts of its employees, officers or agents by reason of its compliance with this act. Nor shall any individual engaged in engineering or land surveying be relieved of responsibility for engineering or land surveying services performed by reason of his employment or relationship with a business entity.

33-29-603. Public works.

(a) Drawings, plans, specifications and estimates for public works of the state or a political subdivision of the state involving professional engineering shall be prepared by or under the personal direction of a professional engineer. The construction of the engineering works shall be executed under the direct supervision of a professional engineer.

(b) Surveys or maps for public works of the state or a political subdivision of the state shall be prepared by or under the personal direction of a professional land surveyor. The surveying work shall be executed under the direct supervision of a professional land surveyor.

33-29-604. Exemptions and limitations.

(a) The provisions of this act shall not apply to:

(i) An officer or employee of the United States practicing within the scope of his authority and employment;

(ii) An officer or employee of the state of Wyoming performing regulatory reviews within the scope of his authority and employment provided the officer or employee shall not represent himself to be a licensed professional engineer or licensed professional surveyor unless he is so licensed and except when filing water right petitions with the state of Wyoming as provided in title 41 of the Wyoming statutes;

(iii) An individual working for a business entity or licensee provided a licensee exercises responsible charge over all final designs, drawings, maps, plats and plans filed under W.S. 33-29-801;

(iv) A utility company or telecommunications company regulated by the Wyoming public service commission or the company's employees practicing within the scope of their employment and authority;

(v) An individual who performs actions described in W.S. 33-29-201(a)(viii)(A) upon lands owned or leased by him or upon lands owned or leased by an entity, which is not a publicly traded corporation, of which he owns an interest; or

(vi) An irrigation company or employee of an irrigation company when determining elevations and distances necessary to market equipment.

ARTICLE 7 - PROHIBITED ACTS AND DISCIPLINARY PROCEDURES

33-29-701. Disciplinary powers of the board.

(a) On a determination that a ground for disciplinary action exists under W.S. 33-29-702, the board may:

(i) Deny an application for a license, intern certificate or business entity registration;

(ii) Revoke, suspend or refuse to renew a license, intern certificate or business entity registration;

(iii) Impose probation;

(iv) Restrict the scope of a license, intern certificate or business entity registration;

(v) Impose peer review;

(vi) Require continuing education;

(vii) Formally or informally reprimand a licensee, intern or registered business entity;

(viii) Impose civil penalties as provided in W.S. 33-29-707.

33-29-702. Grounds for disciplinary action.

(a) An individual or business entity is subject to disciplinary action for:

(i) A violation of this act, board rule, order or code of ethics;

(ii) Fraud or misrepresentation relating to the practice of engineering or land surveying, including in the submission of information to the board and signing of documents;

(iii) Allowing or assisting another to violate this act or a rule or order of the board;

(iv) Incompetence, habitual or gross negligence or other misconduct in the practice of engineering or land surveying;

(v) Habitual intoxication or addiction to the use of drugs or alcohol which affects the ability to practice engineering or land surveying;

(vi) Conviction of a felony that is related to the ability to practice engineering or land surveying;

(vii) Discipline or restriction of a license, intern certificate or business entity registration by another jurisdiction if the ground for the action was the same or substantially equivalent to a ground for discipline in this section.

33-29-703. Disciplinary proceedings.

(a) Any final disciplinary action shall be preceded by notice and an opportunity for a hearing. Hearings shall be conducted as a contested case.

(b) The board may conduct investigations and issue subpoenas for the attendance of witnesses and the production of books, records, electronic records, documents and other evidence the board deems relevant to an investigation or hearing.

(c) The board may settle a disciplinary matter without a formal hearing.

(d) The board shall notify the clerk of each county in the state and the secretary of state, in the case of a business entity, of suspension or revocation of a license, intern certificate or business entity registration and of the reissuance of a suspended or revoked license, certificate or business entity registration.

33-29-704. Judicial review.

Except as provided by W.S. 33-29-706, any final action or order of the board is subject to judicial review as provided in W.S. 16-3-114.

33-29-705. Reinstatement.

A licensee, intern or business entity may apply for reinstatement of a license, intern certificate or business registration upon fulfilling disciplinary conditions imposed by the board. The board may grant or deny the application and may modify its original findings.

33-29-706. Court ordered suspension of license.

Upon receipt from the department of family services of a certified copy of an order from a court under W.S. 20-6-112 to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for action taken under this section.

33-29-707. Civil penalties.

(a) In addition to any disciplinary action taken with respect to a license, intern certificate or business entity registration, the board may impose a civil penalty upon any person who violates this act or a rule or order of the board. The penalty may be up to two thousand dollars ($2,000.00) for each violation and may include the board's costs and expenses for the investigation and prosecution and reasonable attorney's fees.

(b) The board shall notify the person accused of a violation in writing of the nature of the alleged violation. Upon receipt of a notice of violation the person receiving it shall pay the assessed civil penalty to the board within sixty

(60) days or file an appeal to the board. The appeal shall be conducted as a contested case before a hearing examiner of the office of administrative hearings, who shall recommend a decision to the board.

(c) A civil penalty may be recovered in an action brought in the name of the board in the district court.

33-29-708. Criminal penalties.

Any person who violates any provision of this act is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00), by imprisonment of not more than one (1) year, or both. Each violation shall constitute a separate offense.

33-29-709. Injunctions; enforcement of subpoenas.

(a) In addition to the discipline and penalties in W.S. 33-29-701, 33-29-707 and 33-29-708, the board may seek an injunction in the district court to enjoin any person from violating this act or the board's rules or orders. The board is authorized to apply for injunctive relief without bond. It shall not be necessary to allege or prove an adequate remedy at law does not exist or irreparable harm would result from the continued violation of this act.

(b) In case of refusal to obey a subpoena served by the board upon any person, the district court for any county in which the person is found or resides or transacts business, upon application by the board, may issue an order requiring the person to appear and give testimony or to appear and produce documents or both. Any failure to obey the order of the court may be punished by the court as contempt.

ARTICLE 8 - FILING AND RECORDING

33-29-801. Maps, plats, plans and designs for filing or recording to be certified by professional engineer or professional land surveyor; exception; size of maps.

(a) Except for filings with the oil and gas commission pursuant to rules of the oil and gas commission, all maps, plats, plans, designs and all other engineering and surveying documents required to be filed or recorded in the state engineer's office, the office of state lands and investments, all county clerks' offices, all city or town offices, or any

other office of public record in the state of Wyoming, shall comply with the following requirements:

(i) Be made by or under the responsible charge of a professional engineer or professional land surveyor and be signed by and bear the seal of the professional engineer or professional land surveyor;

(ii) Hardcopy originals shall be drawn in either waterproof black ink or acetate ink or shall be an acceptable photographic or other kind of reproduction on good quality polyester base drafting film in a minimum thickness of four-thousandths (.004) inch or as otherwise required by the receiving entity;

(iii) Maps formatted as required by the receiving entity may be submitted in electronic form as provided by the Uniform Electronic Transactions Act, W.S. 40-21-101 through 40-21-119;

(iv) Hardcopy documents shall conform to the sizes provided by board rule.

(b) Repealed by Laws 2017, ch. 43, § 2.

(c) Repealed by Laws 2017, ch. 43, § 2.

(d) Repealed by Laws 2017, ch. 43, § 2.

(e) The state engineer may adopt rules and regulations which provide exceptions to paragraph (a)(i) of this section for projects which, because of their size, nature or location, an exception would not impede upon public safety or the integrity of a water right.

ARTICLE 9 - CORNER PERPETUATION AND FILING ACT

33-29-901. Short title.

W.S. 33-29-901 through 33-29-910 may be cited as the "Corner Perpetuation and Filing Act".

33-29-902. Definitions.

(a) Except where the context indicates a different meaning, terms used in W.S. 33-29-901 through 33-29-910 shall be defined as follows:

(i) A "property corner" is a geographic point on the surface of the earth, and is on, a part of, and controls a property line;

(ii) A "property controlling corner" for a property is a public land survey corner or any property corner which does not lie on a property line of the property in question, but which controls the location of one (1) or more of the property corners of the property in question;

(iii) A "public land survey corner" is any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government;

(iv) A "corner," unless otherwise qualified, means a property corner, or a property controlling corner, or a public land survey corner or any combination of these;

(v) An "accessory to a corner" is any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects;

(vi) A "monument" is an accessory that is presumed to occupy the exact position of a corner;

(vii) A "reference monument" is a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded and which serves to witness the corner;

(viii) A "professional land surveyor" is a surveyor who is licensed to practice professional land surveying under W.S. 33-29-201 through 33-29-801, and has a current license for that calendar year;

(ix) The "board" is the Wyoming board of professional engineers and professional land surveyors.

33-29-903. Completion of "corner file".

A professional land surveyor shall complete, sign, and file with the county clerk where the corner is situated, a written record of corner establishment or restoration to be known as a "corner file" for every public land survey corner and accessory to such corner which is established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated or used as control in any survey by such surveyor, and within ninety (90) days thereafter, unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of W.S. 33-29-901 through 33-29-910.

33-29-904. Filing of corner reference.

A professional land surveyor may file such corner record as to any property corner, property controlling corner, reference monument or accessory to a corner.

33-29-905. Information to be included in corner file; form.

The board shall by regulation provide and prescribe the information which shall be necessary to be included in the corner file and the board shall prescribe the form in which the corner record shall be presented and filed.

33-29-906. Preservation of map records; public inspection.

(a) The county clerk of the county containing the corners, as part of his files, shall have on record maps of each township within the county, the bearings and lengths of the connecting lines to government corners and government corners looked for and not found. These records shall be preserved in accordance with W.S. 18-3-402(a)(vi).

(b) The county clerk shall make these records available for public inspection during all usual office hours.

(c) The filing fee for each corner record or certificate shall be as provided in W.S. 18-3-402(a)(xvi)(Q) and each record or certificate shall apply to only one (1) corner.

33-29-907. Reconstruction or rehabilitation of monument.

In every case where a corner record of a public land survey corner is required to be filed under the provisions of W.S. 33-29-901 through 33-29-910, the professional land surveyor must

reconstruct or rehabilitate the monument of such corner, and accessories to such corner, so that the same shall be left by him in such physical condition that it remains as permanent a monument as is reasonably possible and so that the same may be reasonably expected to be located with facility at all times in the future.

33-29-908. Signature on corner record required.

No corner record shall be filed unless the same is signed by a professional land surveyor, or, in the case of an agency of the United States government or the state of Wyoming, the certificate may be signed by the survey party chief making the survey.

33-29-909. Previously existing corners.

Corner records may be filed concerning corners established, reestablished or restored before the effective date of W.S. 33-29-901 through 33-29-910.

33-29-910. Exemption from filing fees.

All filings relative to official cadastral surveys of the bureau of land management of the United States of America performed by authorized personnel shall be exempt from filing fees.

CHAPTER 30 - VETERINARIANS

ARTICLE 1 - IN GENERAL

33-30-101. Filing of forged or fictitious diploma.

Any person, filing, or attempting to file, as his own, the diploma of another, or a forged or fictitious diploma, or a fraudulently obtained diploma, certificate, license, or affidavit, upon conviction thereof shall be subject to the penalty provided by the statutes of the state of Wyoming for the crime of forgery.

33-30-102. Veterinary officers to be licensed.

No person shall hereafter in this state or in any county or city thereof be appointed or elected to any public position requiring veterinary skill or knowledge, who has not, prior to his appointment or election become a duly licensed veterinarian.

ARTICLE 2 - MEDICAL PRACTICE

33-30-201. Citation and purpose of article.

(a) This act shall be known as the Wyoming Veterinary Medical Practice Act.

(b) It is hereby declared that the practice of veterinary medicine is a privilege which is granted by legislative authority in the interest of the public health, safety and welfare, and to assure the public of the highest competency and professional standards by persons licensed to practice veterinary medicine.

33-30-202. Definitions.

(a) When used in this act, these words and phrases, unless the context otherwise indicates, shall be defined as follows:

(i) "Animal" is any animal other than man and includes fowl, birds, fish and reptiles, wild or domestic, living or dead;

(ii) "Veterinary medicine" is that discipline of medicine, system, science and art devoted to preventing or alleviating illness, pain, disease and deformity of animals by diagnosing, treating, prescribing or operating, and to preventing the spread to human beings of those diseases capable of being contracted by human beings from animals, utilizing means and methods which are taught and practiced in accredited colleges of veterinary medicine. Veterinary dentistry, cosmetic surgery and physiological examination of animals shall be considered a part of veterinary medicine;

(iii) "Practice of veterinary medicine" shall include, but not be limited to, the practice:

(A) To diagnose, prognose, treat, correct, change, relieve, or prevent disease, pain, deformity, defect, injury, or other physical or mental conditions of any animal for a fee or other compensation; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique;

(B) To physiologically examine or to correct sterility or infertility, or to render advice or recommendation

with regard to any of the above for any animal for a fee or other compensation;

(C) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in paragraphs (A) and (B);

(D) To use any titles, words, abbreviations, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subparagraphs (A) and (B) of this paragraph except where such person is a veterinarian.

(iv) "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from an accredited college of veterinary medicine;

(v) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state. For the purpose of this act such licensed veterinarian is also considered to be a practicing veterinarian;

(vi) "College of veterinary medicine" means any veterinary college or school or division of a university or college that offers the degree, doctor of veterinary medicine or its equivalent, and that conforms to the standards required for accreditation by the American Veterinary Medical Association;

(vii) "Person" means any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person;

(viii) "Board" means the Wyoming board of veterinary medicine;

(ix) "Animal health emergency" means any event or situation involving animal disease or animal welfare that threatens public welfare and the viability of animal industries, including, but not limited to, incursion of foreign animal disease, natural disaster and bioterrorism;

(x) "Animal euthanasia technician" means a person who is employed or sponsored by a law enforcement agency whose duties include euthanizing an unwanted, sick, injured or dangerous domestic animal;

(xi) "Euthanasia" means the act or practice of providing a humane death for an animal.

33-30-203. License required; exceptions.

(a) No person may practice veterinary medicine in the state who is not a licensed veterinarian or the holder of a valid temporary permit issued by the board. This act shall not be construed to prohibit:

(i) An employed veterinarian of the federal, state, or local government from performing his official duties; provided, however, this exemption shall not apply to such person when he is not engaged in carrying out his official duties;

(ii) A person who is a regular student in a college of veterinary medicine from performing duties or action assigned by his instructors, or from working under the responsible supervision of a licensed veterinarian during a school vacation period;

(iii) A veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state;

(iv) Any merchant or manufacturer from selling at his regular place of business medicines, feed, appliances, or other products used in the prevention or treatment of animal diseases;

(v) The owner of an animal, the owner's employees or any livestock operator and such operator's employees with whom the owner exchanges work and assistance in connection with animals, from caring for and treating any animal belonging to such owner, in any manner desired by said owner;

(vi) A member of the faculty of an accredited college of veterinary medicine or a recognized division of veterinary science from performing his regular functions at such college or division by lecturing, or from giving instructions or demonstrations at such college or division or in connection with a continuing education course or seminar;

(vii) Any person from engaging in bona fide scientific research which requires experimentation involving animals; providing that procurement and care of such experimental animals shall conform to accepted methods and existing law;

(viii) Any person approved by the board from performing artificial insemination of animals as provided by W.S. 33-30-204(m)(iii);

(ix) Any veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian from administering medication or rendering auxiliary or supporting assistance under the responsible supervision of such practicing veterinarian;

(x) Persons from gratuitously giving aid, assistance or relief in emergency or accident cases if they do not represent themselves to be veterinarians or use any title or degree appertaining to the practice thereof;

(xi) Any person approved by the board from performing embryo transplants upon animals as provided by W.S. 33-30-204(m)(xiii);

(xii) Any person who, without expectation of compensation, provides emergency veterinary care at the site in an emergency or disaster situation;

(xiii) The state veterinarian from deputizing licensed veterinarians to assist as deputy state veterinarians in case of an emergency as provided in W.S. 11-18-103(a)(ii). The state veterinarian may request the assistance of licensed veterinarians from other states as needed in emergency situations without requiring Wyoming licensure.

33-30-204. Board of veterinary medicine.

(a) A Wyoming board of veterinary medicine shall be appointed by the governor, by and with the consent of the senate, and shall consist of five (5) members who shall hold office for a term of six (6) years. Four (4) members shall be licensed veterinarians, one (1) member shall be a consumer of veterinary services. Members of the state board of veterinary examiners previously appointed under this act shall continue as members of the board until the expiration of the term for which they were appointed. Initial appointments to the board may be

for less than six (6) years so that the terms of not more than two (2) members shall expire in any one (1) biennium. Whenever the occasion arises for an appointment of a licensed veterinarian under this section the Wyoming Veterinary Medical Association shall nominate three (3) or more qualified persons and forward the nominations to the governor at least thirty (30) days prior to the convening date of the senate. Vacancies due to death, resignation or removal shall be filled by appointment by the governor in accordance with W.S. 28-12-101 upon nominations being made as otherwise provided in this section for appointment. No person shall serve two (2) consecutive six (6) year terms, but a person appointed for a term of fewer than six (6) years, or to fill a vacancy, may succeed himself. Effective July 1, 1979, appointments and terms shall be made in accordance with W.S. 28-12-101 through 28-12-103.

(b) Any member of the board who is required to be a licensed veterinarian shall be qualified to serve as a member of the board if he is a graduate of a college of veterinary medicine, a resident of this state, and has been licensed to practice veterinary medicine in this state for the five (5) years immediately preceding the time of his appointment. No person may serve on the board who is, or was during the two (2) years immediately preceding his appointment, a member of the faculty, trustees or advisory board of a college of veterinary medicine.

(c) The governor may remove any board member from office as provided in W.S. 9-1-202.

(d) Immediately and before entering upon the duties of said office, the members of the board shall take the constitutional oath of office and shall file the same in the office of the secretary of state; and there shall thereupon be issued to said members certificates of their appointments.

(e) Each member of the board shall receive compensation from the veterinary medicine account for each day actually spent in the performance of his official board duties at the salary rate provided in W.S. 28-5-101(d) and per diem and mileage as provided in W.S. 33-1-302(a)(vii).

(f) The board shall meet at least once each year at the time and place fixed by rule of the board. Other necessary meetings may be called by the president of the board by giving notice as may be required by rule. Except as otherwise provided, a majority of the board, including one (1) officer, constitutes

a quorum. Meetings shall be open and public except that the board may meet in closed session to prepare, approve, administer or grade examinations, or to deliberate the qualification of an applicant for license, or the disposition of a proceeding to discipline a licensed veterinarian. The board shall adopt a seal which shall be affixed to all licenses issued by the board and to other papers requiring the same.

(g) At the annual meeting the board shall organize by electing from its membership a president and vice-president and such other officers as may be prescribed by rules. Officers of the board shall serve for terms of one (1) year and until successors are elected, without limitation on the number of terms an officer may serve. The president shall serve as chairman at the board meetings, except that in his absence the vice-president shall serve as chairman. The state veterinarian shall be ex officio member of the board and shall receive no compensation, except that he is entitled to the normal travel expenses allowed to state employees.

(h) The board shall keep permanent accounts and records of all receipts and disbursements by the board and minutes of all board proceedings, including the disposition of all applications for licenses, and keep a register of all persons currently licensed by the board. The board shall, as required by W.S. 9-2-1014, report to the governor and the Wyoming Veterinary Medical Association as to the transactions of the board. In all court actions or proceedings pertaining to this act, a transcript of any record or any part thereof, which is certified to be a true copy by the board, shall be entitled to admission in evidence.

(j) All board records shall be open to public inspection during regular office hours of the board; except, information received by the board through inspection and investigations involving the question of licensure shall be confidential and shall not be disclosed except as may be judicially required.

(k) All money shall be received and collected as provided by law. The state treasurer shall credit the money to a separate account. All expenses of the board and all expenses incurred in connection with the administration of this act shall be paid from the account by requisition signed by a person designated by the board in a manner provided by law for payment of other state expenses. The account shall be a continuing account and shall not be subject to reversion to the state's general fund.

(m) The board is empowered to:

(i) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in the state;

(ii) Issue, renew, deny, suspend, or revoke licenses and temporary permits to practice veterinary medicine in the state or otherwise discipline licensed veterinarians consistent with the provisions of the act and the rules and regulations adopted thereunder, provided that any denial, suspension or revocation of a license shall be preceded by notice and an opportunity for a hearing;

(iii) Regulate artificial insemination of animals by establishing standards of practice by consultation with approved schools of artificial insemination and issue permits to persons found qualified by the board;

(iv) Establish and publish annually a schedule of fees for licensing and registration of veterinarians and the issuance of permits;

(v) Conduct investigations for the purpose of discovering violations of this act;

(vi) Hold hearings on all matters properly brought before the board;

(vii) Employ full-time or part-time professional, clerical or special personnel necessary to effectuate the provisions of this act and purchase or rent necessary office space, equipment and supplies;

(viii) Employ personnel and incur expenses as may be necessary for the promotion of education and standards of veterinary medicine through institutes, conferences, educational programs or any other means as may result in improved services;

(ix) Accept any federal, state, county, city or private funds, grants or appropriations which shall be used to award scholarships, fellowships or assistantships to qualified persons to study veterinary medicine in an approved school. The funds shall be deposited in the state treasury and credited to a separate account. The funds shall be paid out upon request of

the board as provided by law. The above mentioned awards shall be granted under rules adopted by the board;

(x) Appoint from its own membership one (1) or more members to act as representatives of the board at any meeting within or without the state where such representation is deemed desirable;

(xi) Bring proceedings in the courts for the enforcement of this act or any regulations made pursuant thereto;

(xii) Adopt, amend, or repeal all rules necessary for its governance and all regulations necessary to carry into effect the provision of this act including the establishment and publication of standards of professional conduct for the practice of veterinary medicine;

(xiii) Regulate the transplanting of embryos in animals by establishing standards of practice and issue permits to persons found qualified by the board;

(xiv) Repealed By Laws 2013, Ch. 127, § 3.

(n) The powers enumerated are granted for the purpose of enabling the board to supervise effectively the practice of veterinary medicine and are to be construed liberally to accomplish this objective. In the exercise of its powers, the board shall be governed by the provisions of the Wyoming Administrative Procedure Act.

33-30-205. Veterinarians presently licensed.

Any person holding a valid license to practice veterinary medicine in this state on the date when this act becomes effective shall be recognized as a licensed veterinarian and shall be entitled to retain this status so long as he complies with the provisions of this act, including annual renewal of license.

33-30-206. Application for license; fee; determination of qualifications.

(a) Any person desiring a license to practice veterinary medicine in this state shall make written application to the board. The application shall show that the applicant is an adult, subscribes to and will uphold the principles incorporated

in the constitution of the United States, is a graduate of a college of veterinary medicine, has a background that does not evidence conduct adverse to the practice of veterinary medicine or to the ability to practice veterinary medicine, is of good physical and mental health, and shall provide such other information and proof as the board may require by rule. The application shall be accompanied by a fee in the amount established and published by the board.

(b) If the board determines that the applicant possesses the proper qualifications, it shall admit the applicant to the next examination, or if the applicant is eligible for a license without examination under W.S. 33-30-208, the board may forthwith grant him a license. If an applicant is found not qualified to take the examination or does not qualify for a license without examination, the board shall immediately notify the applicant in writing of such finding and the grounds therefor. A licensee whose license is revoked or an applicant found unqualified shall be afforded an opportunity for a hearing to be conducted in accordance with the Wyoming Administrative Procedure Act. Any applicant who is found not qualified shall be allowed the return of his application fee.

33-30-207. Examinations generally.

(a) The board shall hold at least one (1) examination of applicants for license to practice veterinary medicine during each year and may hold such additional examinations as are necessary.

(b) The preparation, administration, and grading of examinations shall be governed by rules prescribed by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in colleges of veterinary medicine. To pass the examination, the examinee must demonstrate scientific and practical knowledge of the highest competency to prove himself qualified to practice veterinary medicine in the judgment of the board. All examinees shall be tested by a written examination, supplemented by such oral interviews and practical demonstrations as the board may deem necessary. The board may adopt and use the examination prepared by the national board of veterinary examiners.

(c) After each examination the board shall notify each examinee of the result of his examination, and the board shall issue licenses to the persons successfully completing the

examination. The board shall record the new licenses and issue certificates of registration to the new licensees. Any person failing an examination shall be admitted to any subsequent examination on payment of the application fee.

(d) Each licensee shall be entitled to exercise all the rights and privileges of a doctor of veterinary medicine; provided, however, any person practicing veterinary medicine shall be governed by the laws of this state and the rules adopted by the board.

33-30-208. When examination not required.

(a) The board may, but is not required to, issue a license without a written examination to a qualified applicant who:

(i) Has for the three (3) years next prior to filing his application been a practicing veterinarian licensed in a state, territory, or district of the United States having license requirements at the time the applicant was first licensed which were substantially equivalent to the requirements of this act, and who has the recommendation for Wyoming licensure by the examining board of his state of residence;

(ii) Has within the three (3) years next prior to filing his application successfully completed the examination conducted by the national board of veterinary examiners.

(b) At its discretion, the board may orally or practically examine any person qualifying for licensing under this section.

33-30-209. Temporary permits.

(a) The board may issue without examination a temporary permit to practice veterinary medicine in this state to a qualified applicant for license pending examination, provided that such temporary permit shall expire the day after the notice of results of the first examination given after the permit is issued.

(b) A temporary permit may be summarily revoked by majority vote of the board without a hearing.

(c) The board is under no obligation to issue a second temporary permit under this provision but may do so if circumstances warrant such issuance.

33-30-210. Display and exhibition of license; other licenses not required.

(a) Each person to whom a license is issued shall keep such license conspicuously displayed in his office, place of business or place of employment, and shall, whenever required, exhibit said license to any member or authorized representative of the board.

(b) No state, county, or city occupational license shall be required to practice veterinary medicine when a veterinarian shall present to the proper authority a valid current license issued by the board.

33-30-211. Expiration and renewal of licenses; fees; veterinarians on active duty with armed services; duplicate licenses; continuing education.

(a) All licenses shall expire annually on December 31 of each year and shall be renewed by registration with the board and payment of the registration renewal fee established and published by the board. On December 1 of each year, the board shall mail a notice to each licensed veterinarian that his license will expire on December 31 and provide him with a form for reregistration. The board shall issue annual certificates of registration to all persons registering under this act.

(b) Any person who shall practice veterinary medicine after the expiration of his license and willfully or by neglect fail to renew such license shall be practicing in violation of this act. The board may, by rule establish a grace period for license renewal not to exceed sixty (60) days and establish a late fee for license renewal which shall not exceed the annual renewal fee. At the discretion of the board, any person not practicing in the state may renew an expired license within five (5) years of the date of its expiration by making written application for renewal and paying the current renewal fee plus a late fee and all delinquent renewal fees. After five (5) years have elapsed since the date of the expiration, a license may not be renewed, but the holder must make application for a new license.

(c) The board may by rule waive the payment of the registration renewal fee of a licensed veterinarian during the period when he is on active duty with any branch of the armed services of the United States, not to exceed the longer of three (3) years or the duration of a national emergency.

(d) The board shall issue a duplicate license to replace one that has been lost or otherwise rendered unusable upon payment of a fee set by rule of the board. Such duplicate license shall be so designated.

(e) The renewal under subsection (a) of this section shall be accompanied by evidence satisfactory to the board of compliance with this chapter and completion of continuing education activities as established by rules and regulations of the board. The board shall require three (3) hours of continuing education related to the responsible prescribing of controlled substances every two (2) years.

33-30-212. Denial, suspension and revocation of licenses.

(a) Upon written complaint sworn to by any person, the board may after a fair hearing and by a concurrence of all members, deny, revoke or suspend for a certain time the license of, or reprimand, any applicant or licensed veterinarian who upon proof to the satisfaction of the board:

(i) Has employed fraud, misrepresentation, or deception in obtaining a license;

(ii) Has been adjudicated insane;

(iii) Has habitually used drugs or intoxicants;

(iv) Has been convicted of a felony that relates to the practice of veterinary medicine or to the ability to practice veterinary medicine or has entered a plea of nolo contendere upon being charged with commission of such a felony;

(v) Has been convicted of a violation of any federal or state law relating to narcotic drugs;

(vi) Has used advertising or solicitation deemed unprofessional by the board;

(vii) Has been guilty of gross malpractice or gross neglect in the practice of veterinary medicine which has endangered the health or life of any person or animal;

(viii) Has had professional association with or employed any person practicing veterinary medicine unlawfully;

(ix) Has committed acts of fraud or dishonesty; especially in the application or reporting of any test for disease in animals;

(x) Has failed to report, if required by law, or made false report of, any contagious or infectious disease;

(xi) Has been guilty of gross negligence in the inspection of foodstuffs or the issuance of health certificate, inspection certificate or vaccination certificate or other form used in the practice of veterinary medicine contributing to the dissemination of animal disease, transportation of diseased animals, or the sale of products of animal origin not fit for human consumption;

(xii) Has had a license to practice veterinary medicine by another state, territory, or district of the United States revoked or suspended on grounds other than nonpayment of registration fee;

(xiii) Has been guilty of unprofessional conduct as defined in regulations adopted by the board;

(xiv) Has been guilty of willful or repeated violation of any provision of this act;

(xv) Has willfully failed to display a license to practice veterinary medicine in the state of Wyoming;

(xvi) Has failed to keep the equipment and premises of the business establishment in a clean and sanitary condition as established by rules of the board;

(xvii) Has refused to permit the board to inspect the business premises of the licensee during regular business hours;

(xviii) Has been convicted of a charge of cruelty to animals;

(xix) Has failed to answer to the board, when so requested in writing, in regard to information relating to any of the violations listed under this section.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the

withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-30-213. Reinstatement of suspended or revoked licenses.

Any person whose license is suspended or revoked may, at the discretion of the board, be relicensed or reinstated at any time without an examination by majority vote of the board on written application made to the board showing cause justifying relicensing or reinstatement.

33-30-214. Penalty for violation; injunction.

(a) Any person who violates W.S. 33-30-101 through 33-30-215 is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00), by imprisonment for not more than six (6) months, or both. Each act of such unlawful practice shall constitute a distinct and separate offense.

(b) The board or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit. If the court finds that the person is violating or is threatening to violate this act, it shall enter an injunction restraining him from such unlawful acts.

33-30-215. Disposition of unclaimed animals in custody of veterinarians; notice to owner; liability of veterinarians; "abandoned animals".

(a) Any animal placed in the custody of a licensed veterinarian for treatment, boarding, or other care, which shall be unclaimed by its owner or his agent for a period of more than ten (10) days after written notice is given to the owner or his agent at his last known address, shall be deemed to be abandoned and may be turned over to the custody of the nearest humane society or dog pound in the area for the disposal as such custodian may deem proper.

(b) The giving of notice to the owner, or the agent of the owner, of such animal by the licensed veterinarian, as provided in the foregoing paragraph, shall relieve the licensed veterinarian and any custodian to whom such animal may be given of any further liability for disposal; it is further provided

that such procedure by the licensed veterinarian shall not constitute grounds for disciplinary procedure under this act.

(c) For the purpose of this act the term "abandoned" shall mean to forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or his agent; such abandonment shall constitute the relinquishment of all rights and claim by the owner to such animal.

33-30-216. Repealed By Laws 2013, Ch. 127, § 3.

33-30-217. Repealed By Laws 2013, Ch. 127, § 3.

33-30-218. Repealed By Laws 2013, Ch. 127, § 3.

33-30-219. Repealed By Laws 2013, Ch. 127, § 3.

33-30-220. Repealed By Laws 2013, Ch. 127, § 3.

33-30-221. Repealed By Laws 2013, Ch. 127, § 3.

33-30-222. Repealed By Laws 2013, Ch. 127, § 3.

33-30-223. Certificate required.

(a) No person shall practice as an animal euthanasia technician unless a permit is obtained as provided in W.S. 33-30-224. Nothing in this section shall be deemed to apply to any employee of the Wyoming game and fish department who is euthanizing wildlife in the course of his duties.

(b) An animal euthanasia technician shall register with the Wyoming board of pharmacy to purchase, possess and administer drugs labeled by the manufacturer for the purpose of euthanizing animals, excluding Schedule I drugs as defined in W.S. 35-7-1013 and 35-7-1014.

(c) If at any time there is a change in employment or sponsorship of an animal euthanasia technician by a law enforcement agency, the law enforcement agency shall immediately notify the board of the change. Changes include transfer to another division or part of the law enforcement agency as well as firing, termination or other release of employment or sponsorship by the law enforcement agency. The board shall adopt rules relating to changes in employment or sponsorship by law enforcement agencies for the purposes of this section.

33-30-224. Requirements for certification.

(a) The board may issue a certificate as an animal euthanasia technician to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions that relate to the practice of animal euthanasia or to the ability to practice as an animal euthanasia technician;

(iii) The applicant has no misdemeanor convictions that relate to the practice of animal euthanasia or to the ability to practice as an animal euthanasia technician and no criminal violations relating to cruelty to animals or animal neglect;

(iv) The applicant is employed or sponsored by a law enforcement agency;

(v) The applicant has completed an animal euthanasia training and testing program approved or developed by the board.

(b) The board may, in its sole discretion, require an applicant to appear before the board.

(c) Upon examination of all credentials the board may consider the credentials adequate evidence of professional competence and issue a certificate.

(d) Persons certified as an animal euthanasia technician in this state as of July 1, 2013 are presumed to have met all requirements for certification under this section and are eligible for renewal of certification in accordance with the provisions of this section.

33-30-225. Reciprocity.

Persons permitted to practice as an animal euthanasia technician under the laws of any other state having requirements substantially equal to those provided for in this act may, in the discretion of the board, be issued a certificate to practice in this state.

CHAPTER 31 - WAREHOUSEMEN, BONDED

33-31-101. Operation authorized; filing and execution of bond; action upon bond; additional bond.

Any warehouseman as provided by W.S. 34-17-101 through 34-17-106 may operate his business under said chapter as a bonded warehouseman upon filing a bond as herein provided in the office of the county clerk in the county wherein may be situated his principal warehouse, tanks, or other place of storage. Such bond shall run to the state of Wyoming and be in a principal sum of not less than two thousand dollars ($2,000.00), and conditioned that said warehouseman shall conduct his business in compliance with the provisions of W.S. 34-17-101 through 34-17-106, and shall be good for a stated term of not less than one (1) year from the date thereof. Said bond shall be executed by such warehouseman as principal and by a corporate surety company authorized to transact business under the laws of the state of Wyoming as surety, or by two (2) sureties, residents of this state, who shall be severally and jointly liable on said bond and who shall each justify before said county clerk as provided in W.S. 1-1-105. Anyone injured by reason of a violation of the conditions of said bond may bring suit thereon and recover the amount of damages sustained not in excess of the principal sum of said bond; and if said bond shall become impaired by reason of recovery of damages or for other reason during its term such warehouseman shall file an additional bond sufficient to make good such impairments.

33-31-102. Business permitted after approval and filing; renewal of bonds or new bonds.

Upon the approval and filing of said bond by the county clerk and during the term thereof while the principal sum therein is not impaired such warehouseman may conduct his business under W.S. 34-17-101 through 34-17-106 as a bonded warehouseman, and he may thereafter so continue as a bonded warehouseman by filing renewals of said bond or new bonds for stated terms of not less than one (1) year.

CHAPTER 32 - EYE CARE PRACTITIONERS

33-32-101. Interference with selection of eye care practitioners prohibited.

No person, department, commission, board, official, employee, or agency of the state of Wyoming or any county, municipality, school district or other subdivision of the state of Wyoming, or any other state or county agency or any other governmental unit of any kind or character shall interfere with any patient's exercise of freedom of choice in the selection of practitioners licensed to perform examinations for refractions and visual training and visual corrections within the specific area for which their state licenses entitle them to practice.

CHAPTER 33 - SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

ARTICLE 1 - GENERAL PROVISIONS

33-33-101. Short title.

This act is cited as the "Practice Act for Speech-Language Pathologists and Audiologists".

33-33-102. Definitions.

(a) As used in this act:

(i) "Board" means the state board of examiners of speech-language pathology and audiology;

(ii) "Person" means any individual, organization or corporate body, but only an individual may be licensed under this act;

(iii) "Speech-language pathologist" means an individual who engages in the practice of speech-language pathology;

(iv) "Speech-language pathology" means the application of principles, methods and procedures for the measurement, test administration, evaluation, prediction, counseling, instruction, training, habilitation or rehabilitation related to delayed development of and disorders of communication, literacy and swallowing including speech production and fluency, language, cognition, voice, resonance and all aspects of swallowing including related feeding behaviors for the purpose of evaluating, preventing, ameliorating or modifying these disorders and conditions in individuals or groups of individuals;

(v) "Audiologist" means an individual who engages in the practice of audiology;

(vi) "Audiology" means the application of principles, methods and procedures of measurement, test administration, evaluation, prediction, consultation, counseling, instruction, habilitation or rehabilitation related to the auditory and vestibular system for the purpose of evaluating, identifying, preventing, ameliorating or modifying such disorders and conditions in individuals or groups of individuals;

(vii) "Speech-language pathology aide" means an individual who meets minimum qualifications established by board rule for speech-language pathology aides and who works under the direct supervision of a licensed speech-language pathologist. A speech-language pathology aide may:

(A) Assist with clerical work, client escort, preparation of therapeutic materials and equipment maintenance;

(B) Provide bilingual interpretation and translation for screening and assessment activities exclusive of clinical interpretation; and

(C) Assist with other duties under the direct supervision of a licensed speech-language pathologist.

(viii) "Audiometric technician" means an individual who meets minimum qualifications established by board rule for audiometric technicians and who works under the direct supervision of a licensed audiologist;

(ix) "Speech-language pathology assistant" means an individual who meets minimum qualifications established by board rule for speech-language pathology assistants and who works under the supervision of a licensed speech-language pathologist. A speech-language pathology assistant may:

(A) Assist with speech, language and hearing screenings without clinical interpretation;

(B) Provide bilingual interpretation and translation for screening and assessment activities exclusive of clinical interpretation;

(C) Follow documented treatment plans or protocols developed by the speech-language pathologist;

(D) Document client performance; and

(E) Report information to the supervising speech-language pathologist.

(x) "Telepractice" means the practice of speech-language pathology or audiology by electronic or other means by a speech-language pathologist or audiologist in one (1) location to a patient in another location, with or without an intervening health care provider.

33-33-103. Persons and practices affected.

(a) License shall be granted either in speech-language pathology or audiology independently, or both.

(b) No person shall practice or represent himself as a speech-language pathologist or audiologist unless licensed pursuant to this act.

(c) Repealed by Laws 2017, ch. 118, § 2.

33-33-104. Persons and practices not affected.

(a) Nothing in this chapter prevents or restricts:

(i) A physician or surgeon from engaging in the practice of medicine in this state, or a person under the supervision and control of a physician from conducting hearing testing, provided the person is not called an audiologist;

(ii) A hearing aid dealer or hearing aid specialist from engaging in the practice of fitting, dealing or dispensing of hearing aids including testing of hearing for the purpose of such fitting;

(iii) Repealed by Laws 2020, ch. 128, § 3.

(iv) The activities and services of a person pursuing a course of study leading to a degree in speech-language pathology at a college or university, if these activities and services constitute a part of a supervised course of study and the person is designated speech-language pathology intern, speech-language pathology student or other title appropriate to his level of training;

(v) The activities and services of a person pursuing a course of study leading to a degree in audiology at a college or university, if such activities and services constitute a part of a supervised course of study and the person is a designated audiology intern, audiology student or other title appropriate to his level of training;

(vi) Repealed by Laws 2017, ch. 118, § 2.

(vii) Repealed By Laws 2008, Ch. 65, § 2.

(viii) The activities of any other person licensed or certified permitted within the scope of their profession.

33-33-105. Eligibility for licensing.

(a) To be eligible for licensing by the board as a speech-language pathologist or audiologist, a person shall:

(i) Possess at least a:

(A) Master's degree or its equivalent in the area of speech-language pathology from an educational institution recognized by the board; or

(B) Doctor of audiology degree or master's degree in audiology or equivalent granted before July 1, 2012 from an educational institution recognized by the board.

(ii) Submit to the board evidence of the completion of educational, clinical experience, examination and employment requirements prescribed by the rules and regulations adopted by the board;

(iii) Pass an examination approved by the board. The board may waive the examination requirement under this paragraph as provided in W.S. 33-33-303 or rules of the board;

(iv) Pursuant to W.S. 33-33-402, provide the board with fingerprints, necessary fees and other information required to perform a criminal history record background check as provided for by W.S. 7-19-201.

(b) A person who held a valid certificate as a speech or hearing specialist issued by the professional teaching standards board and was employed by any school district to deliver speech-language pathology or audiology services on or before July 1,

2020, shall be qualified and eligible for licensing by the board as a speech-language pathologist or audiologist, notwithstanding the requirements imposed under paragraphs (a)(i) through (iii) of this section. Any person licensed under this subsection shall only be authorized to practice as a speech-language pathologist or audiologist in the public school system or in programs for the developmentally disabled funded by the department of health.

(c) To the extent a license authorized under this section does not comply with the requirements for licensure under the Audiology and Speech-Language Pathology Interstate Compact, the license shall be considered a single-state license that does not include a privilege to practice in any other member state.

ARTICLE 2 - BOARD OF EXAMINERS OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

33-33-201. Establishment.

(a) There is established the board of examiners of speech-language pathology and audiology.

(b) The board shall be comprised of five (5) members appointed by the governor. Board members shall have been residents of this state for at least one (1) year immediately preceding their appointment, and shall have been engaged in rendering services to the public, teaching or research in speech-language pathology or audiology for at least five (5) years immediately preceding their appointment. At least one (1) board member shall be an audiologist, one (1) shall be a consumer, at least two (2) shall be speech-language pathologists, and the fifth member shall be a health care professional licensed pursuant to title 33 of the Wyoming statutes. All board members except the consumer and licensed health care professional shall at all times be holders of active and valid licenses and be in good standing as a speech-language pathologist or audiologist in this state. The governor may remove any board member as provided in W.S. 9-1-202.

(c) Appointments shall be for three (3) year terms, with no person being eligible to serve more than two (2) full consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year.

(d) The board shall meet during each calendar year to select a chairman and vice chairman and for other business. At least one (1) additional meeting shall be held before the end of

each calendar year. Further meetings may be convened at the call of the chairman or the written request of any three (3) board members.

(e) Three (3) members of the board shall constitute a quorum for all purposes.

33-33-202. Functions of the board.

(a) The board may administer oaths, take affidavits, summon witnesses and take testimony as to matters coming within the scope of its duties.

(b) The board shall adopt rules and regulations to implement and enforce the provisions of this act.

(c) The board shall utilize an adopted seal to affix to all licenses issued in accordance with this act and to authenticate its proceedings.

(d) The board shall administer the Audiology and Speech-Language Pathology Interstate Compact in this state as provided in W.S. 33-33-402.

33-33-203. Administrative provisions.

(a) The board may employ, and at its pleasure discharge, an executive secretary and such officers and employees as may be necessary, and shall outline their duties and fix their compensation. The amount of per diem, mileage and expense monies paid employees of the board shall be in accordance with W.S. 9-3-102.

(b) Copies of the proceedings, records and acts of the board, and certificates purporting to relate the facts concerning such proceedings, records and acts, signed by the chairman or the executive secretary and authenticated by the board's seal, shall be prima facie evidence in all courts of this state.

(c) Repealed by Laws 2017, ch. 118, § 2.

(d) Under no circumstances shall the total amount of expenditures incurred by the board exceed the amount of the fees collected as provided herein.

33-33-204. Compensation of board members.

Board members shall receive no compensation for their services, but shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii).

ARTICLE 3 - LICENSE OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

33-33-301. Repealed by Laws 2017, ch. 118, § 2.

33-33-302. Repealed by Laws 2017, ch. 118, § 2.

33-33-303. Waiver of examination or parts thereof.

(a) Repealed By Laws 2008, Ch. 65, § 2.

(b) Except as otherwise provided in this subsection, the board may waive the examination and grant license to any applicant who shall present proof of current license in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the board to be equivalent to those in force in Wyoming. The board shall authorize a privilege to practice by an applicant who is licensed in a member state as provided in the Audiology and Speech-Language Pathology Interstate Compact provided the applicant's license meets all the requirements of privilege to practice in other member states as provided in W.S. 33-33-402.

(c) The board may waive the examination and grant a license to any person certified as clinically competent by a nationally recognized association for speech-language and hearing in the area for which such person is applying for license.

(d) The board may issue a provisional license to practice for twelve (12) months and renewal for one (1) additional period of twelve (12) months, to an applicant who has obtained clinical fellowship year status, subject to the following:

(i) The applicant has completed all requirements for licensure except for the clinical experience requirement;

(ii) The applicant has a written agreement with an individual licensed pursuant to this chapter to serve as the applicant's supervisor for the clinical fellowship year;

(iii) The applicant is seeking or has accepted employment in Wyoming as a speech-language pathologist or audiologist; and

(iv) During the clinical fellowship year, the applicant continues to meet all other requirements for continued licensure as provided in this chapter and in rules and regulations promulgated by the board, including applicable continuing education requirements.

33-33-304. Issuance of license.

The board shall issue a license to any person who meets the requirements of this act and who pays to the board the application fee authorized by W.S. 33-33-307.

33-33-305. Suspension and revocation of license.

(a) The board may after an opportunity for hearing, deny, refuse to renew, suspend or revoke a license or impose probationary conditions upon a licensee for any one (1) of the following:

(i) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(ii) Being guilty of unprofessional conduct as defined by the rules established by the board, or violating the code of ethics adopted and published by the board;

(iii) A plea or verdict of guilty, or a conviction following a plea of nolo contendere, made to a criminal charge that relates to the practice of speech-language pathology or audiology or to the ability to practice speech-language pathology or audiology, if the acts committed are found by the board to have a direct bearing on whether he should be entrusted to serve the public in that particular capacity;

(iv) Violating any provisions of this act; or

(v) Knowingly submitting false or misleading information to the board.

(b) One (1) year from the date of revocation of a license, an application may be made to the board for reinstatement. The board may accept or reject an application for reinstatement and may require an examination for such reinstatement.

(c) Repealed by Laws 2017, ch. 118, § 2.

(d) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

(e) In addition to any other remedies, the board may assess part or all of the costs of the proceeding against a disciplined licensee.

33-33-306. Renewal of license.

(a) Licenses issued under this act expire at midnight December 31 of each year if not renewed.

(b) Every person licensed under this act shall annually, on or before December 31, pay a license renewal fee to the board.

(c) Repealed By Laws 2008, Ch. 65, § 2.

(d) Licensees who have allowed their licenses to lapse by failing to renew in accordance with this section may apply for relicensure pursuant to board rules and regulations. Upon satisfying the requirements for relicensure, the board shall issue a renewal of license to practice speech language pathology or audiology

(e) Every person licensed under this act who has not previously undergone a criminal history record background check as provided for by W.S. 7-19-201 shall be required to do so as part of the person's next license renewal. A previous criminal history record background check that is not available for inspection by the board shall not be considered a background check for purposes of this subsection.

33-33-307. Fees.

(a) The board may prescribe application fees and fees for examination, licensing, certification, specialty examination designation, renewal, a privilege to practice pursuant to the

Audiology and Speech-Language Pathology Interstate Compact and other services in amounts determined by the board.

(b) Repealed by Laws 2017, ch. 118, § 2.

33-33-308. Penalties.

Any person who violates any provision of this act is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than seven hundred fifty dollars ($750.00) or imprisoned in the county jail for a period not exceeding six (6) months, or both.

33-33-309. Construction of provisions.

Nothing contained in this act shall prevent or impair the administration or enforcement of any other provision of the laws of this state.

ARTICLE 4 - AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT

33-33-401. Short title.

This article shall be known and may be cited as the "Audiology and Speech-Language Pathology Interstate Compact."

33-33-402. Compact provisions generally.

The Audiology and Speech-Language Pathology Interstate Compact is enacted into law and entered into on behalf of this state with all other states legally joining in the compact in a form substantially as follows:

SECTION 1

PURPOSE

The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The Compact preserves the regulatory authority of states to protect public health and

safety through the current system of state licensure. This Compact is designed to achieve the following objectives:

1. Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

2. Enhance the states' ability to protect the public's health and safety;

3. Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

4. Support spouses of relocating active duty military personnel;

5. Enhance the exchange of licensure, investigative and disciplinary information between member states;

6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

7. Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

SECTION 2

DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211;

B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice;

C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners;

D. "Audiologist" means an individual who is licensed by a state to practice audiology;

E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules;

F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact;

G. "Audiology and speech-language pathology licensing board," "audiology licensing board," "speech-language pathology licensing board," or "licensing board" means the agency of a state that is responsible for the licensing and regulation of audiologists and/or speech-language pathologists;

H. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient/client/student is located at the time of the patient/client/student encounter;

I. "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction;

J. "Data system" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, compact privilege and adverse action;

K. "Encumbered license" means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and said adverse action has been reported to the National Practitioners Data Bank (NPDB);

L. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission;

M. "Home state" means the member state that is the licensee's primary state of residence;

N. "Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions;

O. "Licensee" means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist;

P. "Member state" means a state that has enacted the Compact;

Q. "Privilege to practice" means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state;

R. "Remote state" means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege;

S. "Rule" unless the context clearly indicates otherwise means a regulation, principle or directive promulgated by the Commission that has the force of law;

T. "Single-state license" means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state;

U. "Speech-language pathologist" means an individual who is licensed by a state to practice speech-language pathology;

V. "Speech-language pathology" means the care and services provided by a licensed speech-language pathologist as set forth in the member state's statutes and rules;

W. "State" means any state, commonwealth, district or territory of the United States of America that regulates the practice of audiology and speech-language pathology;

X. "State practice laws" means a member state's laws, rules and regulations that govern the practice of audiology or speech-

language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline;

Y. "Telehealth" means the application of telecommunication technology to deliver audiology or speech-language pathology services at a distance for assessment, intervention and/or consultation.

SECTION 3

STATE PARTICIPATION IN THE COMPACT

A. A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state.

B. A state shall implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records:

1. A member state shall fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions;

2. Communication between a member state, the Commission and among member states regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.

C. Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice

held by the applicant and whether any adverse action has been taken against any license or privilege to practice held by the applicant.

D. Each member state shall require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws.

E. For an audiologist:

1. Shall meet one (1) of the following educational requirements:

a. On or before December 31, 2007, has graduated with a master's degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

b. On or after January 1, 2008, has graduated with a Doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

c. Has graduated from an audiology program that is housed in an institution of higher education outside of the United States:

(a) For which the program and institution have been approved by the authorized accrediting body in the applicable country; and

(b) The degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.

2. Has completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the board;

3. Has successfully passed a national examination approved by the Commission;

4. Holds an active, unencumbered license;

5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology, under applicable state or federal criminal law;

6. Has a valid United States Social Security or National Practitioner Identification number.

F. For a speech-language pathologist:

1. Shall meet one (1) of the following educational requirements:

a. Has graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

b. Has graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States:

(a) For which the program and institution have been approved by the authorized accrediting body in the applicable country; and

(b) The degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.

2. Has completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the Commission;

3. Has completed a supervised postgraduate professional experience as required by the Commission;

4. Has successfully passed a national examination approved by the Commission;

5. Holds an active, unencumbered license;

6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice

of speech-language pathology, under applicable state or federal criminal law;

7. Has a valid United States Social Security or National Practitioner Identification number.

G. The privilege to practice is derived from the home state license.

H. An audiologist or speech-language pathologist practicing in a member state shall comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts and the laws of the member state in which the client is located at the time service is provided.

I. Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.

J. Member states may charge a fee for granting a compact privilege.

K. Member states shall comply with the bylaws and rules and regulations of the Commission.

SECTION 4

COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the Compact, the audiologist or speech-language pathologist shall:

1. Hold an active license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with Section 3 of this compact;

4. Have not had any adverse action against any license or compact privilege within the previous two (2) years from date of application;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege;

7. Report to the Commission adverse action taken by any non-member state within thirty (30) days from the date the adverse action is taken.

B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall only hold one (1) home state license at a time.

C. Except as provided in Section 6 of this compact, if an audiologist or speech-language pathologist changes primary state of residence by moving between two (2) member states, the audiologist or speech-language pathologist shall apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the Commission.

D. The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.

E. A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

F. If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a non-member state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state.

G. The compact privilege is valid until the expiration date of the home state license. The licensee shall comply with the requirements of Section 4(A) of this compact to maintain the compact privilege in the remote state.

H. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

I. A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens.

J. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and

2. Two (2) years have elapsed from the date of the adverse action.

K. Once an encumbered license in the home state is restored to good standing, the licensee shall meet the requirements of Section 4(A) of this compact to obtain a compact privilege in any remote state.

L. Once the requirements of Section 4(J) of this compact have been met, the licensee shall meet the requirements in Section 4(A) of this compact to obtain a compact privilege in a remote state.

SECTION 5

COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 of this compact and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.

SECTION 6

ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state.

SECTION 7

ADVERSE ACTIONS

A. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, as follows:

1. A remote state may take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state;

2. A remote state may issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located;

3. Notwithstanding Section 7(A)(1) and (2) of this compact, only the home state shall have the power to take adverse action against a audiologist's or speech-language pathologist's license issued by the home state.

B. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred

within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

C. The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

D. If otherwise permitted by state law, the home state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

E. The home state may take adverse action based on the factual findings of the remote state, provided that the home state follows its own procedures for taking the adverse action.

F. Joint Investigations:

1. In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees;

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If adverse action is taken by the home state against an audiologist's or speech language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

H. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

I. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

SECTION 8

ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION

A. The Compact member states hereby create and establish a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission:

1. The Commission is an instrumentality of the Compact states;

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings;

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity;

B. Membership, voting and meetings:

1. Each member state shall have two (2) delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One (1) shall be an audiologist and one (1) shall be a speech-language pathologist;

2. An additional five (5) delegates, who are either a public member or board administrator from a state licensing board, shall be chosen by the Executive Committee from a pool of nominees provided by the Commission at large;

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed;

4. The member state board shall fill any vacancy occurring on the Commission, within ninety (90) days;

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission;

6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication;

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Establish a Code of Ethics;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;

6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

14. Establish a budget and make expenditures;

15. Borrow money;

16. Appoint committees, including standing committees composed of members, and other interested persons as may be designated in this Compact and the bylaws;

17. Provide and receive information from, and cooperate with, law enforcement agencies;

18. Establish and elect an Executive Committee; and

19. Perform other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

D. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact:

1. The Executive Committee shall be composed of ten (10) members:

a. Seven (7) voting members who are elected by the Commission from the current membership of the Commission;

b. Two (2) ex-officio members, consisting of one (1) nonvoting member from a recognized national audiology professional association and one (1) nonvoting member from a recognized national speech-language pathology association;

c. One (1) ex-officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards; and

d. The ex-officio members shall be selected by their respective organizations.

2. The Commission may remove any member of the Executive Committee as provided in bylaws;

3. The Executive Committee shall meet at least annually;

4. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

E. All meetings of the Commission shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 10 of this Compact.

F. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public

meeting if the Commission or Executive Committee or other committees of the Commission will discuss:

1. Non-compliance of a member state with its obligations under the Compact;

2. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

3. Current, threatened, or reasonably anticipated litigation;

4. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

5. Accusing any person of a crime or formally censuring any person;

6. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

7. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

8. Disclosure of investigative records compiled for law enforcement purposes;

9. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;

10. Matters specifically exempted from disclosure by federal or member state statute; or

11. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

G. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be

identified in minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

H. Financing of the Commission:

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities;

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services;

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which shall be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states;

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state;

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

I. Qualified Immunity, Defense, and Indemnification:

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the

person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that nothing in this paragraph shall be construed to protect any person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person;

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining counsel and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct;

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 9

DATA SYSTEM

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is

applicable as required by the rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license or compact privilege;

4. Non-confidential information related to alternative program participation;

5. Any denial of application for licensure, and the reason(s) for denial; and

6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state shall only be available to other member states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 10

RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the

same manner used to adopt the Compact within four (4) years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and provide any written comments.

F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing. Hearings shall be in accordance with the following:

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing;

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing;

3. All hearings shall be recorded. A copy of the recording shall be made available on request;

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days

after the effective date of the rule. For the purposes of this provision, an emergency rule is a rule that shall be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds; or

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 11

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Dispute Resolution:

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states;

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

B. Enforcement:

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact;

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney's fees;

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 12

DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same subject to the following:

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute;

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 13

CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 14

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

B. All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

C. All lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

D. All agreements between the Commission and the member states are binding in accordance with their terms.

E. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

CHAPTER 34 - LICENSING OF CLINICAL LABORATORIES AND BLOOD BANKS

33-34-101. Definitions.

(a) As used in this act:

(i) "Blood bank" means a facility for the collection, processing or storage of human blood or blood derivatives, but shall not include such a facility located in a memorial, district or private hospital;

(ii) "Clinical laboratory" means any facility for the microbiological, serological, chemical, hematological, biophysical, cytological or pathological examination of materials derived from the human body for the purpose of obtaining information for the diagnosis, prevention or treatment of disease or the assessment of medical condition;

(iii) "Laboratory director" means the person who is responsible for administration of the technical and scientific operation of a clinical laboratory or blood bank, including supervision of procedures and reporting of findings of tests;

(iv) "Laboratory reference system" means a system of periodic testing of methods, procedures and materials of clinical laboratories and blood banks, including without limitation the distribution of manuals of approved methods, inspection of facilities, cooperative research and periodic submission of test specimens for examination;

(v) "State agency" means the Wyoming department of health;

(vi) "This act" means W.S. 33-34-101 and 33-34-107.

33-34-102. Repealed by Laws 2016, ch. 37, § 2.

33-34-103. Repealed by Laws 2016, ch. 37, § 2.

33-34-104. Repealed by Laws 2016, ch. 37, § 2.

33-34-105. Repealed by Laws 2016, ch. 37, § 2.

33-34-106. Repealed by Laws 2016, ch. 37, § 2.

33-34-107. Acceptance, collection, identification and examination of specimens.

(a) A clinical laboratory may examine human specimens at the request of a licensed physician, dentist or other person authorized by law to use the findings of laboratory examinations. A clinical laboratory may examine human specimens at the request of any person for the purpose of testing and analysis and a licensed physician or other authorized person shall not be required to collect the specimens as provided under subsection (d) of this section.

(b) The results of a test shall only be reported to or as directed by the person who requested it. The reports shall include the name of the laboratory director and the name and address of the clinical laboratory in which the test was actually performed.

(c) All specimens accepted by a clinical laboratory shall be tested on the premises unless forwarded to another properly licensed clinical laboratory. Any tests made outside Wyoming must be made by a laboratory having a valid federal interstate license.

(d) Only a licensed physician or an authorized person may collect specimens.

(e) Subsection (d) of this section shall not apply to a direct to consumer test. For the purpose of this subsection and as further defined by the department of health, a "direct to consumer test" means a diagnostic device that is marketed directly to consumers, where the consumer initiates the testing process and collects their own human specimen for the purpose of testing and analysis by a clinical laboratory.

33-34-108. Repealed by Laws 2016, ch. 37, § 2.

33-34-109. Repealed by Laws 2016, ch. 37, § 2.

CHAPTER 35 - HEARING AID SPECIALIST LICENSURE

33-35-101. Short title.

This act shall be known as the "Hearing Aid Specialist Licensure Act".

33-35-102. Definitions.

(a) As used in this act:

(i) "Board" means the board of hearing aid specialists;

(ii) "Hearing aid" means any instrument or device designed to be worn on the person for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including an earmold, but excluding batteries and cords;

(iii) "Hearing aid specialist" or "hearing aid dealer" means a person who specializes in either the fitting, dealing or dispensing of hearing aids; the hearing aid dealer is synonymous to a hearing aid specialist;

(iv) "Permittee" means a person who is in training or awaiting examination to become a licensed hearing aid specialist;

(v) "Practice of either dispensing or fitting hearing aids" means the commercial or noncommercial selection, adaptation and sale of hearing aids, and includes the testing of hearing for these purposes. The testing of hearing shall include the test whether or not a hearing aid shall be recommended as needed. The practice also includes the making of impressions for earmolds and counseling and instruction pertaining to the selection, fitting, adaptation or sale of hearing aids;

(vi) "Sell" or "sale" means any transfer of title or of the right to use by lease, bailment or any other means, excluding wholesale transactions with distributors or dealers;

(vii) "Temporary permit" means a permit issued while the applicant is in training or awaiting examination to become a licensed hearing aid specialist;

(viii) "This act" means W.S. 33-35-101 through 33-35-121.

33-35-103. License required to sell, dispense or fit hearing aids.

(a) After July 1, 1977 anyone involved in either the direct or indirect sale or distribution of hearing aids shall be licensed under this act. The license shall be conspicuously posted in the licensee's office or place of business. Duplicate licenses shall be issued by the board to valid license holders operating more than one (1) office, without additional payment. A license under this act confers upon the holder the right to select, fit or sell hearing aids.

(b) Nothing in this act prohibits a corporation, partnership, trust, association or like organization maintaining an established business address from engaging in the business of fitting, dispensing, selling or offering for sale hearing aids at retail without a license, if it employs only properly licensed persons in the direct sale or fitting of such products. Such corporations, partnerships, trusts, associations or like organizations shall file annually with the board a list of all licensed hearing aid specialists directly or indirectly employed by it.

33-35-104. Receipt required to be furnished to person supplied with hearing aid.

(a) Any person who fits, dispenses or sells hearing aids shall deliver to each person supplied with a hearing aid a receipt containing the licensee's signature, his business address and the number of his certificate, together with specifications as to the make, model and serial number of the hearing aid furnished and full terms of sale clearly stated. If a hearing aid which is not new is sold, the receipt and the container shall be clearly marked "used" or "reconditioned", whichever is applicable, and the receipt shall state any terms of guarantee.

(b) This receipt shall bear in no smaller type than the largest used in the body copy portion the following: "The purchaser has been advised that any examination or representations made by a licensed hearing aid specialist in connection with either the fitting or selling of this hearing aid is not an examination, diagnosis or prescription by a person licensed to practice medicine in this state and shall not be regarded as medical opinion."

33-35-105. Criteria for medical referral.

(a) Wherever any of the following conditions are found to exist either from observations by the licensee or permittee [or] on the basis of information furnished by the prospective hearing aid user, a licensee or permittee shall, prior to either fitting, dispensing or selling a hearing aid, recommend in writing that the prospective user's best interest would be served if he would consult a licensed physician specializing in diseases of the ear or, if no such specialist is available in the community, any licensed physician:

(i) Visible congenital or traumatic deformity of the ear;

(ii) History of or active drainage from the ear within the previous ninety (90) days;

(iii) History of sudden or rapidly progressive hearing loss within the previous ninety (90) days;

(iv) Acute or chronic dizziness;

(v) Unilateral hearing loss of sudden or recent onset within the previous ninety (90) days;

(vi) Significant air-bone gap when generally acceptable standards have been established;

(vii) Visible evidence of cerumen accumulation or a foreign body in the ear canal.

(b) A person receiving the written recommendation who elects to purchase a hearing aid without the recommended consultation shall sign a written acknowledgment of the recommendation which shall be kept by the licensee for at least seven (7) years. Nothing in this section required to be performed by a licensee shall be construed to mean that the licensee is engaged in the diagnosis of illness or the practice of medicine.

(c) Any person engaging in the fitting, dispensing or sale of hearing aids shall, when dealing with a child sixteen (16) years of age or under, ascertain whether the child has been examined by an otolaryngologist or licensed clinical audiologist within three (3) months prior to the fitting. If such is not the case it shall be unlawful to sell a hearing aid to a child.

(d) The provisions of subsection (c) of this section shall not be applicable for any child whose parent or guardian submits written objection to such procedure.

33-35-106. Persons and practices not affected.

(a) This act does not apply to a person who is a physician or a clinical audiologist licensed to practice in Wyoming as long as he is not involved in the direct or indirect sale or distribution of hearing aids.

(b) This act is not intended to prevent any person from engaging in the practice of measuring human hearing and the selection of hearing aids if the person or the organization employing this person does not either dispense or sell hearing aids or accessories thereto, except in the case of earmolds.

33-35-107. License by experience.

For a period of six (6) months following the effective date of this act, applicants for license shall be issued a license provided that applicant is an adult as defined in W.S. 14-1-101 and has been principally engaged in distributing or fitting hearing aids in Wyoming for at least two (2) years within the three (3) years immediately prior to the effective date of this act.

33-35-108. Issuance of license and certificate of endorsement.

(a) The board shall issue a license, signed by the board, to each applicant without discrimination who satisfactorily passes the experience requirements provided in W.S. 33-35-107 or passes an examination as provided in W.S. 33-35-109 and upon receipt of payment for the license. The license is effective until January 30 of the year following the year in which issued.

(b) The board may issue certificates of endorsement to applicants who hold current, valid certificates or licenses to fit, dispense or sell hearing aids issued by another state whenever the board determines that the other state has requirements and programs for determining whether applicants are qualified to dispense or fit hearing aids that are equivalent or more stringent than those in effect in Wyoming. No applicant for a certificate of endorsement shall be required to undergo a qualifying examination pursuant to W.S. 33-35-108 and 33-35-113. The holder of a certificate of endorsement shall be registered

in the same manner as licensees. The fee for an initial certificate of endorsement shall be the same as the fee for an initial license. Fees, grounds for renewal and procedures for the suspension and revocation of certificates of endorsement shall be the same as for renewal, suspension and revocation of a license.

33-35-109. License by examination.

(a) Applicants who do not meet the experience qualification on the effective date of this act may obtain a license by successfully passing a qualifying examination, provided the applicant:

(i) Is an adult as defined in W.S. 14-1-101;

(ii) Has an education equivalent to a four (4) year course in an accredited high school.

(b) Applicants for license by examination shall appear at a time, place and before persons that the board designates, to be examined by written and practical tests in order to demonstrate their qualification to practice the dispensing, fitting or sale of hearing aids. The examination shall not require college training, and nothing in the examination shall imply that the applicant possesses the degree of medical competence normally expected of physicians.

(c) Examinations shall be offered by the board at least twice a year.

33-35-110. Temporary permit.

(a) An applicant who fulfills the requirements set forth in W.S. 33-35-109(a), may obtain a temporary permit upon application to the board. Previous experience or a waiting period is not required to obtain a temporary permit.

(b) Upon receiving an application accompanied by a fee set by the board pursuant to W.S. 33-1-201, the board shall issue a temporary permit entitling the applicant to engage in either the fitting, dispensing or sale of hearing aids for a period of one (1) year. A person holding a valid hearing aid specialist license is responsible for the supervision and training of an applicant operating under a temporary permit.

(c) The board shall issue a temporary permit for use without supervision by a licensee, to an applicant entering into a hearing aid dealership as sole owner, principal of a firm or as an employee-manager of a corporation if he fulfills the requirements of W.S. 33-35-109(a), and has been principally engaged in the practice of fitting, dispensing or dealing in hearing aids for at least two (2) years within the three (3) years immediately prior to the application.

(d) If a person who holds a temporary permit under subsection (b) of this section has not successfully passed the licensing examination within one (1) year from the date of issuance, the temporary permit may be renewed once upon payment of a fee as set by the board pursuant to W.S. 33-1-201. This renewal shall not be granted to holders of temporary permits under subsection (c) of this section.

33-35-111. Scope of examination.

(a) The qualifying examination provided in W.S. 33-35-108 shall be designed to demonstrate the applicant's technical qualifications by:

(i) Tests of knowledge in the following areas as they pertain to the fitting and sale of hearing aids:

(A) Basic physics of sound;

(B) The anatomy and physiology of the ear;

(C) The function of hearing aids;

(D) Knowledge and understanding of the grounds for revocation, suspension or probation of a license;

(E) Knowledge and understanding of criminal offenses associated with violations of this act.

(ii) Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing aids:

(A) The procedures and use of equipment designed for the fitting of hearing aids;

(B) Taking earmold impressions;

(C) Measurement of hearing as it pertains to the fitting of hearing aids;

(D) Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing aid.

(iii) Evidence of knowledge regarding the medical and rehabilitation facilities for individuals with impaired hearing that are available in the area served.

33-35-112. Notice of place of business; service of notice.

(a) Every licensee shall notify the board in writing of his principal place of business in which he intends to engage in the fitting, dispensing or selling of hearing aids.

(b) The board shall keep a record of the place of business of licensees.

(c) Any notice required to be given by the board to a person who holds a license shall be mailed to him by certified mail at the address of the last known place of business.

33-35-113. Annual renewal of license; fees; effect of failure to renew.

Each person who engages in the fitting, dispensing or sale of hearing aids shall annually, on or before January 30, pay to the board a fee as set by the board pursuant to W.S. 33-1-201 for renewal of his license and shall keep the certificate conspicuously posted in his office or place of business at all times. Where more than one (1) office is operated by the licensee, duplicate certificates shall be issued by the board for posting in each location. A thirty (30) day grace period shall be allowed after January 30, during which time licenses may be renewed on payment of an additional fee as set by the board pursuant to W.S. 33-1-201. After expiration of the grace period, the board may renew a certificate upon payment of an additional fee as set by the board pursuant to W.S. 33-1-201. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal, if the renewal application is made within two (2) years from the date of expiration. Receipt of a certificate of calibration of audiometer must accompany renewal of license.

33-35-114. Continuing education.

(a) On and after January 1, 1978, each hearing aid specialist applying for a renewal of his license shall furnish to the board evidence that during the preceding year he has completed one (1) of the following continuing education programs:

(i) Educational programs conducted by the board;

(ii) Board approved training schools conducted by hearing aid manufacturers for their representatives;

(iii) Board approved training sessions conducted by the National Hearing Aid Society; or

(iv) Other educational means approved by the board.

(b) The amount of continued education shall be determined by the rules and regulations of the board. The board shall send a written notice to this effect to every person holding a valid license at least thirty (30) days prior to the license renewal date each year, directed to the last known address of the licensee.

(c) In the event that any licensee shall fail to meet the annual educational requirement, his license shall not be renewed by the board, but the board may renew the license upon the presentation of satisfactory evidence of educational study of a standard approved by the board and upon the payment of all fees due.

33-35-115. Complaints; grounds for revocation or suspension of license.

(a) A person may make a complaint against a licensee under this act by filing a complaint in writing with the board within one (1) year from the date of the action upon which the complaint is based. If the board determines the charges made are sufficient to warrant a hearing, it shall make an order fixing a time and place for a hearing and require the licensee complained against to appear and show cause why his license should not be suspended or revoked. The order shall include a copy of the complaint and shall be served upon the licensee at least twenty (20) days before the date set for hearing, either personally or by registered mail sent to licensee's last known address. Hearings shall be conducted in accordance with the Wyoming Administrative Procedure Act.

(b) Any person registered under this act may have his license revoked or suspended for a period fixed by the board for any of the following causes:

(i) Conviction of a felony or a misdemeanor that relates to the practice of fitting, dealing or dispensing hearing aids or to the ability to fit, deal or dispense hearing aids;

(ii) Procuring a license by fraud or deceit practiced upon the board;

(iii) Unethical conduct, including:

(A) The obtaining of any fee or the making of any sale by fraud or misrepresentation;

(B) Knowingly employing directly or indirectly any suspended or unregistered person to perform any work covered by this act;

(C) Using, causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceptive or untruthful;

(D) Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, where it is established the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised;

(E) Representing that the service or advice of a person licensed to practice medicine shall be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the words "doctor", "clinic", "clinical audiologist", "state licensed clinic", "state registered", "state certified", "state approved" or similar term, abbreviations, symbol or wearing any costume when it would falsely give the impression that one is being treated medically, or professionally or that the licensee's service has been recommended by the state;

(F) Permitting another's use of a license;

(G) Advertising a manufacturer's product or using a manufacturer's name or trademark which implies a relationship with the manufacturer that does not exist;

(H) Directly or indirectly giving or offering to give, or permitting or causing to be given money or anything of value to any person who advises another in a professional capacity as an inducement to influence him or have him influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid specialist, or influencing persons to refrain from dealing in the products of competitors.

(iv) Engaging in either the fitting, dispensing or sale of hearing aids under a false name or alias with fraudulent intent;

(v) Selling a hearing aid to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting of hearing aids, except in cases of selling replacement hearing aids within one (1) year;

(vi) Gross incompetence or negligence in fitting, dispensing or selling hearing aids;

(vii) Failure to supervise a trainee as required by W.S. 33-35-110(b) or to accept responsibility for the actions of a trainee relating to the fitting and selling of hearing aids; and

(viii) Violating any provision of this act.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-35-116. Prohibited acts and practices.

(a) No person shall:

(i) Sell, barter or offer to sell or barter a license;

(ii) Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to practice either the fitting, dispensing or sale of hearing aids;

(iii) Alter a license with fraudulent intent;

(iv) Use or attempt to use a license which has been purchased, fraudulently obtained, counterfeited or materially altered;

(v) Willfully make a false statement in an application for license or application for renewal of a license; or

(vi) Sell a hearing aid to a person under the age of sixteen (16) or to any person in a mental institution, hospital, nursing home, convalescent home or like institution, unless there is present in addition to the licensee an adult person who is not a business associate of the licensee.

33-35-117. Board of hearing aid specialists.

(a) There is established a board of hearing aid specialists.

(b) Members of the board shall be residents of the state. The board shall consist of five (5) members. Three (3) members shall be hearing aid specialists, one (1) member shall be a certified otolaryngologist and one (1) member shall be a clinical audiologist, licensed in Wyoming. Each hearing aid specialist on the board shall have not less than five (5) years of experience and shall hold a valid license as a hearing aid specialist as provided under this act. The hearing aid specialists first appointed shall have no less than five (5) years of experience and shall fulfill all qualifications for license by experience as provided under this act.

(c) All members of this board shall be appointed by the governor. The term of office of each member is four (4) years, except that of the members first appointed, two (2) shall be appointed for two (2) years; two (2) shall be appointed for three (3) years; and one (1) shall be appointed for four (4) years. All terms expire on June 30, and the governor shall appoint a successor to assume his duties on July 1, at the expiration of his predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

The members of the board shall annually designate one (1) member to serve as chairman and another to serve as secretary-treasurer. No member of the board who has served two (2) or more full terms may be reappointed to the board until at least one (1) year after the expiration of his most recent full term of office. The governor may remove any board member as provided in W.S. 9-1-202.

(d) Board members shall receive no compensation for their services but shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii), incurred in the performance of their duties.

33-35-118. Powers and duties of board.

(a) The powers and duties of the board are as follows:

(i) Authorize all disbursements necessary to carry out the provisions of this act;

(ii) Supervise issuance of licenses and administer qualifying examinations to test the knowledge and proficiency of applicants licensed by examination;

(iii) Determine by test if individuals are qualified to engage in the fitting, dispensing or sale of hearing aids;

(iv) Issue and renew licenses;

(v) Suspend or revoke licenses in the manner provided by law;

(vi) Designate the time and place for examining applicants;

(vii) Appoint representatives to conduct or supervise the examination;

(viii) Make and publish rules and regulations not inconsistent with the laws of this state which are necessary to carry out the provisions of this act;

(ix) Appoint or employ subordinate employees.

33-35-119. Meetings of board.

The board shall meet during July of each calendar year to select a chairman and for other business. At least one (1) additional meeting shall be held before the end of each calendar year. Further meetings may be convened at the call of the chairman or on the written request of any three (3) board members.

33-35-120. Disposition of receipts.

The board shall report to the state treasurer by the fifth day of each month the amount and source of all revenue received by it during the preceding month, and shall pay the entire amount thereof into a separate account. The treasurer is hereby directed to establish such an account.

33-35-121. Penalties.

Violation of any provisions of this act are punishable, upon conviction, by a fine of not more than four hundred dollars ($400.00) or imprisonment for not more than ninety (90) days, or both.

CHAPTER 36 - EMERGENCY MEDICAL SERVICES

ARTICLE 1 - WYOMING EMERGENCY MEDICAL SERVICES ACT

33-36-101. Short title.

This act shall be known and may be cited as the "Wyoming Emergency Medical Services Act of 1977".

33-36-102. Definitions.

(a) As used in this act:

(i) "Ambulance" means:

(A) Any land motor vehicle maintained, operated or advertised for the medical care and transportation of patients upon any street, highway or public way;

(B) Any land motor vehicle owned and operated on a regular basis by the state of Wyoming or any agency, municipality, city, town, county or political subdivision of Wyoming for medical care and transportation of patients upon any street, highway or public way; and

(C) Any aircraft which is maintained, operated or advertised for the medical care and transportation of patients in the state of Wyoming. This definition does not include any land motor vehicle or aircraft owned and operated by the United States.

(ii) "Ambulance business license" means a license issued under W.S. 33-36-104 which has not expired, been revoked or suspended;

(iii) Repealed by Laws 2016, ch. 37, § 2.

(iv) "Authorization" means discretionary consent given to permit the actions of others;

(v) "Division" means the designated division of the department of health which division shall be the state EMS authority for purposes of the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202;

(vi) "Industrial ambulance" means any motor vehicle maintained and operated by an industrial company with the primary purpose of medical care and transportation of employees who are injured or taken ill;

(vii) "Patient" means an individual who is sick, injured or otherwise incapacitated or helpless;

(viii) "Person" means any individual, firm, partnership, association, corporation or group of individuals acting together for a common purpose, including the state of Wyoming and any agency, municipality, city, town, county or political subdivision of the state of Wyoming;

(ix) "Search and rescue" means persons organized, trained and equipped to provide assistance to patients, such assistance being primarily limited to location, initial treatment and removal from imminent danger and transportation to a medical facility;

(x) "Emergency medical technician" means a person who has graduated from a division approved training program for emergency medical technicians and for purposes of the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act means as defined in W.S. 33-26-202;

(xi) "This act" means W.S. 33-36-101 through 33-36-115.

33-36-103. Rules and regulations; procedure; initiation of proceedings.

(a) The division after conferring with representatives of both the private and volunteer ambulance services in the state shall prescribe reasonable rules and regulations necessary to implement the provisions and purposes of this act.

(b) All rules, regulations and proceedings of the division shall be promulgated and conducted in compliance with the Wyoming Administrative Procedure Act.

(c) The division may initiate proceedings under this act on its own motion or on the written complaint of any person.

(d) The division shall prescribe rules and regulations which provide for the conditional licensure of applicants who have satisfied all licensing requirements adopted under this act except any requirements related to criminal history screenings and fingerprinting. A conditional license shall not be issued without a sworn statement from an applicant, on a form prepared by the division, establishing all facts and circumstances which, if true, would fully qualify the applicant for licensure. The division may refuse to issue a conditional license to any applicant whose application or sworn statement reveals the existence of any fact upon which licensure could be denied. A conditional license shall be revoked or not issued at any time the division gains knowledge of any fact that would disqualify the applicant from licensure.

(e) The division shall recognize the practice requirements of the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202, and shall prescribe any rules necessary for implementation of the compact.

(f) The division shall administer the provisions of the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202, including factoring the annual assessment required under the compact into its biennial budget if sufficient revenue is not collected pursuant to W.S. 33-36-110 to cover the costs of the assessment.

(g) The division shall consider and process licenses for veterans of uniformed services, uniformed services members and

the spouses of uniformed services members pursuant to the requirements of the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202.

33-36-104. Ambulance business license; persons eligible; annual fee; renewal.

(a) The division shall grant an ambulance business license to any person:

(i) Who is or will be engaged in the ambulance business or services in the state of Wyoming;

(ii) Who submits an application and pays the fee for an ambulance business license to the division;

(iii) If all ambulances owned or operated by the person are maintained, equipped and manned as required by rules and regulations promulgated by the division under W.S. 33-36-103; and

(iv) Who has furnished evidence to the division of the purchase of vehicle insurance required by the rules and regulations promulgated by the division under W.S. 33-36-103.

(b) There shall be an annual ambulance business license fee, to be determined by the division, but not to exceed forty dollars ($40.00). Each ambulance business license shall expire on December 31 each year and may be renewed for a period of one (1) year upon application and payment of the annual license fee, if the applicant meets all the requirements of subsections (a) and (b) of this section and has complied with all other rules and regulations promulgated by the division concerning the operation of an ambulance business.

(c) The initial licenses under this act shall be issued on or before January 1, 1978.

(d) The division shall determine whether an applicant is eligible for an initial or renewal ambulance business license.

(e) This act does not supersede any other laws of the state of Wyoming or any ordinances or regulations.

(f) All fees collected under this section shall be placed in the state general fund.

33-36-105. Ambulance business license; not transferable; change of ownership.

(a) An ambulance business license issued under this act shall not be sold, transferred or assigned by the holder. Any change of ownership of an ambulance business shall require a new application and a new ambulance business license.

(b) A partnership or corporation which holds an ambulance license shall notify the division within thirty (30) days of the admission to or withdrawal of a partner from the partnership or any change of principal officers of the corporation.

33-36-106. Ambulance business license; suspension, revocation or refusal to renew.

(a) The division after notice and hearing may revoke, suspend or refuse to renew any ambulance business license if the holder of the license fails to comply with the requirements of this act or any rule or regulation promulgated by the division hereunder as provided in W.S. 33-36-103(a) and (b).

(b) Repealed by Laws 2016, ch. 37, § 2.

33-36-107. Conducting ambulance business without license prohibited.

No person shall operate, conduct, maintain or otherwise engage in an ambulance business in this state after January 1, 1978, unless he holds an ambulance business license issued by the division.

33-36-108. Exemptions.

(a) The following are exempted from the provisions of this act:

(i) The occasional use of a privately owned vehicle or aircraft not designated as an ambulance and not ordinarily used in transporting patients or operating under the provisions of W.S. 1-1-120, in the performance of a lifesaving act;

(ii) A vehicle rendering services as an ambulance in case of a major catastrophe or emergency when licensed ambulances based in the localities of the catastrophe or emergency are incapable of rendering the services required;

(iii) Ambulances based outside this state, except that any such ambulances receiving a patient within the state shall comply with the provisions of this act;

(iv) Vehicles owned and operated by any state agency, political subdivision or search and rescue squads;

(v) All industrial ambulances operating within the state of Wyoming, with the exception of the requirement for annual reporting on such forms as required by rules and regulations. As used in this paragraph, "operating within Wyoming" includes operations on company premises or, when providing care at the request of or with the authorization of the public or local community emergency medical service, to persons injured or taken ill. Nothing in this paragraph affects exemptions under paragraphs (i) and (ii) of this subsection;

(vi) Individuals involved in search and rescue activities; and

(vii) Volunteer ambulance services in an area in which no other ambulance services meeting the requirements of this act are located.

33-36-109. License officers.

The division may employ one (1) or more individuals as license officers to assist it in the performance of its duties.

33-36-110. Emergency medical technician licensing; persons eligible; biennial fee; renewal; waiver of requirements.

(a) An emergency medical technician license shall be granted by the division to any individual who:

(i) Submits an application for a license to the division and pays the fee established pursuant to subsection (k) of this section;

(ii) Has been examined and certified as an emergency medical technician by the division or who the division deems to be otherwise qualified; and

(iii) Meets any additional educational requirements under any rule or regulation promulgated by the division as provided in W.S. 33-36-103(a) and (b).

(b) Each emergency medical technician license shall expire every other year at a date determined by the division and may be renewed for a period of two (2) years upon application and payment of the fee established pursuant to subsection (k) of this section. An initial or renewal license may be granted by the division once to each person for a period not to exceed three (3) years if educational requirements for the period are satisfied. The division shall determine whether an applicant is eligible for an initial or renewal license.

(c) Repealed by Laws 2016, ch. 37, § 2.

(d) The division may grant a waiver of the education and training requirements of this section upon application in cases where it finds that a waiver would be in the best interests of the public.

(e) Repealed by Laws 2016, ch. 37, § 2.

(f) Repealed by Laws 2016, ch. 37, § 2.

(g) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the division, the division shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

(h) To the extent the right to practice in Wyoming is not already provided by the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202, and if necessary to manage an emergency in this state, the division may issue temporary emergency medical technician licenses to emergency medical technicians who are retired, who have an inactive license or who are licensed in another state without a valid Wyoming license. The temporary license shall be valid for not more than ninety (90) days and be issued pursuant to a streamlined procedure established by rules and regulations promulgated by the division.

(j) The division shall recognize the right of emergency medical technician personnel licensed in another state to practice in Wyoming to the extent required by the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202.

(k) The division shall establish in rule and regulation fees for issuing initial or renewal licenses under this section. Fees established pursuant to this section shall be in an amount to ensure that, to the extent practicable, the total revenue generated from the fees collected approximates, but does not exceed, the direct and indirect costs of administering the provisions of the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202, including the costs of the assessment required under the compact.

33-36-111. Authorized acts of emergency medical technicians.

(a) An individual who holds a valid emergency medical technician license issued by the division is authorized to perform any act authorized by division rules and regulations, under written or oral authorization of a licensed physician, and may provide emergency medical technician services in other states as permitted by the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202.

(b) Nothing in this act or the rules or regulations issued thereunder shall be construed to authorize any medical treatment to be given to any person who objects thereto on religious grounds, or to authorize the transportation of such person to any hospital.

33-36-112. Enjoining or restraining unlawful acts.

Whenever any person has engaged or is about to engage in any acts or practices which constitute a violation of W.S. 33-36-103, 33-36-111 or the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202, the division may make application to the appropriate court for an order enjoining those acts, and upon a showing by the division that the person has engaged or is about to engage in any illegal act, an injunction, restraining order or other appropriate order shall be granted by the court without bond. The division shall comply with the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202, when taking any action under this section.

33-36-113. Violations; penalties; proceedings.

Any person who violates any of the provisions of W.S. 33-36-103, 33-36-111 or the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act, W.S. 33-36-202, is guilty of a misdemeanor and upon conviction shall be fined not more than four hundred dollars ($400.00) or imprisoned in the county jail not more than six (6) months, or both. If the division has reason to believe that any individual is liable to punishment under this section, it may certify the facts to the attorney general of Wyoming who may take appropriate action. The division shall comply with the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act when taking any action under this section.

33-36-114. Repealed By Laws 2007, Ch. 91, § 3.

33-36-115. Emergency medical services sustainability trust account; account established; planning grants; implementation grants.

(a) A trust account is created to be known as the emergency medical services sustainability trust account. The trust account shall consist of those funds designated to the account by law and all monies received from federal grants and other contributions, grants, gifts, transfers, bequests and donations to the trust account. The trust account is specifically empowered to accept grants, gifts, transfers, bequests and donations including those which are limited in their purposes by the grantor. Funds deposited within the trust account are intended to be inviolate and constitute a perpetual trust account which shall be invested by the state treasurer as authorized by law and in a manner to obtain the highest net return possible consistent with preservation of the account corpus.

(b) The state treasurer shall credit annually to an emergency medical services sustainability trust income account earnings from investment of the trust account corpus. The legislature may, from time to time, appropriate funds directly to the income account for distribution in accordance with the terms of this section. Such specially appropriated funds shall be credited directly by the state treasurer to the income account and are available to the division for award of grants as otherwise permitted by this section.

(c) Individuals and other entities may also grant, give, transfer, bequeath or donate funds to the trust account or the income account. These funds shall be credited by the state

treasurer to either the trust account or the income account, as appropriate, in a manner consistent with the conditions attached to their receipt.

(d) Funds in the trust income account are continuously appropriated to the department for purposes of providing grants to improve the delivery and quality of emergency medical services as provided in this section.

(e) The department shall establish by rule and regulation a grant application calendar and procedure for needs assessment grants, which shall include the following provisions:

(i) An assessment of emergency medical services in a service area and an analysis of the current emergency medical services system including:

(A) The level of volunteerism;

(B) The level and period of certification;

(C) Response times;

(D) Billing practices;

(E) Funding sources and budget sustainability; and

(F) Call volume.

(ii) Needs assessment grants shall be for the purpose of assessing the provision of emergency medical services in a service area and preparing a master plan for an efficient, coordinated system of emergency medical service delivery, subject to the following:

(A) Grant applications may be submitted by persons, entities or groups interested in improving emergency medical services in a proposed service area which shall correspond to a rural urban commuting area as defined by the United States department of agriculture. The grant application shall be signed by authorized representatives of all involved political subdivisions within the proposed service area;

(B) The department shall review applications and, if it determines that further detailed assessment of emergency medical services in the proposed service area is

appropriate and following consultation with the affected entities described in subparagraph (A) of this paragraph, shall contract for an assessment in the service area of emergency medical services strengths, weaknesses and coverage gaps. The contractor conducting the assessment shall prepare a written report that shall include a master plan for a coordinated, efficient emergency medical service delivery system within the service area. The master plan shall identify the governmental or private entity that will oversee and coordinate implementation of the plan, the areas and entities included in the plan, an estimate of funds available to implement the plan and continuing revenue sources, the approximate number of volunteer and paid emergency medical technicians available to provide services in the area and include provision, if necessary, for transition from an all volunteer service model to one combining volunteer and paid technicians. The master plan shall identify major problems and opportunities concerning emergency medical services, and provide for a desired sequence of events for implementation of the plan;

(C) Any needs assessment shall include consultation with the affected entities described in subparagraph (A) of this paragraph, representatives of public, private and volunteer ambulance services in the proposed service area, county and local government organizations, hospitals furnishing emergency medical services and other appropriate stakeholders;

(D) Any needs assessment shall provide for the collection of data by service area using a common benchmark, indicator and scoring format on emergency medical service workforce shortfalls, strengths and weaknesses of current service delivery models. The needs assessment shall build upon but avoid duplication of the study completed by the rural policy research institute for the Wyoming health care commission in June, 2007;

(E) Grant applications shall include a commitment of local matching funds of at least five thousand dollars ($5,000.00).

(iii) Following completion of a needs assessment as provided in paragraph (ii) of this subsection, a county, joint powers board or emergency medical services special district may apply for a grant to assist in the development and implementation of a master plan, subject to the following:

(A) Grants shall be documented in writing signed by the department and an authorized representative of the grantee. The document shall specify the intended use of the funds to improve emergency medical service delivery by assisting with the cost of implementing the master plan;

(B) Award of grants shall be based on demonstrable need. Those service areas demonstrating the greatest need, at the discretion of the department, shall be given the highest priority in receiving grants pursuant to this section;

(C) Implementation grant applications shall include a working budget to demonstrate how the grant will be used to address revenue gaps on a temporary basis while transitioning to a defined time when revenue is expected to be sufficient to sustain services in the master plan service area not to exceed two (2) years.

(f) The department is authorized to enter into contracts it deems appropriate to conduct and coordinate needs analyses and implementation grants authorized by this section, including contracts with local providers or other stakeholders to report on service needs in the respective service areas.

(g) Repealed by Laws 2015, ch. 59, § 2.

ARTICLE 2 - RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE COMPACT ACT (REPLICA)

33-36-201. Short title.

This article shall be known and may be cited as the "Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act" or "REPLICA."

33-36-202. Compact provisions generally.

The Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act is enacted into law and entered into on behalf of this state with all other states legally joining in the compact in a form substantially as follows:

SECTION 1

PURPOSE

In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and paramedics. This Compact is intended to facilitate the day to day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This Compact is designed to achieve the following purposes and objectives:

1. Increase public access to EMS personnel;

2. Enhance the states' ability to protect the public's health and safety, especially patient safety;

3. Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;

4. Support licensing of military members who are separating from an active duty tour and their spouses;

5. Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;

6. Promote compliance with the laws governing EMS personnel practice in each member state; and

7. Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

SECTION 2

DEFINITIONS

In this compact:

A. "Advanced Emergency Medical Technician (AEMT)" means: an individual licensed with cognitive knowledge and a scope of

practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

B. "Adverse Action" means: any administrative, civil, equitable or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions and state court judgments enforcing adverse actions by the state EMS authority.

C. "Alternative program" means: a voluntary, non-disciplinary substance abuse recovery program approved by a state EMS authority.

D. "Certification" means: the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. "Commission" means: the national administrative body of which all states that have enacted the compact are members.

F. "Emergency Medical Technician (EMT)" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

G. "Home State" means: a member state where an individual is licensed to practice emergency medical services.

H. "License" means: the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.

I. "Medical Director" means: a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

J. "Member State" means: a state that has enacted this compact.

K. "Privilege to Practice" means: an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

L. "Paramedic" means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

M. "Remote State" means: a member state in which an individual is not licensed.

N. "Restricted" means: the outcome of an adverse action that limits a license or the privilege to practice.

O. "Rule" means: a written statement by the interstate Commission promulgated pursuant to Section 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

P. "Scope of Practice" means: defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

Q. "Significant Investigatory Information" means:

1. Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

2. Investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

R. "State" means: any state, commonwealth, district, or territory of the United States.

S. "State EMS Authority" means: the board, office, or other agency with the legislative mandate to license EMS personnel.

SECTION 3

HOME STATE LICENSURE

A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

1. Currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

2. Has a mechanism in place for receiving and investigating complaints about individuals;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

4. No later than five (5) years after activation of the Compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. § 731.202 or subsequent similar federal legislation and submit documentation of such as promulgated in the rules of the Commission; and

5. Complies with the rules of the Commission.

SECTION 4

COMPACT PRIVILEGE TO PRACTICE

A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with Section 3.

B. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

1. Be at least eighteen (18) years of age;

2. Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

3. Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

D. Except as provided in Section 4 subsection C, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the Commission.

E. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

SECTION 5

CONDITIONS OF PRACTICE IN A REMOTE STATE

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the Commission, and under the following circumstances:

1. The individual originates a patient transport in a home state and transports the patient to a remote state;

2. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

3. The individual enters a remote state to provide patient care and/or transport within that remote state;

4. The individual enters a remote state to pick up a patient and provide care and transport to a third member state;

5. Other conditions as determined by rules promulgated by the Commission.

SECTION 6

RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this Compact conflicts with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

SECTION 7

VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY AND THEIR SPOUSES

A. Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses.

C. All individuals functioning with a privilege to practice under this section remain subject to the adverse actions provisions of section 8.

SECTION 8

ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

1. All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

C. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the Commission in accordance with the rules of the Commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

F. A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

G. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

SECTION 9

ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS AUTHORITY

A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

1. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

SECTION 10

ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE

A. The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

1. The Commission is a body politic and an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings.

1. Each member state shall have and be limited to one (1) delegate. The responsible official of the state EMS authority or his designee shall be the delegate to this Compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one (1) board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 12.

5. The Commission may convene in a closed, non-public meeting if the Commission must discuss:

a. Non-compliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under

seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

a. For the establishment and meetings of other committees; and

b. Governing any general or specific delegation of any authority or function of the Commission;

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;

4. Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

6. Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees;

7. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

8. The Commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.

9. The Commission shall maintain its financial records in accordance with the bylaws.

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that

at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of EMS personnel licensure and practice.

E. Financing of the Commission.

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount

sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

F. Qualified Immunity, Defense, and Indemnification.

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did

not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 11

COORDINATED DATABASE

A. The Commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Significant investigatory information;

4. Adverse actions against an individual's license;

5. An indicator that an individual's privilege to practice is restricted, suspended or revoked;

6. Non-confidential information related to alternative program participation;

7. Any denial of application for licensure, and the reason(s) for such denial; and

8. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

SECTION 12

RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states reject a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission; and

2. On the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the

person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 13

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination.

1. If the Commission determines that a member state has defaulted in the performance of its obligations or

responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution.

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that

arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 14

DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by

the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 15

CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain in full force and effect as to the remaining member states. Nothing in this Compact supersedes state law or rules related to licensure of EMS

CHAPTER 37 - RADIOLOGIC TECHNOLOGIST LICENSING

33-37-101. Definitions.

(a) As used in this act:

(i) "Allied health professional" is a person certified or licensed in one (1) of the following fields: dental hygiene, dietary, medical technology, respiratory therapy, physical therapy or hospital administration;

(ii) "Board" means the board of radiologic technologist examiners;

(iii) "License" means a legal authorization to apply ionizing radiation to persons;

(iv) "Licensed practitioner" means a person licensed or otherwise authorized by law to practice medicine, dentistry, podiatry, osteopathy or chiropractic and includes properly certified physician assistants and properly licensed advanced practice nurses as defined under W.S. 33-21-120(a)(i);

(v) "Radiation" means ionizing radiation including gamma rays and x-rays, alpha particles, beta particles, electrons, neutrons, protons and other nuclear particles but not sound or radio waves or visible, infrared or ultraviolet light;

(vi) "Radiologic technologist" means a person other than a licensed practitioner who applies ionizing radiation or radiopharmaceutical agents to humans for diagnostic or therapeutic purposes;

(vii) "Restricted license" means an authorization which may be granted by the board to apply ionizing radiation to humans when an applicant's qualifications do not meet standards required for issuance of a license. Persons receiving a restricted license shall be designated as radiologic technicians;

(viii) "This act" means W.S. 33-37-101 through 33-37-113.

33-37-102. Acceptable practices.

(a) A licensed radiologic technologist may apply radiation to persons for diagnostic or therapeutic purposes under specific direction of a person licensed to prescribe the examinations or treatment.

(b) A licensed radiologic technician may select technique, position patients, critique films and apply radiation to persons for diagnostic purposes under specific direction of a person licensed to prescribe the examinations. Restricted licenses shall state the procedures the radiologic technician may perform which shall not include more than three (3) body areas.

(c) A license is not required for a student attending a school or college of medicine, osteopathy, podiatry, dentistry, dental hygiene, chiropractic or radiologic technology, who applies radiation to persons under the direct supervision of a person licensed to prescribe the examinations or treatments.

(d) This act does not apply to:

(i) Licensed practitioners as defined in W.S. 33-37-101(a)(iv);

(ii) Allied dental health professionals and dental assistants solely because they expose radiographs for dental diagnosis; and

(iii) Persons employed by or assisting licensed podiatrists and receiving education and training pursuant to W.S. 33-9-114.

33-37-103. Board of radiologic technologists examiners; composition; terms; removal.

(a) The board of radiologic technologists examiners is created. The board shall consist of five (5) members who are citizens of the United States and residents of Wyoming appointed by the governor. Three (3) members shall be radiologic technologists who are registered or who possess suitable equivalent qualifications, one (1) member shall be a person licensed or otherwise authorized by law to practice medicine specialized in radiology and one (1) member shall be from the general public. Vacancies in unexpired terms shall be filled by the governor for the remainder of the term. The governor may remove any board member as provided in W.S. 9-1-202.

(b) The terms for each member are:

(i) Three (3) radiologic technologists for two (2) years;

(ii) One (1) person licensed or otherwise authorized to practice medicine in radiology for three (3) years;

(iii) One (1) general public member for two (2) years.

33-37-104. Meetings; quorum.

The board shall meet quarterly and elect a chairman at the first meeting of each year. Three (3) board members constitute a quorum.

33-37-105. Rules.

The board shall adopt rules to carry out this act.

33-37-106. Applicants; qualifications.

(a) The board shall grant a license to an applicant who is at least eighteen (18) years of age and who has completed a course of study in radiologic technology approved by the board and provides satisfactory evidence to the board of fitness to perform duties of a radiologic technologist.

(b) The board shall grant a restricted license to an applicant who is at least eighteen (18) years of age and is capable of performing as a radiologic technician.

33-37-107. Examinations; fees.

(a) The board shall procure examinations for restricted licenses.

(b) The board shall administer examinations at regular intervals as established by rules.

(c) The board shall set a nonrefundable examination fee for each type of examination pursuant to W.S. 33-1-201.

(d) An applicant failing the examination shall be charged a similar nonrefundable re-examination fee. An applicant is not eligible for re-examination until six (6) months after the failed examination.

(e) The board may accept in lieu of its own examination any certification by other states or professional certifying groups whose requirements are at least as stringent as those set forth by rules adopted in accordance with this act.

(f) Fees collected by the board shall be paid into the state treasury and credited to an account which shall be used by the board to defray costs incurred in the administration of this act.

33-37-108. Licenses.

(a) The board shall issue a license to each applicant who meets the requirements of this act and the rules and regulations promulgated by the board.

(b) The board may issue a restricted license to an applicant not qualifying for issuance of a license under this act, but who demonstrates to the satisfaction of the board the capability of performing x-ray examinations without endangering the public health and safety. Restricted licenses may be renewed under the provisions of original issuance.

(c) Applicants meeting minimum requirements for a license shall be issued a temporary license to work as a radiologic technologist. The temporary license shall expire fifteen (15) days after the date of the first opportunity for examination.

(d) The board shall issue a special license to an uncertified person to practice as a radiologic technologist if necessary because of regional hardship or emergency condition. The board shall not grant more than one (1) special license to a person. Special licenses shall expire in twelve (12) months.

33-37-109. Existing operators.

(a) An applicant who has not met the requirements for a license but who has at least three (3) years experience in the four (4) years before July 1, 1985 and who can demonstrate proficiency shall be issued the appropriate license.

(b) An applicant who is engaged in a course for radiologic technology on July 1, 1985 who completes the course or has completed a twenty-four (24) month course in radiologic technology within two (2) years before July 1, 1985 and can demonstrate proficiency shall be issued a license.

33-37-110. Expiration of license; renewal.

(a) General licenses expire two (2) years from date of issuance. A restricted license expires twelve (12) months from the date of issuance and may be renewed under the provisions of original issuance.

(b) All licenses issued pursuant to this act with the exception of a special license shall be renewed by the board provided that the licensee has conformed with the provisions of

this act and submits a renewal fee in an amount established by the board pursuant to W.S. 33-1-201, and provided as follows:

(i) Upon renewal, each person licensed by the board as a radiologic technologist shall provide proof that he has completed twenty-four (24) credit hours of continuing education credit based upon the national standards of the American Registry of Radiologic Technologists;

(ii) Upon renewal, each person licensed by the board as a radiologic technician shall provide proof that he has completed six (6) credit hours of continuing education credit based upon the national standards of the American Registry of Radiologic Technologists.

(c) A radiologic technologist who has been licensed in Wyoming, whose license has not been revoked or suspended and who has ceased activities as a radiologic technologist may apply for a license and be evaluated by the board.

33-37-111. Discipline of licensee.

(a) A person licensed pursuant to this act may be censured or placed on probation or may have his license revoked, suspended or restricted, or both, by the board for any of the following causes:

(i) Conviction of a felony or high misdemeanor that relates to the practice of applying ionizing radiation or radiopharmaceutical agents to humans or to the ability to apply ionizing radiation or radiopharmaceutical agents to humans;

(ii) For renting or loaning to any person his license to be used as a license for such person;

(iii) Violation of the Wyoming Controlled Substances Act;

(iv) Violation of any rule promulgated by the board;

(v) Negligent or incompetent use of radiation or radiopharmaceutical agents;

(vi) Violation of this act.

(b) All complaints alleging a violation under paragraphs (a)(i) through (vi) of this section shall be in writing,

verified by some party familiar with the facts charged and shall be filed with the board. Upon receiving the complaint, the board if it determines the complaint sufficient, shall proceed as in a contested case under the Wyoming Administrative Procedure Act. Upon discipline of any licensee, the board shall notify the appropriate agencies and make other reports as required by law, rules and regulations.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-37-112. Competency evaluation.

After receipt of a complaint filed in accordance with W.S. 33-37-111 concerning compliance with this act or the competency of radiologic technicians the board or the radiological health services, health and medical services may evaluate technicians or their job performance and otherwise investigate.

33-37-113. Violations; penalties.

(a) Any person who applies ionizing radiation or radiopharmaceutical agents to humans without a valid license to do so shall be guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

(b) Any person licensed pursuant to this act who violates the provisions of this act is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

CHAPTER 38 - PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY

ARTICLE 1 - GENERAL PROVISIONS

33-38-101. Short title.

This act may be cited as the "Mental Health Professions Practice Act".

33-38-102. Definitions.

(a) As used in this act:

(i) "Board" means the mental health professions licensing board;

(ii) "Mental health procedures" means engaging in methods and techniques which include, but are not restricted to:

(A) "Counseling" means assisting clients through the counseling relationship, using a combination of mental health, psychotherapy and human development principles, methods and techniques, to achieve mental, emotional, physical, social, moral, educational, spiritual or career development and adjustment through the life span, but shall not include religious instruction;

(B) "Appraisal" means selecting, administering, scoring and interpreting instruments designed to assess an individual's attitudes, abilities, achievements, interests and personal characteristics and the use of methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations;

(C) "Consulting" means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the client may have in relation to a third party, be it an individual, a group or an organization;

(D) "Referral" means evaluating and identifying needs of a client to determine the advisability of referral to other specialists, informing the client of such judgment and communicating as requested or deemed appropriate to such referral sources;

(E) "Research" means systematic efforts to collect, evaluate, interpret and apply procedures related to improving the understanding and delivery of counseling services to clients.

(iii) "Licensed professional counselor, (LPC), licensed marriage and family therapist, (LMFT), licensed clinical social worker, (LCSW) and licensed addictions therapist, (LAT)," mean persons who represent themselves to the

public by any title or description of psychotherapy services incorporating the words "professional counselor", "marriage and family therapist", "clinical social worker", or "addictions therapist", who offer to render professional services in these fields to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for compensation, implying that they are licensed and trained, experienced or expert in one (1) or more of these fields of practice and who hold a valid license to engage in the practice of one (1) or more of these specializations. These persons may practice independent of supervision;

(iv) "Practice of addictions therapy" means providing services based on theory and methods of counseling, psychotherapy, and addictionology to persons who are experiencing cognitive, affective or behavioral psychosocial dysfunction as a direct or indirect result of addiction, chemical dependency, abuse of chemical substances or related disorders. The practice of addictions therapy includes, but is not limited to, addiction prevention, crisis intervention, diagnosis, referral, direct treatment, and follow-up treatment which is rendered to individuals, families, groups, organizations, schools and communities who are adversely affected by addictions or related disorders;

(v) "Practice of clinical social work" means applying social work theory and methods to the diagnosis, treatment and prevention of psychosocial dysfunction, disability or impairment, including emotional and mental disorders. It is based on knowledge of one (1) or more theories of human development within a psychosocial context. The perspective of person-in-situation is central to professional social work practice. Professional clinical social work includes but is not limited to interventions directed to interpersonal interactions, intrapsychic dynamics, and life support and management issues. Professional clinical social work services consist of assessment, diagnosis, treatment, including psychotherapy and counseling, client-centered advocacy, consultation and evaluation with individuals, families, groups, communities and organizations;

(vi) "Practice of counseling" means rendering to individuals, couples, families, groups, organizations, corporations, institutions, government agencies or the general public a service that integrates a wellness, pathology and multicultural model of human behavior. This model applies a combination of mental health, psychotherapeutic, and human

development principles and procedures to help clients achieve effective mental, emotional, physical, social, moral, educational, spiritual or career development and adjustment throughout the life span, and includes the diagnostic description and treatment of mental disorders or disabilities within the range of the professional's preparation;

(vii) "Practice of marriage and family therapy" means the rendering of professional marital and family therapy services and treatment to individuals, family groups and marital pairs, singly or in groups. Marital and family therapy includes but is not limited to the diagnosis and treatment, including psychotherapy, of nervous, emotional, and mental disorders, whether cognitive, affective or behavioral, within the context of marital and family systems. Marital and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, marital pairs and families for the purpose of treating such diagnosed nervous and mental disorders;

(viii) "Psychotherapy" means the treatment, diagnosis, testing, assessment or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional relationships, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social or intellectual functioning;

(ix) "Use of title or description of" means to hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationery, announcements, calling cards or other instruments of professional identification;

(x) Certified addictions practitioner (CAP) means a person certified under this act to practice addictions treatment, prevention, intervention, diagnosis, referral and follow up under the supervision of a qualified clinical supervisor licensed in the state of Wyoming;

(xi) Certified social worker (CSW) means a person certified under this act to perform social work treatment, prevention, intervention, case management, referral and follow up with individuals diagnosed with mental illnesses or mental disorders under the supervision of a qualified clinical supervisor licensed in the state of Wyoming;

(xii) Certified mental health worker (CMHW) means a person certified under this act to perform the application of human services or psychological theory and methods to the assessment, treatment or prevention of psychosocial dysfunction, disability or impairment, including emotional or mental disorders, under the supervision of a qualified clinical supervisor licensed in the state of Wyoming. The practice of a CMHW shall not include assigning a diagnosis or acting as a primary treatment provider;

(xiii) "Qualified clinical supervisor" means a licensed professional counselor, licensed clinical social worker, licensed marriage and family therapist, licensed addictions therapist, licensed psychologist, a licensed psychiatrist, licensed physician with specialty in addictionology or a licensed advanced practitioner of nursing with psychiatric specialty;

(xiv) "This act" means W.S. 33-38-101 through 33-38-113;

(xv) "Domicile" means that place where a person has his true, fixed and permanent home to which whenever the person is absent the person has the intention of returning;

(xvi) "Certified addictions practitioner assistant" means a person certified under this act to assist in the practice of addictions treatment, prevention, intervention, referral and followup under the supervision of a qualified clinical supervisor licensed in the state of Wyoming;

(xvii) "Human behavioral discipline" refers to a degree in addictionology, chemical dependency, substance use disorder, counseling, psychology, social work, sociology or a related field.

33-38-103. Exemptions.

(a) Nothing in this act or W.S. 33-38-202 shall be construed to apply to the activities and services of:

(i) Qualified members of other legally recognized professions who are otherwise licensed or certified by this state, such as physicians, psychologists or registered nurses, from performing services consistent with the laws of this state, their training and the code of ethics of their professions, provided they do not represent themselves to be practicing the

professions regulated under this act and do not represent themselves to be professional counselors, clinical social workers, marriage and family therapists or addiction therapists, or certified social workers, certified addictions practitioners or certified mental health workers;

(ii) Repealed By Laws 1997, ch. 153, § 2.

(iii) A student pursuing a course of study in these professions in an accredited institution of higher education if these activities are performed under clinical supervision and constitute a part of the supervised course of study, provided that such a person be designated a "student";

(iv) Nonresidents who render services in this state for not more than thirty (30) days during any calendar year, provided that the persons are duly authorized to perform the activities and services under the laws of the state or county of the person's residency;

(v) A rabbi, priest, minister, clergy or any person acting as a lay religious counselor of any religious denomination or sect provided the activities and services are within the scope of the performance of regular or specialized ministerial duties, the counseling is clearly identified as being based on religious principles and there is no fee for services regulated under this act. This paragraph does not preclude acceptance of donations of any kind;

(vi) Persons offering unpaid volunteer services for organizations or charities provided that these persons are approved by the organizations or agencies for whom the services are rendered;

(vii) School social workers and school counselors certified under the professional teaching standards board when employed by local school districts.

(b) Repealed by Laws 1993, ch. 181, § 3.

(c) Nothing in this act shall prevent a qualified person exempted by this section from being licensed or certified under this act.

(d) Nothing in this act shall prevent persons who are not licensed or certified under this act from providing nonclinical case management services to assist the client. Case management

services include advocacy, crisis intervention, linkage, monitoring and followup and referral. For purposes of this subsection:

(i) "Advocacy" means advocacy on behalf of a specific client for the purpose of accessing needed services;

(ii) "Crisis intervention" means intervention and stabilization provided in situations requiring immediate action or resolution for a specific client. The case manager may provide the initial intervention in a crisis situation and assist the client in gaining access to other needed clinical crisis intervention;

(iii) "Linkage" means working with clients or service providers to secure access to services. Activities include making telephone calls to agencies to arrange appointments or services following the initial referral process and preparing clients for appointments;

(iv) "Monitoring and followup" means contacting the client or others to ensure that a client is following a prescribed service plan and monitoring the progress and impact of that plan;

(v) "Referral" means arranging initial appointments with service providers or informing clients of services available and addresses and telephone numbers of agencies providing services.

(e) Nothing in this act shall prevent persons who are not licensed or certified under this act from advising or directing an individual regarding the conduct and behavior required as a participant of a program or system.

(f) Nothing in this act shall prevent persons who are not licensed or certified under this act from providing facilitation, leadership or instruction in educational programs addressing behaviors or life skills. This subsection shall not apply to persons providing facilitation, leadership or instruction to persons in the custody of the department of corrections unless the persons in custody have been subjected to mental health screening.

33-38-104. Board created; expenses.

(a) The board is created and shall consist of six (6) members, residents of the state of Wyoming for a minimum of one (1) year, who shall be appointed by the governor by and with the consent of the senate.

(b) Four (4) board members shall be licensed under this act, one (1) from each discipline and two (2) members shall be from the public at large. The governor shall through appointments to the board ensure that appointees are adult citizens and that differences in gender, ethnic origin, and the various levels of graduate and professional degrees and specialties, are represented on the board, though not all such differences will necessarily be reflected at the same time in board membership. Board members representing the professional disciplines shall have at least four (4) years of experience in the discipline. When the term of each member of the board ends, the governor shall appoint a successor by and with the consent of the senate for a term of three (3) years. Any licensed member vacancy occurring on the board shall be filled by the governor from a list of eligible candidates submitted by that affiliated discipline whose position is vacant. Public at large vacancies shall be filled at the pleasure of the governor.

(c) The initial board shall be made up of persons engaged in full-time practice or teaching in the disciplines involved and who are eligible for licensure under this act. When the initial appointments are made to the board by the governor, two (2) members shall serve a one (1) year term, two (2) members shall serve two (2) year terms and two (2) members shall serve three (3) year terms as designated by the governor.

(d) The members of the board shall be paid mileage and per diem as provided in W.S. 33-1-302(a)(vii) when engaged in performing their duties as members of the board.

(e) The board shall submit an annual report to the governor as required by W.S. 9-2-1014.

33-38-105. Powers and duties of the board; rules; meetings; fees.

(a) The board shall adopt rules not inconsistent with this act or the laws of this state that are reasonable and necessary to administer this act. A subcommittee from each discipline shall be requested to draft the recommended rules and regulations for that particular discipline and shall submit them to the full board for action. The rules shall be adopted in

accordance with the provisions of the Wyoming Administrative Procedure Act.

(b) The board shall meet not later than thirty (30) days after its members are appointed by the governor. The board shall elect a chairperson and a vice-chairperson and a secretary-treasurer who shall hold office according to the rules adopted by the board.

(c) The board shall hold at least one (1) regular meeting each year and any special meetings that are properly called as provided by the rules adopted by the board. Four (4) members constitute a quorum.

(d) The board shall conduct hearings on complaints concerning violations of this act and the rules adopted under this act. The initial inquiry will be conducted by a subcommittee, appointed by the board, composed of members of the discipline in question which will make recommendations to the board for action.

(e) The board may, in its own name, proceed in any court of competent jurisdiction to enjoin and restrain any unlicensed person from violating this act and may similarly act to bring suit to prevent or remedy any other violation of this act or of the rules adopted under this act. The action is in addition to any other proceeding or remedy authorized by law. The board shall be represented in all such actions by the attorney general or private counsel may be secured with approval of the attorney general.

(f) The board may charge an application fee and fees for examinations, licensing, certification, specialty examination designation, renewal and other services under this act or in accordance with the Interstate Compact for Licensed Professional Counselors, under W.S. 33-38-202, provided in amounts established by the board pursuant to W.S. 33-1-201 or 33-38-202. All money received, and the interest thereon, shall be deposited in the state treasury to the credit of a separate account and may be used only for the administration of this act except as provided by the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202.

(g) No member of the board is liable for any act performed in good faith for the performance of duties set forth in this act.

(h) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

(j) The board shall request criminal history background information as authorized under W.S. 7-19-106(a)(xxxiv) on license and certificate applicants for:

(i) All initial applicants; and

(ii) All renewal applicants once every four (4) years.

(k) The board shall administer the provisions of the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202, including factoring the annual assessment required under the compact into the board's biennium budget and promulgating any rules necessary for implementation of the compact.

33-38-106. Requirements for licensure and certification.

(a) The board shall issue a license as a professional counselor, marriage and family therapist, clinical social worker or addictions therapist to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of counseling, marriage and family therapy, clinical social work or addictions therapy or to the ability to practice counseling, marriage and family therapy, clinical social work or addictions therapy, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iii) The applicant has received a master's or doctorate degree in one (1) of the disciplines identified from an accredited program and institution of higher education, which

is professional in content and which meets the academic and training content standards established by the board. The board shall use the professional training and experience standards of the appropriate professional associations as established by the rules and regulations;

(iv) The applicant has demonstrated knowledge of one (1) of the fields of professional counseling, marriage and family therapy, clinical social work or addictions therapy in general by passing a standard examination which may be written or situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for licensure in the specific discipline at reasonable times and places at least twice each year;

(v) The applicant has demonstrated that he has completed three thousand (3,000) hours of supervised clinical experience including a minimum of one hundred (100) hours of face-to-face individual clinical supervision from a qualified clinical supervisor.

(b) Certification under this subsection shall allow practice as a certified social worker only under the supervision of a qualified clinical supervisor and subject to any other restrictions which may be specified by the board. The board shall grant certification as a certified social worker to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of clinical social work or to the ability to practice clinical social work, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iii) The applicant has received a baccalaureate degree in social work from an accredited program and institution of higher education, which is professional in content and which meets the academic and training content standards established by the board. The board shall use the professional training and experience standards of the appropriate professional associations as established by the rules and regulations;

(iv) Repealed By Laws 2008, Ch. 51, § 2.

(v) The applicant has demonstrated knowledge in the field of social work in general by passing a standard examination which may be written or situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for certification in the specific discipline at reasonable times and places at least twice each year;

(vi) Unless extended, the applicant has six (6) months from the date of employment to become certified. The board may, for good cause shown, grant an extension of this grace period.

(c) Certification under this subsection shall allow practice as a certified addictions practitioner only under the supervision of a qualified clinical supervisor and subject to any other restrictions which may be specified by the board. The board shall grant certification as a certified addictions practitioner to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of addictions therapy or to the ability to practice addictions therapy, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iii) The applicant has received a baccalaureate degree in a human behavioral discipline from a regionally accredited institution of higher education, which is professional in content and which meets national standards for accreditation in the field of addiction therapy as accepted by the board, or has received a baccalaureate level equivalency in addiction therapy. In performing its duties under this paragraph, the board shall consult the professional training and experience standards of appropriate national professional associations or the standards of an appropriate federal agency;

(iv) Repealed By Laws 2008, Ch. 51, § 2.

(v) The applicant has demonstrated knowledge in the field of addictions treatment in general by passing a standard examination which may be written or situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for certification in the specific discipline at reasonable times and places at least twice each year;

(vi) Unless extended, the applicant has six (6) months from the date of employment to become certified. The board may, for good cause shown, grant an extension of this grace period;

(vii) Notwithstanding paragraphs (iii) and (vi) of this subsection, a person who has received a baccalaureate degree in a human behavioral discipline, other than a degree in addiction therapy, may be granted certification under this subsection after providing to the board satisfactory proof of completion of two thousand (2,000) hours of supervised work experience as a certified addictions practitioner assistant or equivalent in the field of addiction therapy.

(d) Provisional licensure is a means to continue progress towards satisfactory completion of all licensure requirements under this act. Upon review and approval by the designated board member or board, the board shall issue a provisional license to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of counseling, marriage and family therapy, clinical social work or addictions therapy or to the ability to practice counseling, marriage and family therapy, clinical social work or addictions therapy, although exemptions to this requirement may be granted by the board if consistent with public interest;

(iii) The applicant meets any of the following educational requirements:

(A) Holds a master's or doctorate degree in one (1) of the disciplines identified from an accredited program and institution of higher education which is professional in content and which meets the academic and training content standards established by the board; or

(B) Holds a master's or doctorate degree which is clinical in content from a regionally accredited institution of higher education in one (1) of the disciplines identified. During the term of provisional licensure under this subsection, the applicant shall complete any program deficiencies required to meet the academic and training content standards established by the board; or

(C) Holds a license for independent clinical practice in good standing in the identified discipline for another licensing jurisdiction which does not meet the criteria for reciprocal licensure under this act. During the term of provisional licensure under this subsection, the applicant shall complete any program deficiencies required to meet the academic and training content standards established by the board.

(iv) The provisional licensed professional counselor, clinical social worker, marriage and family therapist and addictions therapist shall be allowed to practice only under the supervision of a qualified clinical supervisor and in accordance with any other restrictions specified by the board;

(v) Unless extended, the provisional license shall expire thirty-six (36) months after issuance or upon issuance of a license by the board under this act, whichever occurs first;

(vi) The board may, for good cause shown, grant an extension of a provisional license subject to any additional restrictions specified by the board.

(e) Repealed by Laws 2021, ch. 37, § 2.

(f) Repealed by Laws 2021, ch. 37, § 2.

(g) Repealed by Laws 2021, ch. 37, § 2.

(h) Repealed by Laws 2021, ch. 37, § 2.

(j) Repealed by Laws 2021, ch. 37, § 2.

(k) Repealed by Laws 2021, ch. 37, § 2.

(m) Repealed by Laws 2021, ch. 37, § 2.

(n) Certification under this subsection shall allow practice as a certified addictions practitioner assistant only under the supervision of a qualified clinical supervisor and subject to any other restrictions which may be specified by the board. Unless extended, an applicant has six (6) months from the date of employment to become certified. The board may for good cause grant an extension of this period. The board shall grant certification as a certified addictions practitioner assistant to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has completed two hundred seventy (270) contact hours of education and training in alcoholism and drug abuse or related counseling subjects that meet the academic and training content standards established by the board. The board shall use the professional training standards of the appropriate professional association as established by the rules and regulation;

(ii) The applicant has reached the age of majority;

(iii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of addictions therapy or to the ability to practice as an addictions practitioner assistant, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iv) Repealed By Laws 2008, Ch. 51, § 2.

(v) The applicant has demonstrated knowledge in the field of addictions treatment in general by passing a standard examination which may be written and situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for certification in the specific discipline at reasonable times and places at least twice each year.

(o) Upon examination of all credentials the board may consider the credentials adequate evidence of professional

competence and recommend to the chairperson of the board that a license or certification be approved.

(p) Persons currently licensed in one (1) of these disciplines in this state as of July 1, 1997 in a discipline required to be licensed under this act, shall be presumed to have met all requirements for licensure under this act and shall be eligible for renewal of licensure in accordance with the provisions of this act.

(q) Certification under this subsection shall allow practice as a certified mental health worker only under the supervision of a qualified clinical supervisor and subject to any other restrictions which may be specified by the board. The board shall grant certification as a certified mental health worker to any applicant who files an application upon a form and in the manner prescribed by the board, accompanied by the appropriate fee and who furnishes satisfactory evidence to the board of the following:

(i) The applicant has reached the age of majority;

(ii) The applicant has no felony convictions and no misdemeanor convictions that relate adversely to the practice of clinical mental health work or to the ability to practice clinical mental health work, although exceptions to this requirement may be granted by the board if consistent with the public interest;

(iii) The applicant has received a baccalaureate degree in a human behavioral discipline from an accredited program and institution of higher education, which is professional in content and which meets the academic and training content standards established by the board. The board shall use the professional training and experience standards of the appropriate professional associations as established by the rules and regulations;

(iv) The applicant has demonstrated knowledge in the field of mental health work in general by passing a standard examination which may be written or situational, as the board prescribes. The board may develop, adopt and administer appropriate examinations. The board shall establish specific provisions for examination of applicants for certification in the specific discipline at reasonable times and places at least twice each year;

(v) Unless extended, the applicant has six (6) months from the date of employment to become certified. The board may, for good cause shown, grant an extension of this grace period.

(r) To the extent a license authorized under subsection (a) of this section for practice as a licensed professional counselor does not comply with the requirements for licensure under the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202, the license shall be considered a single-state license that does not include a privilege to practice in any other compact state.

(s) The board shall issue a privilege to practice as a professional counselor to an applicant who is licensed in a member state in accordance with the Interstate Compact for Licensed Professional Counselors provided that the applicant's license meets all the licensing requirements in other member states as provided in W.S. 33-38-202.

33-38-107. Renewal of license and continuing education.

Persons licensed or certified under this act shall submit biennially the appropriate renewal fee at a time specified by the board. The renewal request shall be accompanied by evidence satisfactory to the board of compliance with this act and participation in continuing education activities as established by rules and regulations of the board.

33-38-108. Reciprocity.

(a) Any individual holding a license in good standing to engage in the practice of professional counseling, clinical social work, marriage and family therapy or addictions therapy under the laws of another state having licensure requirements substantially similar to those required by this act may, upon approval of the board, be issued a license to practice in this state. The authority provided to the board under this section to issue a privilege to practice in this state as a licensed professional counselor shall be separate from and in addition to the authority provided to the board in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202.

(b) Any individual holding a certification in good standing to engage in the practice of social work, addictions therapy or mental health work under the laws of another state having certification requirements substantially similar to those

required by this act may, upon approval of the board, be issued certification to practice in this state.

(c) The board shall promulgate rules and regulations setting forth the manner in which credentials shall be reviewed by the board.

(d) For good cause shown the board shall issue a license or certification to practice in this state to an individual seeking reciprocity as a social worker, addictions practitioner, addictions practitioner assistant or mental health worker who does not otherwise meet the reciprocity requirements under subsection (a) or (b) of this section.

33-38-109. Disclosure of information.

(a) A person licensed or certified under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 shall not disclose without consent of the client any communication made by the client to the licensed or certified professional in the course of professional practice, nor may any employee of the licensed or certified professional reveal the information without the consent of the employer or client except as indicated by law.

(b) Repealed by Laws 1993, ch. 181, § 3.

(c) A person licensed or certified under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 shall not reveal without the consent of the client or the client's legal advisor his advice given in the course of professional employment; nor shall a secretary, stenographer, clerk or other employee of any person licensed or certified under this act reveal, without the consent of his employer or the client, any facts, the knowledge of which he has acquired in such capacity.

33-38-110. Prohibited acts; penalties.

(a) No person shall:

(i) Engage in the practice of professional counseling, clinical social work, marriage and family therapy or addictions therapy unless licensed or certified to so practice under this act or to represent himself to the public as being licensed as a professional counselor, a clinical social worker, a marriage and family therapist or as an addiction therapist, or

certified as a certified social worker or certified addictions practitioner, certified mental health worker, or to represent himself to the public as a professional counselor, a clinical social worker, a social worker, mental health worker, a marriage and family therapist, an addictions therapist or an addictions practitioner without having first complied with this act;

(ii) Engage in the professional practice of counseling, clinical social work, marriage and family therapy, or addictions therapy and fail to provide a professional disclosure statement as provided in W.S. 33-38-111 except as exempted by W.S. 33-38-103 or other law.

(b) Repealed by Laws 1993, ch. 181, § 3.

(c) The board may refuse to renew, or may deny, suspend, revoke or otherwise restrict licensure or certification under this act for any of the following causes:

(i) Conviction of a felony or misdemeanor that relates adversely to the practice of counseling, marriage and family therapy, clinical social work or addictions therapy or to the ability to practice counseling, marriage and family therapy, clinical social work or addictions therapy, including pleas of nolo contendere. A certified copy of the conviction shall be conclusive evidence of the conviction;

(ii) Renting or lending the license or certificate issued pursuant to this act to any person planning to use that license or certificate;

(iii) Unprofessional or unethical conduct;

(iv) Gross incompetence and malpractice;

(v) Mental incompetency;

(vi) Knowingly submitting false or misleading information to the board in any application for examination, licensure or certification;

(vii) Habitual intemperate use of alcohol or a controlled substance;

(viii) Violation and conviction of a charge under the Wyoming Controlled Substances Act;

(ix) Willful violation of any provisions of this act;

(x) Sexual exploitation of a patient, defined as:

(A) Any verbal behavior by a licensee or certificate holder under this chapter which involves offers of exchange of professional services for some form of sexual gratification; or

(B) Unlawful or unprofessional sexual contact with a client.

(xi) Failure to make timely application for licensure, certification or renewal thereof or to meet the continuing education requirements prior to the license or certificate expiration date.

(d) Proceedings under this section may be taken by the board from matters within its knowledge or upon information from another. If the informant is a member of the board, the other members of the board shall judge the accused. All complaints shall be in writing, verified by some party familiar with the facts alleged, and shall be filed with the board. Upon receiving the complaint the board, if it deems the complaint sufficient, shall proceed as in a contested case under the Wyoming Administrative Procedure Act. Upon revocation of any license or certification, the fact shall be noted upon the records of the board and the license or certification shall be marked cancelled upon the date of its revocation. Any suspension issued by the board pursuant to this section shall be for a period not greater than one (1) year and any licensee or certificate holder sanctioned shall not be allowed to practice in this state until completion of the suspension period and timely review by the board. The sanction of revocation upon order of the board shall be for a stated period not to exceed three (3) years, and a person whose license or certification has been revoked may not apply for reinstatement until thirty (30) days before the end of the stated period of revocation.

(e) Persons violating this act are guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00), by imprisonment for not more than six (6) months, or both. A third or subsequent conviction for violation of this section during a thirty-six (36) month period shall constitute a felony punishable by imprisonment for not more than two (2) years, a fine of not more than two thousand dollars

($2,000.00), or both. Each violation shall constitute a separate offense.

(f) The board may seek an injunction in the district court to enjoin any person from violating this act.

(g) Notwithstanding the prohibitions imposed under paragraph (a)(i) of this section, a person shall be authorized to engage in the practice of professional counseling and represent himself to the public as being a licensed professional counselor if authorized to practice in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202.

33-38-111. Protection of the public; professional disclosure.

Any individual licensed or certified under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 is required to conspicuously display a professional disclosure statement at his place of business or at the principal location where his services are performed and to provide a copy of the statement to each adult client, or in the case of a minor to the minor's parent or guardian, before or during the first session and upon request. The professional disclosure statement shall contain the licensee's or certificate holder's name, title, business address and telephone number, listing of formal professional education with name of institution attended and specific degrees received, licensure status or certificates currently held, statement of confidentiality, a statement that the professional ethical code of the discipline will be followed, including a statement that sexual intimacy with a client is never appropriate and a statement that the disclosure statement is required by the Mental Health Professions Licensing Act. The disclosure statement may also contain a listing of areas of specialization, including major course of study.

33-38-112. Limitation of practice.

All licensees and certificate holders under this act and all professional counselors authorized to practice under the Interstate Compact for Licensed Professional Counselors in accordance with W.S. 33-38-202 shall adhere to the ethical standards of their discipline, and according to those promulgated in the rules and regulations of the board.

33-38-113. Privileged communication.

(a) In judicial proceedings, whether civil, criminal, or juvenile, in administrative proceedings, and in proceedings preliminary and ancillary thereto, a patient or client, or his guardian or personal representative, may refuse to disclose and may prevent the disclosure of confidential information, including information contained in administrative records, communicated to a person licensed or otherwise authorized to practice under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202, and their agents, for the purpose of diagnosis, evaluation or treatment of any mental or emotional condition or disorder. A person licensed or otherwise authorized to practice under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 shall not disclose any information communicated as described above in the absence of an express waiver of the privilege except in the following circumstances:

(i) Where abuse or harmful neglect of children, the elderly or disabled or incompetent individuals is known or reasonably suspected;

(ii) Where the validity of a will of a former patient or client is contested;

(iii) Where such information is necessary to defend against a malpractice action brought by the patient or client;

(iv) Where an immediate threat of physical violence against a readily identifiable victim is disclosed to the person licensed or otherwise authorized to practice under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202;

(v) In the context of civil commitment proceedings, where an immediate threat of self-inflicted damage is disclosed to the person licensed or otherwise authorized to practice under this act or in accordance with the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202;

(vi) Where the patient or client alleges mental or emotional damages in civil litigation or otherwise places his mental or emotional state in issue in any judicial or administrative proceeding concerning child custody or visitation;

(vii) Where the patient or client is examined pursuant to court order; or

(viii) In the context of investigations and hearings brought by the patient or client and conducted by the board where violations of this act or the Interstate Compact for Licensed Professional Counselors under W.S. 33-38-202 are at issue. Information that is deemed to be of sensitive nature shall be inspected by the board in camera and the board shall determine whether or not the information shall become a part of the record and subject to public disclosure.

ARTICLE 2 - INTERSTATE COMPACT FOR LICENSED PROFESSIONAL COUNSELORS

33-38-201. Short title.

This article shall be known and may be cited as the "Interstate Compact for Licensed Professional Counselors."

33-38-202. Interstate compact for licensed professional counselors.

The Interstate Compact for Licensed Professional Counselors as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

SECTION 1.

PURPOSE

The purpose of this Compact is to facilitate the interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure. This Compact is designed to achieve the following objectives:

A. Increase public access to Professional Counseling services by providing for the mutual recognition of other Member State licenses;

B. Enhance the States' ability to protect the public's health and safety;

C. Encourage the cooperation of Member States in regulating multistate practice for Licensed Professional Counselors;

D. Support spouses of relocating Active Duty Military personnel;

E. Enhance the exchange of licensure, investigative and disciplinary information among Member States;

F. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;

G. Support the uniformity of Professional Counseling licensure requirements throughout the States to promote public safety and public health benefits;

H. Invest all Member States with the authority to hold a Licensed Professional Counselor accountable for meeting all State practice laws in the State in which the client is located at the time care is rendered through the mutual recognition of Member State licenses;

I. Eliminate the necessity for licenses in multiple States; and

J. Provide opportunities for interstate practice by Licensed Professional Counselors who meet uniform licensure requirements.

SECTION 2.

DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211;

B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a State's laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual's license or Privilege to Practice such as

revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice or any other Encumbrance on licensure affecting a Licensed Professional Counselor's authorization to practice, including issuance of a cease and desist action;

C. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners;

D. "Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to a practice or area of work;

E. "Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact;

F. "Current Significant Investigative Information" means:

1. Investigative Information that a Licensing Board, after a preliminary inquiry that includes notification and an opportunity for the Licensed Professional Counselor to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative Information that indicates that the Licensed Professional Counselor represents an immediate threat to public health and safety regardless of whether the Licensed Professional Counselor has been notified and had an opportunity to respond.

G. "Data System" means a repository of information about Licensees, including, but not limited to, continuing education and examination, licensure, investigative, Privilege to Practice and Adverse Action information;

H. "Encumbered License" means a license upon which an Adverse Action restricts the practice of licensed Professional Counseling by the Licensee and which Adverse Action has been reported to the National Practitioners Data Bank (NPDB);

I. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Licensed Professional Counseling by a Licensing Board;

J. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission;

K. "Home State" means the Member State that is the Licensee's primary State of residence;

L. "Impaired Practitioner" means an individual who has a condition(s) that may impair their ability to practice as a Licensed Professional Counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments;

M. "Investigative Information" means information, records and documents received or generated by a Professional Counseling Licensing Board pursuant to an investigation;

N. "Jurisprudence Requirement", if required by a Member State, means the assessment of an individual's knowledge of the laws and Rules governing the practice of Professional Counseling in a State;

O. "Licensed Professional Counselor" means a counselor licensed by a Member State, regardless of the title used by that State, to independently assess, diagnose and treat behavioral health conditions;

P. "Licensee" means an individual who currently holds an authorization from the Member State to practice as a Licensed Professional Counselor;

Q. "Licensing Board" means the agency of a State, or equivalent, that is responsible for the licensing and regulation of Licensed Professional Counselors;

R. "Member State" means a State that has enacted the Compact;

S. "Privilege to Practice" means a legal authorization, which is equivalent to a license, permitting the practice of Professional Counseling in a Remote State;

T. "Professional Counseling" means the assessment, diagnosis and treatment of behavioral health conditions by a Licensed Professional Counselor;

U. "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Privilege to Practice;

V. "Rule" means a regulation promulgated by the Commission that has the force of law;

W. "Single State License" means a Licensed Professional Counselor license issued by a Member State that authorizes practice only within the issuing State and does not include a Privilege to Practice in any other Member State;

X. "State" means any state, commonwealth, district or territory of the United States of America that regulates the practice of Professional Counseling;

Y. "Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose and treat behavioral health conditions;

Z. "Unencumbered License" means a license that authorizes a Licensed Professional Counselor to engage in the full and unrestricted practice of Professional Counseling.

SECTION 3.

STATE PARTICIPATION IN THE COMPACT

A. To Participate in the Compact, a State must currently:

1. License and regulate Licensed Professional Counselors;

2. Require Licensees to pass a nationally recognized exam approved by the Commission;

3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate course work including the following topic areas:

a. Professional counseling orientation and ethical practice;

b. Social and cultural diversity;

c. Human growth and development;

d. Career development;

e. Counseling and helping relationships;

f. Group counseling and group work;

g. Diagnosis and treatment;

h. Assessment and testing;

i. Research and program evaluation; and

j. Other areas as determined by the Commission.

4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission;

5. Have a mechanism in place for receiving and investigating complaints about Licensees.

B. A Member State shall:

1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

2. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

3. Implement or utilize procedures for considering the criminal history records of applicants for an initial Privilege to Practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records:

a. A member state must fully implement a criminal background check requirement, within a time frame established by Rule, by receiving results of Federal Bureau of Investigation record searches and shall use the results in making licensure decisions;

b. Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation

relating to a federal criminal records check performed by a Member State under Public Law 92-544.

4. Comply with the Rules of the Commission;

5. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable State laws;

6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered License in another Member State in accordance with the terms of the Compact and Rules; and

7. Provide for the attendance of the State's commissioner at Counseling Compact Commission meetings.

C. Member States may charge a fee for granting the Privilege to Practice.

D. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single State License as provided under the laws of each Member State. However, the Single State License granted to these individuals shall not be recognized as granting a Privilege to Practice Professional Counseling in any other Member State.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

F. A license issued to a Licensed Professional Counselor by a Home State to a resident in that State shall be recognized by each Member State as authorizing a Licensed Professional Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member State.

SECTION 4.

PRIVILEGE TO PRACTICE

A. To exercise the Privilege to Practice under the terms and provisions of the Compact, the Licensee shall:

1. Hold a license in the Home State;

2. Have a valid United States Social Security Number or National Practitioner Identifier;

3. Be eligible for a Privilege to Practice in any Member State in accordance with Section 4(D), (G) and (H);

4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years;

5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);

6. Pay any applicable fees, including any State fee, for the Privilege to Practice;

7. Meet any Continuing Competence/Education requirements established by the Home State;

8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and

9. Report to the Commission any Adverse Action, Encumbrance or restriction on the licensee's license taken by any non-Member State within 30 days from the date the action is taken.

B. The Privilege to Practice is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of Section 4(A) to maintain the Privilege to Practice in the Remote State.

C. A Licensee providing Professional Counseling in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

D. A Licensee providing Professional Counseling services in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific period of time, impose fines and/or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member State until the specific time for removal has passed and all fines are paid.

E. If a Home State license is encumbered, the Licensee shall lose the Privilege to Practice in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and

2. The licensee has not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

F. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of Section 4(A) to obtain a Privilege to Practice in any Remote State.

G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual may lose the Privilege to Practice in all other Remote States until the following occur:

1. The specific period of time for which the Privilege to Practice was removed has ended;

2. All fines have been paid; and

3. The licensee has not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

H. Once the requirements of Section 4(G) have been met, the Licensee must meet the requirements in Section 4(A) to obtain a Privilege to Practice in a Remote State.

SECTION 5.

OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO PRACTICE

A. A Licensed Professional Counselor may hold a Home State license, which allows for a Privilege to Practice in other Member States, in only one Member State at a time.

B. If a Licensed Professional Counselor changes primary State of residence by moving between two Member States:

1. The Licensed Professional Counselor shall file an application for obtaining a new Home State license based on a Privilege to Practice, pay all applicable fees and notify the

current and new Home State in accordance with applicable Rules adopted by the Commission;

2. Upon receipt of an application for obtaining a new Home State license by virtue of a Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor meets the pertinent criteria outlined in Section 4 via the Data System, without need for primary source verification except for:

a. A Federal Bureau of Investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

b. Other criminal background check as required by the new Home State; and

c. Completion of any requisite Jurisprudence Requirements of the new Home State.

3. The former Home State shall convert the former Home State license into a Privilege to Practice once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission;

4. Notwithstanding any other provision of this Compact, if the Licensed Professional Counselor cannot meet the criteria in Section 4, the new Home State may apply its requirements for issuing a new Single State License;

5. The Licensed Professional Counselor shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States, however for the purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

SECTION 6.

ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active Duty Military personnel, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in a new State, or through the process outlined in Section 5.

SECTION 7.

COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.

B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

SECTION 8.

ADVERSE ACTIONS

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State; and

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be

enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the State in which the witnesses or evidence are located;

3. Have the power to take Adverse Action against a Licensed Professional Counselor's license if the license is issued by the Home State.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own state laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Licensed Professional Counselor who changes primary State of residence during the course of an investigation. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the coordinated licensure information system shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Licensed Professional Counselor the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensed Professional Counselor.

E. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Professional Counseling practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees;

2. Member States shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

SECTION 9.

ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

A. The Compact Member States hereby create and establish a joint public agency known as the Counseling Compact Commission:

1. The Commission is an instrumentality of the Compact States;

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings;

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting and Meetings:

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Board;

2. The delegate shall be either:

a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member; or

b. An administrator of the Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed;

4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within sixty (60) days;

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission;

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication;

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws;

8. The Commission shall by Rule establish a term of office for delegates and may by Rule establish term limits.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate Rules which shall be binding to the extent and in the manner provided for in the Compact;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State

Licensing Board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Committee; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent

with the State regulation of Professional Counseling licensure and practice.

D. The Executive Committee:

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact;

2. The Executive Committee shall be composed of up to eleven (11) members:

a. Seven (7) voting members who are elected by the Commission from the current membership of the Commission; and

b. Up to four (4) ex-officio, nonvoting members from four (4) recognized national professional counselor organizations;

c. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in bylaws;

4. The Executive Committee shall meet at least annually;

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Privilege to Practice;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission:

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Section 11;

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

a. Non-compliance of a Member State with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or Member State statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision;

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission:

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities;

2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services;

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States;

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State;

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and

the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense and Indemnification:

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person;

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct;

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 10.

DATA SYSTEM

A. The Commission shall provide for the development, maintenance, operation and utilization of a coordinated database and reporting system containing licensure, Adverse Action and Investigative Information on all licensed individuals in Member States.

B. Notwithstanding any other provisions of state law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a license or Privilege to Practice;

4. Non-confidential information related to Alternative Program participation;

5. Any denial of application for licensure, and the reason(s) for such denial;

6. Current Significant Investigative Information; and

7. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

E. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

F. Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

SECTION 11.

RULEMAKING

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.

B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each Member State Professional Counseling Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

F. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date and location of the meeting in which the Rule will be considered and voted upon;

2. The text of the proposed Rule or amendment and the reason for the proposed Rule;

3. A request for comments on the proposed Rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A State or federal governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

I. If a hearing will be held on the proposed Rule or amendment, the Commission shall publish the place, time and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing:

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing;

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing;

3. All hearings will be recorded. A copy of the recording will be made available on request;

4. Nothing in this section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not

held, the Commission shall consider all written and oral comments received.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking record and the full text of the Rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment or hearing, provided that the usual Rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety or welfare;

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or

4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 12.

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

A. Oversight:

1. The executive, legislative and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law;

2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission;

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance and Termination:

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

E. A State that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

G. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

H. Dispute Resolution:

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States;

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

I. Enforcement:

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact;

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the

prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees;

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

SECTION 13.

DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.

B. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

C. Any Member State may withdraw from this Compact by enacting a statute repealing the same:

1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute;

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Professional Counseling Licensing Board to comply with the investigative and Adverse Action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any Professional Counseling licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding

upon any Member State until it is enacted into the laws of all Member States.

SECTION 14.

CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

SECTION 15.

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws properly promulgated by the Commission, are binding upon the Member States.

E. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the

conflict with the constitutional provision in question in that Member State.

CHAPTER 39 - REAL ESTATE APPRAISERS

ARTICLE 1 - CERTIFIED REAL ESTATE APPRAISER ACT

33-39-101. Short title; license required.

(a) This act shall be known as the "Certified Real Estate Appraiser Act."

(b) Beginning July 1, 1991, it is unlawful for any person to directly or indirectly engage in, advertise, conduct the business of or act in any capacity as a certified real estate appraiser for compensation within this state without first obtaining certification as provided in this act.

33-39-102. Definitions.

(a) As used in this act:

(i) "Appraisal" or "real estate appraisal" means a supportable opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate;

(ii) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased supportable opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate;

(iii) "Appraisal foundation" means the appraisal foundation incorporated as an Illinois corporation on November 30, 1987;

(iv) "Appraisal report" means any communication, written or oral, of an appraisal;

(v) "Board" means the certified real estate appraiser board;

(vi) "Commission" means the Wyoming real estate commission;

(vii) "Inactive permittee" means a permittee who has temporarily surrendered his license to the board, who can no longer function as a certified real estate appraiser, but who may reactivate his permit without having to take an examination. An inactive status permittee may be subject to disciplinary action and activation of an inactive permit may be subject to a denial action;

(viii) "Permit" means the document issued by the board certifying that the person named thereon has fulfilled all requirements for obtaining a permit to practice as a certified real estate appraiser or temporary certified appraiser under this act;

(ix) "Permittee" means any individual who has been issued a permit under this act to practice as a certified general or residential appraiser, a temporary certified appraiser or a certified appraiser trainee;

(x) "Market analysis" means a price opinion prepared by a real estate licensee for marketing purposes;

(xi) "Real estate" means leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and whether the real estate is situated in this state or elsewhere;

(xii) "Certified real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a valid permit issued to him for either general or residential real estate under the provisions of this act;

(xiii) Repealed by Laws 2019, ch. 63, § 2.

(xiv) "Salaried employee" means any person employed on a salaried basis or paid wages and the employee is subject to income tax and federal insurance contributions (FICA) withholding;

(xv) "Specialized services" means any activity that falls outside of the definition of appraisal or appraisal assignment;

(xvi) "Uniform standards of professional appraisal practices" (USPAP) means that edition of the standards of

appraisal practice promulgated by the appraisal foundation as adopted by the board;

(xvii) "Certified appraiser trainee" means a person who drafts and communicates real estate appraisals and who holds a valid permit for either general or residential real estate training under this act;

(xviii) "Temporary permit" means written permission from the board to an actively certified appraiser in good standing in at least one (1) recognized permitting jurisdiction to conduct the number of appraisal assignments the board allows in the time frame set by the board. A temporary permit shall not require completion of a criminal history record background check and may be abbreviated in other respects as prescribed in board rule;

(xix) "Temporary certified appraiser" means a certified appraiser who has been granted a temporary permit by the board;

(xx) "This act" means W.S. 33-39-101 through 33-39-130.

33-39-103. Exemptions.

(a) Except as provided in subsection (b) of this section, this act does not apply to any person who does not hold himself out as, or offer to perform services as, a certified real estate appraiser.

(b) Any licensed real estate licensee shall only provide an opinion as to the price of real estate as provided in W.S. 33-28-125.

33-39-104. Board of certified real estate appraisers.

(a) There is hereby established as an adjunct to the Wyoming real estate commission the certified real estate appraiser board which shall consist of six (6) members, one (1) of whom shall be a public member, one (1) of whom shall be a member of the banking industry, one (1) of whom shall be an owner or representative of an appraisal management company and three (3) of whom shall be certified real estate appraisers. The director of the real estate commission will serve as an ex officio member.

(b) The governor shall appoint the members of the certified real estate appraiser board. The governor may remove any board member as provided in W.S. 9-1-202. No more than one (1) board member shall be appointed from the same county. The members first appointed to the board shall be members in good standing of a nationally recognized real estate appraisal organization or have five (5) years of documented experience as a real estate appraiser in Wyoming. Thereafter, each real estate appraiser member of the board shall be a certified real estate appraiser. At least two (2) of the appraiser members shall hold a general certified appraiser permit. The term of each member shall be three (3) years, except that, of the members first appointed, two (2) shall serve for three (3) years, two (2) shall serve for two (2) years and one (1) shall serve for one (1) year. Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. No person shall serve as a member of the board for more than two (2) consecutive terms. The public member of the board shall not be engaged in the practice of certified real estate appraising. The members of the board shall annually elect a chairperson from among the members to preside at board meetings. A quorum of the board shall be three (3) members.

(c) Each member of the board shall receive from the certified real estate appraisal board account for each day actually spent on his official duties, per diem and mileage as provided in W.S. 33-1-302(a)(vii) for the performance of official duties.

(d) The Wyoming attorney general shall render to the board opinions on all questions of law and shall act as attorney for the board in all actions and proceedings brought by or against it under or pursuant to any of the provisions of this act. Fees and expenses of the attorney general arising out of such duties shall be paid out of the certified real estate appraisal board account.

(e) The board through the attorney general may compel the attendance of witnesses and the production of books, documents, records and other papers, to administer oaths and to take testimony and receive evidence concerning all matters within its jurisdiction.

33-39-105. Powers of the board; rulemaking authority.

(a) The board shall:

(i) Define by regulation each category of certified real estate appraiser, the type of educational experience, appraisal experience and equivalent experience that will meet the statutory requirements of this act;

(ii) Establish examination specifications for each category of certified real estate appraiser and provide or procure appropriate examinations;

(iii) Approve or disapprove applications for certification and issue permits to practice;

(iv) Define by regulation continuing education requirements for the renewal of permits;

(v) Impose an administrative fine not to exceed two thousand five hundred dollars ($2,500.00) for each separate offense, censure the permittee, place the permittee on probation and set the terms of probation, suspend or revoke any permit as provided in this act and the Wyoming Administrative Procedure Act;

(vi) Hold meetings, hearings and examinations in places and at times as it shall designate;

(vii) Promote research and conduct studies relative to the profession of certified real estate appraising and sponsor educational activities;

(viii) Contract for services necessary to carry out the provisions of this act;

(ix) Promulgate reasonable rules and regulations necessary to carry out the requirements imposed under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA);

(x) Implement, administer and enforce, and promulgate rules and regulations that are necessary to implement, administer and enforce the provisions of the Wyoming Appraisal Management Company Registration and Regulation Act, W.S. 33-39-201 through 33-39-224.

33-39-106. Additional powers and duties of the board; disposition of fees.

(a) The board shall:

(i) Receive applications for permits and certification;

(ii) Establish the administrative procedures for processing applications;

(iii) Maintain a registry of the names and addresses of people certified and issued a permit to practice under this act;

(iv) Retain records and all application materials;

(v) Repealed By Laws 2007, Ch. 184, § 3.

(vi) Issue to each permittee a permit in the size and form as it may approve. The permit shall remain the property of the state, and, upon suspension or revocation of the permit to practice pursuant to this act, shall be returned immediately to the board;

(vii) Require criminal history record background checks on applicants for permits under this act, excluding those who apply for temporary permits.

(b) All fees collected by the board shall be deposited in the state treasury. The state treasurer shall deposit the fees to the credit of the certified real estate appraiser board account. Disbursements from the account shall not exceed the monies credited to it. The real estate commission director shall appropriately authorize payments for all costs and expenses related to the administration and enforcement of this act with approval from the board. All payments shall be made using fees collected pursuant to this act.

(c) The commission may employ employees to assist in the discharge of the duties imposed upon it by this act subject to the rules and regulations of the human resources division of the department of administration and information. All files, records and property of the commission shall at all times remain in the office. No employee of the commission shall be a paid employee of any real estate association or group of real estate dealers, brokers or appraisers.

33-39-107. Standards of professional certified appraisal practice.

Each certified real estate appraiser issued a permit to practice under this act shall comply with the standards of professional appraisal practice and ethical rules specified by the Uniform Standards of Professional Appraisal Practice.

33-39-108. Fees.

Pursuant to W.S. 33-1-201, the board shall establish fees for examinations, original permits, temporary permits, renewals, change of place of business, certifications and change of contractual association. The fees shall be used to pay the expense of maintaining and operating the office of the board and the enforcement of this act.

33-39-109. Permit and temporary permit process.

(a) Any person who desires to engage in the practice of certified real estate appraisal in this state or to practice as a certified appraiser trainee shall make application, in writing, on forms prescribed by the board.

(b) Fees, as fixed by the board, shall accompany all applications for original permits, renewal permits, examinations and other applications authorized under this act.

(c) Each applicant for a certified appraiser trainee, certified residential or general permit shall have reached the age of majority.

(d) An application for a permit under this act shall be accompanied by fingerprints and other information necessary for a criminal history record background check as provided under W.S. 7-19-201, excluding applications for temporary permits.

33-39-110. Classes of permits.

(a) There shall be the following classes of permits for certified real estate appraisers and temporary certified appraisers:

(i) Certified residential real estate appraiser classification shall consist of those persons meeting the requirements for a permit relating to the appraisal of residential real property of one (1) to four (4) units;

(ii) Certified general real estate appraiser classification shall consist of those persons meeting the requirements for a permit relating to the appraisal of all types of real property;

(iii) A certified appraiser trainee is authorized only to assist a certified general or residential appraiser in the performance of an appraisal assignment;

(iv) A temporary certified appraiser is authorized only to act in accordance with the terms of the temporary permit, shall have a predetermined permit expiration and is not required to submit to a background check.

(b) A certified real estate appraiser is authorized to perform only those real estate appraisal assignments that are within the scope of his permit classification.

(c) The appraisal report shall include the signature of the permittee.

(d) The application for the original permit, renewal permit and examination shall specify the classification of the permit being applied for.

33-39-111. Examination requirement.

(a) An original permit as a certified real estate appraiser shall be issued to any person who has demonstrated through a written examination process that he possesses the following:

(i) Knowledge of technical terms used in or related to real estate appraising, appraisal report writing and economic concepts applicable to real estate;

(ii) Understanding of the principles of land economics, real estate appraisal processes and of problems likely to be encountered in gathering, interpreting and processing of data in carrying out appraisal disciplines;

(iii) Understanding the Uniform Standards of Professional Appraisal Practices as adopted by the board;

(iv) Knowledge of theories of depreciation, cost estimating, methods of capitalization and the mathematics of

real estate appraisal that are appropriate for the classification of the permit applied for;

(v) Knowledge of other principles and procedures as may be appropriate for the respective classifications;

(vi) Basic understanding of real estate law; and

(vii) Understanding of the types of misconduct for which disciplinary proceedings may be initiated against certified real estate appraisers, as set forth in this act and regulations promulgated by the board.

33-39-112. Examination prerequisites.

(a) Certified general classification. As a prerequisite to taking the examination for a permit to practice as a certified general real estate appraiser, an applicant shall have successfully completed a minimum number of classroom hours of courses in subjects related to real estate appraisal from a nationally recognized appraisal organization or a college or university as prescribed by the appraisal foundation in rule and approved by the board.

(b) Certified residential classification. As a prerequisite to taking the examination for a permit to practice as a certified residential real estate appraiser, an applicant shall have successfully completed a minimum number of classroom hours of courses in subjects related to real estate appraisal from a nationally recognized appraisal organization or a college or university as prescribed by the appraisal foundation in rule and approved by the board.

(c) Certified appraiser trainee classification. To receive a permit to practice as a certified appraisal trainee, an applicant shall successfully complete a minimum number of classroom hours of education in subjects related to real estate appraisal as prescribed by the appraisal foundation in rule and approved by the board.

(d) Temporary certified appraiser classification. A temporary certified appraiser is only eligible for a temporary permit. To receive a temporary permit to practice as a temporary certified appraiser, an applicant shall be actively certified in a recognized permitting jurisdiction and satisfy all additional requirements prescribed by the appraisal foundation in rule and approved by the board.

33-39-113. Experience requirement.

(a) Certified general classification. An original permit to practice as a certified general real estate appraiser shall not be issued to any person who does not possess the minimum experience criteria as prescribed by the appraisal foundation in rule and approved by the board.

(b) Certified residential classification. An original permit to practice as a certified residential real estate appraiser shall not be issued to any person who does not possess the minimum experience criteria as prescribed by the appraisal foundation in rule and approved by the board.

(c) Each applicant for a permit shall furnish, under oath, a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the board copies of appraisal reports which the applicant has assisted in preparing.

33-39-114. Term of permit.

The term of a permit issued under the authority of this act shall be two (2) years from the date of issuance. The expiration date of the permit shall appear on the permit and no other notice of its expiration need be given to its holder.

33-39-115. Nonresident permit.

(a) Prior to being issued a permit, every nonresident permittee shall file with the board a designation in writing which appoints the director of the board to act as his licensed agent upon whom all judicial and other process or legal notices directed to the permittee may be served. Service upon the agent so designated shall be equivalent to personal service upon the permittee. Copies of the appointment, certified by the director of the board, shall be received in evidence in any proceeding and shall be given the same force and effect as the original. In the written designation the permittee shall agree that any lawful process against the permittee which is served upon his appointed agent shall be of the same legal force and validity as if served upon the permittee, and that the authority of the agent shall continue in force so long as any liability of the permittee remains outstanding in this state. Upon the receipt of any process or notice, the director shall mail a copy of the

same by certified mail, return receipt requested, to the last known business address of the permittee.

(b) No permit shall be issued to a nonresident until he has agreed in writing to abide by all the provisions of this act with respect to his certified real estate appraisal activities within this state and to submit to the jurisdiction of the board and this state as provided in subsection (a) of this section. The agreement shall be filed with the board and shall remain in force for so long as the nonresident holds a permit issued by this state and thereafter with respect to acts or omissions committed while holding a permit in this state as a nonresident permittee.

(c) A nonresident of this state who has complied with the provisions of subsections (a) and (b) of this section may obtain a permit to practice as a certified real estate appraiser by conforming to all of the provisions of this act relating to certified real estate appraisers.

33-39-116. Nonresident permit by reciprocity.

If the board determines that another jurisdiction has substantially equivalent requirements and reciprocity exists between the jurisdictions, an applicant from such other jurisdiction may obtain a permit to practice as a certified real estate appraiser in this state.

33-39-117. Renewal permit.

To obtain a renewal permit to practice as a certified real estate appraiser or certified appraiser trainee, the holder of a current permit shall make application and pay the prescribed fee to the board. With the application for renewal, the certified real estate appraiser or certified appraiser trainee shall present evidence in the form prescribed by the board of having completed the continuing education requirements for renewal as specified in this act.

33-39-118. Basis for denial.

The board may deny a permit as a certified real estate appraiser or certified appraiser trainee to an applicant on any of the grounds enumerated in this act.

33-39-119. Principal place of business; address.

Each certified real estate appraiser or certified appraiser trainee holding a permit to practice under this act shall advise the board of the address of his principal place of business. Whenever a certified real estate appraiser or certified appraiser trainee changes a place of business, he shall within thirty (30) days give written notification of the change to the board, and pay the required change of address fee.

33-39-120. Repealed By Laws 2007, Ch. 184, § 3.

33-39-121. Use of designation.

(a) The term "certified real estate appraiser" shall only be used to refer to individuals who hold permits under this act and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group, or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the permit.

(b) No permit shall be issued under the provisions of this act to a corporation, partnership, firm or group. This subsection shall not be construed to prevent a certified real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm or group practice.

33-39-122. Continuing education.

(a) As a prerequisite to renewal of a permit, a certified real estate appraiser shall present evidence satisfactory to the board of having met the continuing education requirements of this act.

(b) The basic continuing education requirement for renewal of a permit shall be the completion by the applicant, during the immediately preceding term of the permit, of the number of classroom or remote hours of instruction established by board rules consistent with federal requirements in courses or seminars that have received the approval of the board. The courses or seminars that the board approves for continuing education credit shall include one (1) board approved seven (7) hour national USPAP update course.

(c) The board shall adopt regulations for implementation of the provisions of continuing education to assure that persons renewing their permits have current knowledge of real estate appraisal theories, practices and techniques which will provide

a high degree of service and protection to the public. The regulations shall prescribe the following:

(i) Policies and procedures for obtaining board approval of courses of instruction;

(ii) Standards, policies and procedures to be applied by the board in evaluating an applicant's claims of equivalency; and

(iii) Standards, monitoring methods and systems for recording attendance to be employed by course sponsors.

33-39-123. Disciplinary proceedings.

(a) The board shall upon a written sworn complaint or may upon its own motion investigate the actions of any certified real estate appraiser or certified appraiser trainee and may impose an administrative fine not to exceed two thousand five hundred dollars ($2,500.00) for each separate offense, censure the permittee, place the permittee on probation and set the terms of the probation, deny, suspend or revoke any permit issued under this act for any of the following:

(i) Procuring, or attempting to procure, a permit to practice pursuant to this act by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for a permit or through any form of fraud or misrepresentation;

(ii) Being convicted of a felony that relates to the practice of real estate appraisal or to the ability to practice real estate appraisal or any felony sexual offense or violent crime;

(iii) Making any substantial misrepresentation, false promises or false or fraudulent representation;

(iv) Violating any rules or regulations of the board or any provision of this chapter;

(v) Being negligent or incompetent, as defined in the Uniform Standards of Professional Appraisal Practices, in developing an appraisal, in preparing an appraisal report or in communicating an appraisal;

(vi) Accepting an appraisal assignment when the employment is contingent upon the certified appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

(vii) Violating the confidential nature of governmental records to which he or she gained access through employment or engagement as a certified appraiser by a governmental agency;

(viii) Entering into an agreement to perform specialized services for a contingent fee, and failing to clearly state this fact in each written and oral report;

(ix) Failing to report to the board any civil or criminal proceedings in which the permittee is a party, if the proceeding involves appraisal services provided by the permittee. The requirement to report to the board under this paragraph shall include providing the board with a copy of the complaint, information or other initial pleading upon receipt and immediately providing the board with a copy of the final judgment, judgment and sentence, settlement agreement or other document reflecting the terms of the final disposition of the proceeding;

(x) Use of the services of an appraisal management company not registered with the board.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a permit issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the permit in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a permit withheld, suspended or restricted under this subsection.

33-39-124. Hearing.

The hearing on any charge of violation of W.S. 33-39-123 shall be at a time and place prescribed by the board and in accordance with the provisions of the Wyoming Administrative Procedure Act.

33-39-125. Retention of records.

(a) A certified real estate appraiser shall retain, for at least seven (7) years, originals or true copies of all written contracts engaging his services for real estate appraisal work, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports.

(b) The seven (7) year period for retention of records provided by subsection (a) of this section is applicable to each engagement of the services of the appraiser and shall commence upon the date of the submittal of the appraisal to the client unless, within the seven (7) year period, the appraiser is notified that the appraisal or report is involved in litigation, in which event the seven (7) year period for the retention of records shall commence upon the date of the final disposition of the litigation.

(c) All records required to be maintained under the provisions of this act shall be made available by the certified real estate appraiser for inspection and copying by the board on reasonable notice to the appraiser.

33-39-126. Certified real estate appraiser education account created; initial monies; fees.

(a) There is created a certified real estate appraiser education account which shall be under the direction of the board.

(b) Every person obtaining or renewing a certified appraiser trainee or certified real estate appraiser's permit shall pay an additional fee of twenty dollars ($20.00) which shall be deposited in the certified appraiser education account.

(c) All civil penalties levied under this act shall be collected, paid to the state treasurer and credited as provided in W.S. 8-1-109.

(d) When the certified appraiser education account balance exceeds fifty thousand dollars ($50,000.00) the board shall not collect annual fees under this section.

(e) The board may use the funds in the education account for the purposes of raising the standards of practice and the competency of permittees by:

(i) Promoting the advancement of education and research for the benefit of those issued permits under this act;

(ii) Underwriting educational seminars and all other similar forms of educational projects for the benefit of permittees; and

(iii) Contracting for particular education or research projects to further the purposes of this section.

33-39-127. Enjoining violations of chapter.

(a) Any person who violates or proposes to violate any provisions of this act, or any rules and regulations promulgated under this act, may be restrained or enjoined from the action at any time by an order issued by the district court. An action may be initiated by the attorney general or the district attorney for the county in which the violation has or is about to occur.

(b) Any defendant so enjoined who violates an injunction shall be punished for contempt of court by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for not more than six (6) months or both.

33-39-128. Contested cases; independent hearing officers; appeals.

(a) The board may contract with independent hearing officers to hear all contested cases arising under this act. The hearing officer shall not be an employee of the office of the attorney general, or an employee or member of the board.

(b) All hearings shall be conducted pursuant to the Wyoming Administrative Procedure Act. A hearing officer has the power specified in W.S. 16-3-112(b). The hearing officer shall make in each contested case and forward to the board written findings of fact and conclusions of law.

(c) Any judicial review of the administrative decision under the Wyoming Administrative Procedure Act may be in the district court in the county where the violation allegedly occurred.

33-39-129. Penalties.

(a) Any person acting or purporting to act as a certified real estate appraiser without first obtaining a permit to practice under this act is guilty of a misdemeanor and upon

conviction shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for a term not to exceed six (6) months or both. Upon conviction of a subsequent violation the person shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment in the county jail for a term not to exceed one (1) year or both. Charges may be initiated by the office of the attorney general with the board as the complainant.

(b) If any person receives any money or the equivalent thereof as a fee, commission, compensation or profit by or in consequence of a violation of any provision of this act, he shall, in addition, be liable to a penalty of not less than the amount of the sum of money so received and not more than three (3) times the sum so received as may be determined by the court, which penalty may be recovered in a court of competent jurisdiction by any person aggrieved.

33-39-130. Noncertified person may not maintain action for fee.

No action or suit shall be instituted, nor recovery be had, in any court of this state by any person for compensation for any act done or service rendered as a certified real estate appraiser, unless the person held a permit to practice under this act at the time of offering to perform any act or service as a certified real estate appraiser or procuring any promise to contract for the payment of compensation for any contemplated act or service as a certified real estate appraiser.

ARTICLE 2 - APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT

33-39-201. Short title.

This article shall be known as the "Wyoming Appraisal Management Company Registration and Regulation Act."

33-39-202. Definitions.

(a) As used in this article:

(i) "Appraisal" or "real estate appraisal" means as defined in W.S. 33-39-102(a)(i);

(ii) "Appraisal firm" means a corporation, limited liability company, sole proprietorship or other entity that performs appraisal services and is one hundred percent (100%) owned and controlled by a person or persons certified as an appraiser in this state;

(iii) "Appraisal management company" means, in connection with valuing properties collateralizing loans or mortgages incorporated in a securitization, an external third party authorized either by a creditor of a consumer credit transaction secured by real estate or by an underwriter of or other principal in the secondary mortgage markets that directly or indirectly performs appraisal management services;

(iv) "Appraisal management service" means to directly or indirectly perform any of the following acts:

(A) Administering an appraisal panel;

(B) Recruiting, retaining or selecting an appraiser to perform an appraisal for a third party client;

(C) Contracting with an appraiser to perform an appraisal assignment for a third party client;

(D) Providing a completed appraisal performed by an appraiser to one (1) or more third party clients; or

(E) Managing the process of having an appraisal performed, including:

(I) Receiving and assigning appraisal orders and reports;

(II) Tracking and determining the status of orders for appraisals;

(III) Conducting quality control of a completed appraisal before delivery of the appraisal to the person who ordered the appraisal;

(IV) Collecting fees from creditors and underwriters for services provided; or

(V) Compensating appraisers for services performed.

(v) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value or compliance with the Uniform Standards of Professional Appraisal Practice. "Appraisal review" does not include:

(A) A general examination for grammatical, typographical or other similar errors; or

(B) A general examination for completeness including regulatory or client requirements as specified in the agreement process that do not communicate an opinion.

(vi) "Appraiser" means a person who holds a certification as an appraiser in this state in compliance with W.S. 33-39-101 through 33-39-130;

(vii) "Appraiser panel" means a group of independent appraisers selected by an appraisal management company to perform real estate appraisal services for the appraisal management company;

(viii) "Board" means the Wyoming certified real estate appraiser board;

(ix) "Client" means any person or entity that contracts with, or otherwise enters into an agreement with, an appraisal management company for the performance of appraisal management services and real estate appraisal services;

(x) "Contact person" means:

(A) The owner of more than a ten percent (10%) interest of, or an officer or director of a corporation, partnership or other business entity seeking to offer appraisal management services in this state;

(B) An individual employed, appointed or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal management services and has the authority to enter into agreements with independent appraisers for the performance of real estate appraisal services; or

(C) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(xi) "In good standing" means maintaining an active certification in this state pursuant to the Certified Real Estate Appraiser Act, which certification is not subject to any disciplinary or probationary restrictions;

(xii) "Real estate appraisal services" means the practice of developing a supportable opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate;

(xiii) "Uniform standards for professional appraisal practice" means as defined in W.S. 33-39-102(a)(xvi);

(xiv) "Adverse action" means the refusal, denial, cancellation, suspension, revocation or surrender in lieu of revocation of a license or certificate to practice as an appraiser.

33-39-203. Registration required.

(a) No person shall engage in the business or act in the capacity of an appraisal management company regarding property located in this state without an active Wyoming registration unless exempted from this article. Any person who engages in the business or acts in the capacity of an appraisal management company regarding property located in this state has thereby submitted to the jurisdiction of the state of Wyoming and to the administrative jurisdiction of the board, and shall be subject to all penalties and remedies available under Wyoming law for any violation of this chapter.

(b) It is unlawful for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company regarding property located in this state without first obtaining a registration issued by the board under the provisions of this article, regardless of the entity's use of the term "appraisal management company", "mortgage technology company" or any other name.

(c) The registration application required by subsection (a) of this section shall, at a minimum, include the following information:

(i) The name, business address and phone contact information of the person seeking registration;

(ii) If the person is not domiciled in this state, the name and contact information for the person's agent for service of process in this state;

(iii) The name, address and contact information for any individual or any corporation, partnership or other business entity that owns ten percent (10%) or more of the appraisal management company;

(iv) The name, address and contact information for the designated contact person;

(v) A certification that the appraisal management company complies with this article;

(vi) Any other information reasonably required by the board for the registration required by subsection (a) of this section; and

(vii) Evidence of a surety bond with one (1) or more corporate sureties authorized to do business in this state or an irrevocable letter of credit issued by an insured institution in the amount of twenty-five thousand dollars ($25,000.00), subject to the following:

(A) The surety bond or letter of credit required under this paragraph shall be conditioned that the applicant pays:

(I) All amounts owing to persons who perform real estate appraisal services for the appraisal management company; and

(II) All amounts adjudged against the appraisal management company by reason of negligent or improper real estate appraisal services or appraisal management services or breach of contract in performing real estate appraisal services or appraisal management services.

(B) The surety bond or letter of credit shall require the surety company to provide written notice to the board by registered or certified mail at least thirty (30) days before the surety company cancels or revokes the bond, and within thirty (30) days after the surety company pays for a loss under the bond;

(C) The surety bond or letter of credit required by this section shall be continuously on file with the board in the amount of twenty-five thousand dollars ($25,000.00) and is for the exclusive purpose of payment of the obligations listed in subparagraph (A) of this section. Upon termination or cancellation of the bond or reduction of the bond or letter of credit to less than twenty-five thousand dollars ($25,000.00), a registered appraisal management company shall:

(I) File a replacement bond or letter of credit within the time period established by the board by rule; or

(II) Surrender the company's registration to the board and cease operating as an appraisal management company.

(D) Any person damaged by an appraisal management company's failure to pay an obligation listed in subparagraph (A) of this section has a right of action against the bond. An action against the bond shall be commenced in a court of competent jurisdiction within one (1) year after the appraisal management company fails to pay the amount owing or the amount adjudged against the appraisal management company;

(E) Termination or cancellation of the surety bond or letter of credit required by this section shall not terminate, cancel or limit the liability of the issuer of the surety bond or letter of credit for any and all claims against the surety bond or letter of credit to satisfy a final order of a court of competent jurisdiction in an action that was commenced prior to the cancellation of the surety bond or letter of credit.

33-39-204. Exemptions.

(a) This article shall not apply to:

(i) Any person that exclusively employs persons on an employer and employee basis for the performance of real estate

appraisal services in the normal course of its business and the employer is responsible for ensuring that the real estate appraisal services being performed by its employees are being performed in accordance with Uniform Standards of Professional Appraisal Practices;

(ii) A department or unit within a financial institution that is regulated by a federal financial institution regulatory agency, or is regulated by an agency of this state, that receives a request for the performance of an appraisal from one (1) employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser who is an independent contractor to the institution;

(iii) An appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency;

(iv) Any independent contractor appraiser who in the normal course of business enters into an agreement, whether written or otherwise, with another independent contractor appraiser for the performance of real estate appraisal services that the hiring or contracting appraiser cannot complete for any reason, including but not limited to competency, work load, schedule or geographic location;

(v) An appraisal firm as defined in this article;

(vi) Attorneys, certified public accountants, financial advisors, insurance agents, real estate brokers and agents or other professionals who request an appraisal of the client's property on behalf of the client.

33-39-205. Forms.

An applicant for registration as an appraisal management company in this state shall submit to the board an application on a form as prescribed by the board.

33-39-206. Expiration of registration.

A registration granted by the board pursuant to this article shall be valid for one (1) year from the date on which it is issued.

33-39-207. Consent to service of process.

Each entity applying for registration as an appraisal management company in this state shall complete an irrevocable "uniform consent to service of process" as prescribed by the board.

33-39-208. Fees.

Pursuant to W.S. 33-1-201, the board shall establish fees for original registrations, renewals and certifications. The fees shall be used to pay the expense of maintaining and operating the office of the board and the enforcement of this article.

33-39-209. Owner requirements.

(a) No appraisal management company shall be eligible for registration in this state if the company, in whole or in part, directly or indirectly, is owned by any person who has had an adverse action in any jurisdiction for a substantive cause as determined by the board. If a person has had an adverse action, but the person certifies to the board that the adverse action was for other than a substantive cause and that the person's license or certificate has been issued or reinstated, as applicable, this subsection shall not apply.

(b) Each person who owns more than ten percent (10%) of an appraisal management company performing appraisal management services regarding real estate located in this state shall:

(i) Have not been convicted of or pleaded guilty or nolo contendere to any felony involving theft, dishonesty or breach of trust;

(ii) Submit fingerprints and other information necessary for a criminal history record background check as provided under W.S. 7-19-201; and

(iii) Certify to the board that:

(A) The person has never had an adverse action in this state or in any other jurisdiction; or

(B) The adverse action was for other than a substantive cause and the person's license or certificate has been issued or reinstated, as applicable, by the state or states in which the appraiser was licensed or certified.

33-39-210. Designated contact person.

Each appraisal management company applying to the board for registration in this state shall designate one (1) contact person who will be the main contact for all communication between the board and the appraisal management company.

33-39-211. Designated contact person; requirements.

(a) In order to serve as a contact person of an appraisal management company, a person shall:

(i) Certify to the board that:

(A) The person has never had an adverse action in this state or in any other jurisdiction; or

(B) The adverse action was for other than a substantive cause and the person's license or certificate has been issued or reinstated, as applicable, by the state or states in which the appraiser was licensed or certified.

(ii) Have not been convicted of or pleaded guilty or nolo contendere to any felony involving theft, dishonesty or breach of trust; and

(iii) Submit fingerprints and other information necessary for a criminal history record background check as provided under W.S. 7-19-201.

33-39-212. Employee requirements.

(a) Any employee of the appraisal management company, or any person working on behalf of the appraisal management company, who has the responsibility of selecting independent appraisers for the performance of real estate appraisal services for the appraisal management company shall receive appropriate training concerning the application of the Uniform Standards of Professional Appraisal Practice.

(b) Any employee of or any person working on behalf of the appraisal management company that performs an appraisal review of an appraisal of a parcel of real property in this state shall hold a valid appraiser certificate in this state.

33-39-213. Limitations.

An appraisal management company registered in this state pursuant to this article shall not enter into any contract or agreement with an independent appraiser for the performance of real estate appraisal services unless the appraiser holds an appraiser certificate in good standing.

33-39-214. Pre-engagement certification.

Each appraisal management company seeking to be registered or renew a registration in this state shall certify to the board on an annual basis on a form prescribed by the board that the appraisal management company has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds an appraiser certificate in good standing.

33-39-215. Adherence to standards.

(a) Each appraisal management company shall certify to the board on an annual basis that:

(i) It has a system in place to review the work of all independent appraisers who are performing real estate appraisal services for the appraisal management company on a periodic basis to verify that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice; and

(ii) It requires all appraisers to have required competency to perform real estate appraisal services as provided in the applicable edition of the Uniform Standards of Professional Appraisal Practice for the appraisal being assigned.

33-39-216. Recordkeeping.

Each appraisal management company shall certify to the board on an annual basis that it maintains a detailed record of each service request it receives and the name of the independent appraiser who performs the real estate appraisal services for the appraisal management company for a period of five (5) years from the final appraisal submission to the client, or two (2) years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

33-39-217. Registration number.

(a) The board shall issue a unique registration number to each appraisal management company registered in this state pursuant to this article.

(b) The board shall maintain and publish a list of the appraisal management companies registered in this state and the registration numbers assigned to each company.

(c) An appraisal management company registered in this state shall disclose the registration number provided to it by the board on the engagement documents presented to an appraiser.

33-39-218. Appraiser independence; prohibitions.

(a) It shall be unlawful for any employee, director, officer or agent of an appraisal management company registered in this state to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or in any other manner, including but not limited to:

(i) Withholding or threatening to withhold timely payment for an appraisal, except in cases of breach of contract or substandard performance of services;

(ii) Withholding or threatening to withhold future business for an independent appraiser or demoting or terminating or threatening to demote or terminate an independent appraiser;

(iii) Expressly or impliedly promising future business, promotions or increased compensation for an independent appraiser;

(iv) Conditioning the request for an appraisal service or the payment of an appraisal fee or salary or bonus on the opinion, conclusion or valuation to be reached, or on a preliminary estimate or opinion requested from an independent appraiser;

(v) Requesting that an independent appraiser provide an estimated, predetermined or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the independent appraiser's completion of an appraisal service;

(vi) Providing to an independent appraiser an anticipated, estimated, encouraged or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;

(vii) Providing to an independent appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits.

(b) It shall be unlawful for an appraisal management company to:

(i) Allow the removal of an independent appraiser from an appraiser panel, without prior written notice to the appraiser;

(ii) Obtain, use or pay for a second or subsequent appraisal or order an automated valuation model in connection with a mortgage financing transaction unless:

(A) The action is required by law;

(B) There is a reasonable basis to believe that the initial appraisal was flawed or tainted and the basis is clearly and appropriately noted in the loan file; or

(C) The appraisal or automated valuation model is done pursuant to a bona fide prefunding or post-funding appraisal review or quality control process.

(iii) Require an appraiser to prepare an appraisal if the appraiser, in the judgment of the appraiser, does not have the necessary expertise for the specific geographic area and the appraiser has notified the company of this belief and declined the assignment;

(iv) Require an appraiser to prepare an appraisal under a schedule that the appraiser, in the judgment of the appraiser, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations if the appraiser has notified the company of this belief and declined the assignment;

(v) Use, obtain or request the digital signature or seal of the appraiser;

(vi) Alter, modify or otherwise change any aspect of an appraisal report without the agreement of the appraiser that the modification is appropriate unless required by applicable law;

(vii) Engage in any act or practice that does not comply with the Uniform Standards of Professional Appraisal Practice or any assignment conditions and certifications required by the client;

(viii) Engage in any other act or practice that impairs or attempts to impair the independence, objectivity or impartiality of an appraiser;

(ix) Require an appraiser to enter into an agreement to not serve on the panel of another appraisal management company;

(x) Require an appraiser to indemnify or hold harmless the appraisal management company against liability other than those liabilities, damages, losses or claims arising out of the services performed by the appraiser, including performance or nonperformance of the appraiser's duties and obligations, whether as a result of negligence or willful conduct.

(c) Nothing in subsection (a) or (b) of this section shall be construed as prohibiting the appraisal management company from requesting that an independent appraiser:

(i) Provide additional information about the basis for a valuation;

(ii) Correct objective factual errors in an appraisal report; or

(iii) Consider additional appropriate property information.

33-39-219. Compensation of appraisers.

An appraisal management company shall have a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under Section 129E of the Truth In Lending Act, 16 U.S.C. 1601 et seq., or subsequent similar federal enactment, including the requirement

that fee appraisers be compensated at a customary and reasonable rate, consistent with presumptions of compliance under federal law, when the appraisal management company is providing services for a consumer credit transaction secured by real estate.

33-39-220. Statement of fees.

(a) In reporting to a client, an appraisal management company shall separately state the fees:

(i) Paid to an appraiser for the completion of an appraisal service; and

(ii) Charged by the appraisal management company for appraisal management services.

(b) An appraisal management company shall not:

(i) Prohibit an appraiser from recording the fee that the appraiser was paid by the appraisal management company for completing the appraisal service in the body of the report that is submitted by the appraiser to the appraisal management company; or

(ii) Include any fees for appraisal management services performed by the appraisal management company in the amount the company reports as charges for the actual completion of an appraisal service by an appraiser.

33-39-221. Mandatory reporting.

An appraisal management company that has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, in a manner that materially affects the value conclusion contained in an appraisal report, shall file a complaint with the board pursuant to W.S. 33-39-123.

33-39-222. Requirement for payment.

An appraisal management company shall, except in cases of breach of contract or substandard performance of services, make payment to an independent appraiser for the completion of an appraisal or valuation assignment within sixty (60) days of the date on which the independent appraiser transmits or otherwise provides the appraisal or valuation study to the appraisal management

company or its assignee unless a mutually agreed upon alternate arrangement has been previously established.

33-39-223. Notification of dismissal.

An appraisal management company shall not remove an appraiser from its appraiser panel or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without notifying the appraiser in writing of the reasons for the action.

33-39-224. Disciplinary proceedings.

(a) The board shall upon a written sworn complaint or may upon its own motion investigate the actions of any appraisal management company and may impose an administrative fine not to exceed two thousand five hundred dollars ($2,500.00) for each separate violation, censure the company, place the company on probation and set the terms of the probation, deny, suspend or revoke any registration issued under this article for any of the following:

(i) Procuring, or attempting to procure, a registration pursuant to this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for a registration or through any form of fraud or misrepresentation;

(ii) Being convicted of a felony, but this discipline shall be limited to probation, suspension or revocation of a registration;

(iii) Making any substantial misrepresentation, false promises or false or fraudulent representation;

(iv) Violating any provision of this chapter or rule or regulation of the board;

(v) Being negligent or incompetent, as defined in the Uniform Standards of Professional Appraisal Practice, in reviewing an appraisal, in preparing an appraisal report or in communicating an appraisal report.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a registration issued by the board, the

board shall notify the party named in the court order of the withholding, suspension or restriction of the registration in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a registration withheld, suspended or restricted under this subsection.

(c) The board may assess to a registered appraisal management company, an applicant for registration as an appraisal management company, or an unregistered appraisal management company performing appraisal management services in this state all or part of the actual expenses of a contested case proceeding resulting in the discipline or censure of the registrant, suspension or revocation of the registrant's certificate of registration, the denial of a certificate of registration to the applicant or the discipline or censure of an unregistered appraisal management company performing appraisal management services in this state.

33-39-225. Hearing.

The hearing on any charge of violation of W.S. 33-39-224 shall be at a time and place prescribed by the board and in accordance with the provisions of the Wyoming Administrative Procedure Act.

CHAPTER 40 - OCCUPATIONAL THERAPY PRACTICE

ARTICLE 1 - IN GENERAL

33-40-101. Short title.

This act is the "Occupational Therapy Practice Act".

33-40-102. Definitions.

(a) As used in this act:

(i) "Board" means the board of occupational therapy within the department of administration and information established by W.S. 33-40-114;

(ii) "Occupational therapy assistant" or "OTA" means a person licensed under this act to assist in the practice of occupational therapy and who works under the supervision of an occupational therapist to perform tasks requiring occupational therapy professional knowledge or judgment;

(iii) "Occupational therapy" means:

(A) Repealed by Laws 2016, ch. 104, § 2.

(B) Repealed by Laws 2016, ch. 104, § 2.

(C) Repealed by Laws 2016, ch. 104, § 2.

(D) Repealed by Laws 2016, ch. 104, § 2.

(E) Repealed by Laws 2016, ch. 104, § 2.

(F) Repealed by Laws 2016, ch. 104, § 2.

(G) Repealed by Laws 2016, ch. 104, § 2.

(H) Repealed by Laws 2016, ch. 104, § 2.

(J) The therapeutic use of occupations including everyday life activities with individuals, groups, populations or organizations to support participation, performance and function in roles and situations in home, school, workplace, community and other settings;

(K) The provision of services for habilitation, rehabilitation and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation or participation restriction;

(M) Addressing the physical, cognitive, psychosocial, sensory-perceptual and other aspects of performance in a variety of contexts and environments to support engagement in occupations, contexts and environments that affect physical and mental health, well-being and quality of life;

(N) Performing the tasks of occupational therapy through personal interaction or appropriate use of telecommunication services and other communication technologies;

(O) Performing the tasks of an occupational therapist or occupational therapy assistant commensurate with his education, training and experience;

(P) The practice of occupational therapy which includes:

(I) The evaluation of factors affecting activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure and social participation;

(II) The use of methods or approaches to direct the process of interventions; and

(III) The use of interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure and social participation.

(iv) "Occupational therapist" means a person licensed to practice occupational therapy under this act;

(v) "Occupational therapy telehealth" means the provision of occupational therapy services across a distance, using telecommunications technology for the evaluation, intervention or consultation without requiring the occupational therapist and recipient to be physically located in the same place;

(vi) "Unprofessional conduct" means:

(A) Committing any act involving a patient or which adversely relates to the practice of occupational therapy which results in a felony or misdemeanor conviction. A plea of guilty, nolo contendere or similar plea shall be considered a conviction;

(B) Violating professional sexual boundaries by soliciting, encouraging, threatening, forcing or engaging in any sexual act or relationship with a patient, regardless of consent. A consensual sexual act or relationship shall not be deemed unprofessional conduct if the patient licensee relationship is terminated prior to the sexual act or relationship or if the sexual act or relationship occurs prior to any patient licensee relationship. The treatment of a spouse or significant other where the relationship is in place prior to the beginning of any patient licensee relationship shall not be unprofessional conduct if treatment is conducted without third party compensation;

(C) Sexual harassment of a patient or staff member;

(D) Suffering from an active substance abuse disorder that affects the occupational therapist's ability to perform as an occupational therapist;

(E) Denial of a license to practice occupational therapy or any disciplinary action against a licensee by any other state, the District of Columbia, territory or country for an action constituting unprofessional conduct in Wyoming;

(F) Failure to report to the board known or reasonably suspected violations of the laws and regulations governing the practice of occupational therapy in Wyoming;

(G) Submission of false information to the board;

(H) Failure to notify the board within thirty (30) days of a malpractice final judgment or settlement involving the occupational therapist;

(J) Aiding or abetting the practice of occupational therapy in violation of W.S. 33-40-103 by any person not licensed to practice in Wyoming;

(K) Submission of false or materially misleading billing information;

(M) Using any term other than "occupational therapist, registered," "occupational therapist," "OT," "certified occupational therapist," "COTA," "occupational therapy assistant" or "OTA" to reflect licensure;

(N) Employing, either directly or indirectly, any licensee under suspension or revocation, except as may be authorized by the board, or any person not licensed to practice occupational therapy to perform any task requiring licensure except that an unlicensed person may be employed to perform tasks under supervision not requiring occupational therapy professional knowledge or judgment;

(O) Accepting payment for any part of professional services delivered as a volunteer;

(P) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(Q) Violating any lawful order, rule or regulation adopted by the board;

(R) Violating any provision of this act.

(vii) "This act" means W.S. 33-40-101 through 33-40-115.

33-40-103. License required.

(a) No person shall hold himself out as an occupational therapist, an occupational therapy assistant or as being able to practice occupational therapy in Wyoming unless he is licensed under this act or is otherwise authorized under the Occupational Therapy Licensure Compact under W.S. 33-40-202 through 33-40-216. An unlicensed person holding himself out as an occupational therapist or occupational therapist assistant by using additional or modifying words in his title, printed materials, advertisements or otherwise shall be deemed to be holding himself out as an occupational therapist or occupational therapist assistant.

(b) Repealed by Laws 2016, ch. 104, § 2.

(c) Only an individual may be licensed under this act and no entity, either private or governmental, shall hold itself out as providing occupational therapy to any person unless all individuals providing occupational therapy are licensed under this act.

33-40-104. Persons and practices not affected.

(a) Nothing in this act shall be construed as preventing or restricting the practice, services or activities of:

(i) Any person solely employed as an occupational therapist or occupational therapy assistant by any agency of the United States government;

(ii) Any person pursuing a degree or certificate in occupational therapy at an accredited or board approved program when the person is designated by title clearly indicating his status as a student or trainee;

(iii) Any person engaged in the supervised fieldwork to complete the necessary educational requirements of W.S. 33-40-106;

(iv) Any person performing occupational therapy or acting as an occupational therapy assistant for no more than twenty (20) days in a calendar year for the purpose of educating students or providing continuing education to persons licensed under this act if:

(A) The person is licensed or regulated under the law of another state which has licensure or regulatory requirements at least as stringent as the requirements of this act;

(B) Repealed by Laws 2016, ch. 104, § 2.

33-40-105. Repealed by Laws 2016, ch. 104, § 2.

33-40-106. Requirements for licensure; continuing education.

(a) An applicant applying for a license as an occupational therapist or occupational therapy assistant under this act, shall file a specified written application showing to the satisfaction of the board that the applicant:

(i) Has a good reputation for honesty, trustworthiness and competence in all matters relevant to practicing the profession of occupational therapy;

(ii) Has successfully completed the academic requirements in occupational therapy in an approved program that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE) or a successor organization as established in rule and approved by the licensure board;

(iii) Has successfully completed a period of supervised fieldwork experience required by the recognized educational institution where the applicant met the academic requirements described in paragraph (ii) of this subsection; and

(iv) Has passed a national certification examination as provided in W.S. 33-40-107.

(b) The board may establish continuing education requirements for an active license provided that:

(i) The requirement shall not be more than sixteen (16) contact hours of continuing education per year; and

(ii) Continuing education taken any time in the three (3) years preceding the annual license renewal may be counted toward fulfilling the requirement but it shall not be counted more than once.

(iii) Repealed by Laws 2016, ch. 104, § 2.

(iv) Repealed By Laws 2011, Ch. 129, § 202.

33-40-107. Examination for license of occupational therapists and occupational therapy assistants.

(a) Repealed by Laws 2016, ch. 104, § 2.

(b) Each applicant for licensure under this act, shall be given a written examination on the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods to determine the applicant's fitness to practice. The board shall designate the examination for occupational therapists and the examination for occupational therapy assistants and shall establish standards for acceptable performance.

(c) Examination shall be conducted as specified by the board not less than two (2) times each year.

33-40-108. Waiver of requirements; temporary licenses.

(a) The board shall grant a license under this act, to any person certified prior to July 1, 1992 as an occupational therapist registered (OTR) or as a certified occupational therapy assistant (COTA) by the American occupational therapy certification board (AOTCB).

(b) Repealed by Laws 2016, ch. 104, § 2.

(c) The board may establish provisions for a temporary license under this act so an applicant may practice occupational therapy without supervision or act as an occupational therapy assistant with supervision during processing of the license application.

(d) The board may establish provisions for a limited license to practice occupational therapy under supervision or

act as an occupational therapy assistant with supervision to applicants under this act who are waiting to take the national certification examination or who are awaiting scores.

33-40-109. Issuance of license or compact privilege.

The board shall issue a license to any individual who meets the requirements of this act or shall issue a compact privilege to any individual who meets the requirements of the Occupational Therapy Licensure Compact under W.S. 33-40-202 through 33-40-216, upon payment of the prescribed fee.

33-40-110. Renewal of license; reentry.

(a) Any license issued under this act shall be subject to annual renewal as provided by the board, however no late renewal of a license may be granted more than one (1) year after its expiration.

(b) Repealed by Laws 2016, ch. 104, § 2.

(c) Repealed by Laws 2016, ch. 104, § 2.

(d) Repealed by Laws 2016, ch. 104, § 2.

(e) Repealed by Laws 2016, ch. 104, § 2.

(f) The board shall establish by rule reentry procedures for the licensure of persons under this act who have previously practiced as an occupational therapist or occupational therapy assistant for not less than one (1) year, but who do not qualify for renewal of their license under subsection (a) of this section. The board's rules may:

(i) Require completion of continuing education not to exceed the cumulative total requirement for a licensed occupational therapist or occupational therapist assistant for three (3) years;

(ii) Require completion of a review course approved by the board which shall not be more than thirty (30) days in duration;

(iii) Require practice under the supervision of a licensed occupational therapist or occupational therapy assistant for a period of not more than two (2) years;

(iv) For a period of not more than two (2) years or until specified training is received, restrict a person from practicing or practicing without supervision specific areas within the practice of occupational therapy which areas have significantly changed or been added to the practice;

(v) Establish guidelines for the length of time the requirements stated in paragraphs (i) through (iv) of this subsection are imposed based on the length of time a person has not engaged in the practice of occupational therapy, the person's prior experience, the area of practice in which the person intends to engage and other relevant factors.

33-40-111. Foreign trained applicants; applicants from other states and territories.

(a) Occupational therapists and occupational therapy assistants trained outside of the United States and its possessions shall satisfy the examination requirements of W.S. 33-40-107 to be licensed under this act. The board shall require these applicants to meet the standards established in W.S. 33-40-106.

(b) The board shall, to the extent necessary, waive examination, education, and continuing education requirements and grant a license under this act to any applicant who presents proof of current licensure or regulation as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or territory of the United States whose standards for licensure or regulation include passage of the examination required for licensure under this act and who has not been disciplined in the other jurisdiction for unprofessional conduct or a similar offense. The board may grant licensure to an applicant who has been disciplined for unprofessional conduct if in the board's judgment the unprofessional conduct was sufficiently minor, has been rectified or is sufficiently in the past so as not to present a risk to the welfare or safety of Wyoming patients.

33-40-112. Fees.

The board, pursuant to W.S. 33-1-201, shall prescribe fees for implementing this act.

33-40-113. Suspension and revocation of license; refusal to renew.

(a) In accordance with this act and after the hearing authorized by subsection (b) of this section, the board may deny a license or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions if the licensee or the applicant for a license has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct shall mean the conduct defined in W.S. 33-40-102(a)(vi).

(i) Repealed by Laws 2016, ch. 104, § 2.

(ii) Repealed by Laws 2016, ch. 104, § 2.

(iii) Repealed by Laws 2016, ch. 104, § 2.

(iv) Repealed by Laws 2016, ch. 104, § 2.

(v) Repealed by Laws 2016, ch. 104, § 2.

(vi) Repealed by Laws 2016, ch. 104, § 2.

(b) A denial, refusal to renew, suspension, revocation or imposition of probationary conditions upon a license may be ordered by the board under this act after a hearing in the manner provided by the rules and regulations adopted by the board. An application for reinstatement may be made to the board one (1) year after the date of the revocation of a license. The board may accept or reject an application for reinstatement and may hold a hearing to consider the reinstatement. Any person aggrieved by any final action of the board may appeal to the district court under the provisions of the Wyoming Administrative Procedure Act, W.S. 16-3-101 through 16-3-115.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board under this act, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-40-114. Board of occupational therapy practice; established; compensation.

(a) There is established a board of occupational therapy within the department of administration and information. The

board shall consist of five (5) members appointed by the governor, who are residents of Wyoming. Three (3) board members shall be occupational therapists who have been engaged in providing occupational therapy services to the public, teaching or research in occupational therapy for at least five (5) years immediately preceding their appointments. One (1) board member shall be an occupational therapy assistant who shall have been engaged in providing occupational therapy services to the public, teaching or research in occupational therapy for at least five (5) years immediately preceding his appointment. An occupational therapist may be appointed to this position if no occupational therapy assistant is available and willing to serve. These four (4) members shall at all times be holders of valid licenses under this act. The remaining member shall be a member of the public with an interest in the rights of the consumers of health services.

(b) Appointments to the board of occupational therapy shall be for three (3) year terms. No person shall serve more than two (2) consecutive terms. Terms shall begin on the first day of the fiscal year and end on the last day of the fiscal year or until successors are appointed. Vacancies in the membership of the board shall be filled for the unexpired term by the governor. The governor may remove any board member as provided by W.S. 9-1-202.

(c) The board shall meet not less than two (2) times during each fiscal year and shall select a chairman at the first meeting. Other meetings may be convened at the call of the chairman or the written request of any two (2) board members. A majority of the members of the board shall constitute a quorum for all purposes. All meetings of the board shall be governed in accordance with W.S. 16-4-403. In addition the board may hold closed sessions:

(i) Repealed by Laws 2016, ch. 104, § 2.

(ii) Repealed by Laws 2016, ch. 104, § 2.

(iii) To consider allegations or investigations of possible unprofessional conduct as defined by W.S. 33-40-102(a)(vi).

(d) Members of the board shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii).

33-40-115. Board of occupational therapy practice; powers and duties.

(a) The board shall administer the provisions of this act and the Occupational Therapy Licensure Compact under W.S. 33-40-202 through 33-40-216, and may investigate allegations of practices violating the provisions of this act or of the compact.

(b) The board shall establish rules and regulations according to the Wyoming Administrative Procedure Act to carry out the purpose of this act, including establishing rules for professional conduct, for professional licensure and to establish ethical standards of practice for persons licensed to practice occupational therapy in Wyoming.

(c) The board may delegate its authority to issue temporary and limited licenses pursuant to W.S. 33-40-108 to the executive secretary of the board. The board may limit the delegation or set forth any criteria for exercising the delegation as it deems appropriate.

(d) The board may, with the approval and assistance of the attorney general, petition the district court in the name of the state of Wyoming to enjoin:

(i) Any person from continuing to violate W.S. 33-40-103 or section 4 of the Occupational Therapy Licensure Compact under W.S. 33-40-206;

(ii) Any person or other entity from advertising or claiming to provide occupational therapy services in this state when the services are not or will not be provided by a person licensed under this act or is otherwise authorized under the Occupational Therapy Licensure Compact under W.S. 33-40-202 through 33-40-216.

33-40-116. Board of occupational therapy practices employees; funds.

The board shall appoint or contract an executive secretary and other individuals deemed necessary to administer the affairs of the board and shall furnish necessary support and clerical services. Costs related to these services shall be paid from the funds of the Wyoming board of occupational therapy.

33-40-117. Penalties.

Any person who violates any provision of W.S. 33-40-103 is guilty of a misdemeanor punishable by imprisonment of not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

ARTICLE 2 - OCCUPATIONAL THERAPY LICENSURE COMPACT

33-40-201. Short title.

This article shall be known and may be cited as the "Occupational Therapy Licensure Compact."

33-40-202. Compact approved and ratified.

The Occupational Therapy Licensure Compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as provided in W.S. 33-40-202 through 33-40-216.

33-40-203. [SECTION 1] Purpose.

(a) The purpose of this compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient or client is located at the time of the patient or client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:

(i) Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;

(ii) Enhance the states' ability to protect the public's health and safety;

(iii) Encourage the cooperation of member states in regulating multi-state occupational therapy practice;

(iv) Support spouses of relocating military members;

(v) Enhance the exchange of licensure, investigative, and disciplinary information between member states;

(vi) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

(vii) Facilitate the use of telehealth technology in order to increase access to occupational therapy services.

33-40-204. [SECTION 2] Definitions.

(a) As used in this compact, and except as otherwise provided, the following definitions shall apply:

(i) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C. Chapter 1211;

(ii) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against an individual's license or compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee or restriction on the licensee's practice;

(iii) "Alternative program" means a non-disciplinary monitoring process approved by an occupational therapy licensing board;

(iv) "Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient or client is located at the time of the patient or client encounter;

(v) "Continuing competence" or "continuing education" means a requirement, as a condition of license renewal, to provide evidence of completion of educational and professional activities relevant to practice or area of work;

(vi) "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction;

(vii) "Data system" means a repository of information about licensees, including but not limited to license status, investigative information, compact privileges, and adverse actions;

(viii) "Encumbered license" means a license in which an adverse action restricts the practice of occupational therapy by the licensee or said adverse action has been reported to the National Practitioners Data Bank (NPDB);

(ix) "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission;

(x) "Home state" means the member state that is the licensee's primary state of residence;

(xi) "Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction or other health-related conditions;

(xii) "Investigative information" means information, records or documents received or generated by an occupational therapy licensing board pursuant to an investigation;

(xiii) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state;

(xiv) "Licensee" means an individual who currently holds an authorization from the state to practice as an occupational therapist or as an occupational therapy assistant;

(xv) "Member state" means a state that has enacted the compact;

(xvi) "Occupational therapist" means an individual who is licensed by a state to practice occupational therapy;

(xvii) "Occupational therapy assistant" means an individual who is licensed by a state to assist in the practice of occupational therapy;

(xviii) "Occupational therapy," "occupational therapy practice," and the "practice of occupational therapy" means the care and services provided by an occupational therapist or an occupational therapy assistant as set forth in the member state's statutes and regulations;

(xix) "Occupational therapy compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact;

(xx) "Occupational therapy licensing board" or "licensing board" means the agency of a state that is authorized to license and regulate occupational therapists and occupational therapy assistants;

(xxi) "Primary state of residence" or "home state" means the state in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by a driver's license, federal income tax return, lease, deed, mortgage or voter registration or other verifying documentation as further defined by commission rules;

(xxii) "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege;

(xxiii) "Rule" means a regulation promulgated by the commission that has the force of law;

(xxiv) "State" means any state, commonwealth, district or territory of the United States of America that regulates the practice of occupational therapy;

(xxv) "Single-state license" means an occupational therapist or occupational therapy assistant license issued by a member state that authorizes practice only within the issuing state and does not include a compact privilege in any other member state;

(xxvi) "Telehealth" means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention or consultation.

33-40-205. [SECTION 3] State participation in the compact.

(a) To participate in the compact, a member state shall:

(i) License occupational therapists and occupational therapy assistants;

(ii) Participate fully in the commission's data system, including but not limited to using the commission's unique identifier as defined in rules of the commission;

(iii) Have a mechanism in place for receiving and investigating complaints about licensees;

(iv) Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(v) Implement or utilize procedures for considering the criminal history records of applicants for an initial compact privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation (FBI) and the agency responsible for retaining that state's criminal records. Under this paragraph:

(A) A member state shall, within a time frame established by the commission, require a criminal background check for a licensee seeking or applying for a compact privilege whose primary state of residence is that member state, by receiving the results of the FBI criminal record search, and shall use the results in making licensure decisions;

(B) Communication between a member state, the commission and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under P.L. 92-544.

(vi) Comply with the rules of the commission;

(vii) Utilize only a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

(viii) Have continuing competence or education requirements as a condition for license renewal.

(b) A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

(c) Member states may charge a fee for granting a compact privilege.

(d) A member state shall provide for the state's delegate to attend all occupational therapy compact commission meetings.

(e) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the compact privilege in any other member state.

(f) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

33-40-206. [SECTION 4] Compact privilege.

(a) To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

(i) Hold a license in the home state;

(ii) Have a valid United States social security number or national practitioner identification number;

(iii) Have no encumbrance on any state license;

(iv) Be eligible for a compact privilege in any member state in accordance with subsections (d), (f), (g) and (h) of this section [section 4(d), (f), (g) and (h)];

(v) Have paid all fines and completed all requirements resulting from any adverse action against any

license or compact privilege, and two (2) years have elapsed from the date of such completion;

(vi) Notify the commission that the licensee is seeking the compact privilege within a remote state;

(vii) Pay any applicable fees, including any state fee, for the compact privilege;

(viii) Complete a criminal background check in accordance with W.S. 33-40-205(a)(v) [section 3(a)(v)]. The licensee shall be responsible for the payment of any fee associated with the completion of a criminal background check;

(ix) Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and

(x) Report to the commission adverse action taken by any non-member state within thirty (30) days from the date the adverse action is taken.

(b) The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection (a) of this section [section 4(a)] to maintain the compact privilege in the remote state.

(c) A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(d) Occupational therapy assistants practicing in a remote state shall be supervised by an occupational therapist licensed or holding a compact privilege in that remote state.

(e) A licensee providing occupational therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

(f) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

(i) The home state license is no longer encumbered; and

(ii) Two (2) years have elapsed from the date on which the home state license is no longer encumbered in accordance with paragraph (i) of this subsection [section 4(f)(i)].

(g) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (a) of this section [section 4(a)] to obtain a compact privilege in any remote state.

(h) If a licensee's compact privilege in any remote state is removed, the individual may lose the compact privilege in any other remote state until the following occur:

(i) The specific period of time for which the compact privilege was removed has ended;

(ii) All fines have been paid and all conditions have been met;

(iii) Two (2) years have elapsed from the date of completing requirements for 4(h)(i) and (ii); and

(iv) The compact privileges are reinstated by the commission and the compact data system is updated to reflect reinstatement.

(j) If a licensee's compact privilege in any remote state is removed due to an erroneous charge, privileges shall be restored through the compact data system.

(k) Once the requirements of subsection (h) of this section [section 4(h)] have been met, the licensee must meet the requirements in subsection (a) of this section [section 4(a)] to obtain a compact privilege in a remote state.

33-40-207. [SECTION 5] Obtaining a new home state license by virtue of compact privilege.

(a) An occupational therapist or occupational therapy assistant may hold a home state license, which allows for compact privileges in member states, in only one member state at a time.

(b) If an occupational therapist or occupational therapy assistant changes primary state of residence by moving between two member states:

(i) The occupational therapist or occupational therapy assistant shall file an application for obtaining a new home state license by virtue of a compact privilege, pay all applicable fees and notify the current and new home state in accordance with applicable rules adopted by the commission;

(ii) Upon receipt of an application for obtaining a new home state license by virtue of compact privilege, the new home state shall verify that the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in W.S. 33-40-206 [section 4] via the data system, without need for primary source verification except for:

(A) An FBI fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with P.L. 92-544;

(B) Other criminal background checks as required by the new home state; and

(C) Submission of any requisite jurisprudence requirements of the new home state.

(iii) The former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission;

(iv) Notwithstanding any other provision of this compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in W.S. 33-40-206 [section 4], the new home state shall apply its requirements for issuing a new single-state license;

(v) The occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license.

(c) If an occupational therapist or occupational therapy assistant changes primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, the state criteria shall apply for issuance of a single-state license in the new state.

(d) Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee shall have only one home state license.

(e) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

33-40-208. [SECTION 6] Active duty military personnel or their spouses.

Active duty military personnel, or their spouses, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state or through the process described in W.S. 33-40-207 [section 5].

33-40-209. [SECTION 7] Adverse actions.

(a) A home state shall have exclusive power to impose adverse action against an occupational therapist's or occupational therapy assistant's license issued by the home state.

(b) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(i) Take adverse action against an occupational therapist's or occupational therapy assistant's compact privilege within that member state;

(ii) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance

and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(c) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(d) The home state shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigations. The home state, where the investigations were initiated, shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the OT compact commission data system. The occupational therapy compact commission data system administrator shall promptly notify the new home state of any adverse actions.

(e) A member state, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the costs of investigations and disposition of cases resulting from any adverse action taken against that occupational therapist or occupational therapy assistant.

(f) A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(g) Joint investigations:

(i) In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations or other applicable state law, any member state may participate with other member states in joint investigations of licensees;

(ii) Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(h) If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's compact privilege in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license shall include a statement that the occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all member states during the pendency of the order.

(j) If a Member State takes Adverse Action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

(k) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

33-40-210. [SECTION 8] Establishment of the occupational therapy compact commission.

(a) The compact member states hereby create and establish a joint public agency known as the occupational therapy compact commission:

(i) The commission is an instrumentality of the compact states;

(ii) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings;

(iii) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, voting and meetings:

(i) Each member state shall have and be limited to one (1) delegate selected by that member state's licensing board;

(ii) The delegate shall be either:

(A) A current member of the licensing board, who is an occupational therapist, occupational therapy assistant or public member; or

(B) An administrator of the licensing board.

(iii) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed;

(iv) The member state board shall fill any vacancy occurring in the commission within ninety (90) days;

(v) Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication;

(vi) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws;

(vii) The commission shall establish by rule a term of office for delegates.

(c) The commission shall have the following powers and duties:

(i) Establish a code of ethics for the commission;

(ii) Establish the fiscal year of the commission;

(iii) Establish bylaws;

(iv) Maintain its financial records in accordance with the bylaws;

(v) Meet and take such actions as are consistent with the provisions of this compact and the bylaws;

(vi) Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

(vii) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state occupational therapy licensing board to sue or be sued under applicable law shall not be affected;

(viii) Purchase and maintain insurance and bonds;

(ix) Borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state;

(x) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(xi) Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services and receive, utilize and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(xii) Lease, purchase, accept appropriate gifts or donations of or otherwise own, hold, improve or use any property, real, personal or mixed, provided that at all times the commission shall avoid any appearance of impropriety;

(xiii) Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;

(xiv) Establish a budget and make expenditures;

(xv) Borrow money;

(xvi) Appoint committees, including standing committees composed of members, state regulators, state

legislators or their representatives, consumer representatives and such other interested persons as may be designated in this compact and the bylaws;

(xvii) Provide and receive information from, and cooperate with, law enforcement agencies;

(xviii) Establish and elect an executive committee; and

(xix) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of occupational therapy licensure and practice.

(d) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact and in accordance with the following:

(i) The executive committee shall be composed of nine (9) members:

(A) Seven (7) voting members who are elected by the commission from the current membership of the commission;

(B) One (1) ex officio, nonvoting member from a recognized national occupational therapy professional association; and

(C) One (1) ex officio, nonvoting member from a recognized national occupational therapy certification organization.

(ii) The ex officio members will be selected by their respective organizations;

(iii) The commission may remove any member of the executive committee as provided in bylaws;

(iv) The executive committee shall meet at least annually;

(v) The executive committee shall have the following duties and responsibilities:

(A) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation,

fees paid by compact member states such as annual dues and any commission compact fee charged to licensees for the compact privilege;

(B) Ensure compact administration services are appropriately provided, contractual or otherwise;

(C) Prepare and recommend the budget;

(D) Maintain financial records on behalf of the commission;

(E) Monitor compact compliance of member states and provide compliance reports to the commission;

(F) Establish additional committees as necessary; and

(G) Perform other duties as provided in rules or bylaws.

(e) Meetings of the commission:

(i) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in W.S. 33-40-212 [section 10];

(ii) The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting if the commission or executive committee or other committees of the commission must discuss:

(A) Non-compliance of a member state with its obligations under the compact;

(B) The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) Current, threatened or reasonably anticipated litigation;

(D) Negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(E) Accusing any person of a crime or formally censuring any person;

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) Disclosure of investigative records compiled for law enforcement purposes;

(J) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

(K) Matters specifically exempted from disclosure by federal or member state statute.

(iii) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision;

(iv) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(f) Financing of the commission:

(i) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities;

(ii) The commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services;

(iii) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states;

(iv) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state;

(v) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(g) Qualified immunity, defense and indemnification:

(i) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person;

(ii) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is

made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct;

(iii) The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

33-40-211. [SECTION 9] Data system.

(a) The commission shall provide for the development, maintenance and utilization of a coordinated database and reporting system containing licensure, adverse action and investigative information on all licensed individuals in member states.

(b) A member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable (utilizing a unique identifier) as required by the rules of the commission, including:

(i) Identifying information;

(ii) Licensure data;

(iii) Adverse actions against a license or compact privilege;

(iv) Non-confidential information related to alternative program participation;

(v) Any denial of application for licensure and the reason for such denial;

(vi) Other information that may facilitate the administration of this compact, as determined by the rules of the commission; and

(vii) Current significant investigative information.

(c) Current significant investigative information and other investigative information pertaining to a licensee in any member state will only be available to other member states.

(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

33-40-212. [SECTION 10] Rulemaking.

(a) Notwithstanding the requirements imposed by W.S. 16-3-101 through 16-3-106, the commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.

(c) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four (4) years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(d) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(e) Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(i) On the website of the commission or other publicly accessible platform; and

(ii) On the website of each member state occupational therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(f) The notice of proposed rulemaking shall include:

(i) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(ii) The text of the proposed rule or amendment and the reason for the proposed rule;

(iii) A request for comments on the proposed rule from any interested person; and

(iv) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(g) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(h) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(i) At least twenty-five (25) persons;

(ii) A state or federal governmental subdivision or agency; or

(iii) An association or organization having at least twenty-five (25) members.

(j) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing. Under this subsection:

(i) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing;

(ii) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing;

(iii) All hearings will be recorded. A copy of the recording will be made available on request;

(iv) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(k) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(m) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(n) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(o) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon

as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(i) Meet an imminent threat to public health, safety or welfare;

(ii) Prevent a loss of commission or member state funds;

(iii) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(iv) Protect public health and safety.

(p) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

33-40-213. [SECTION 11] Oversight, dispute resolution and enforcement.

(a) Oversight:

(i) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law;

(ii) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of

this compact which may affect the powers, responsibilities or actions of the commission;

(iii) The commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) Default, technical assistance and termination:

(i) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(A) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action to be taken by the commission; and

(B) Provide remedial training and specific technical assistance regarding the default.

(ii) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default;

(iii) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states;

(iv) A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination;

(v) The commission shall not bear any costs related to a state that is found to be in default or that has been

terminated from the compact, unless agreed upon in writing between the commission and the defaulting state;

(vi) The defaulting state may appeal the action of the commission by petitioning the United states district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) Dispute resolution:

(i) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states;

(ii) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(d) Enforcement:

(i) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact;

(ii) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees;

(iii) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

33-40-214. [SECTION 12] Date of implementation of the interstate commission for occupational therapy practice and associated rules, withdrawal and amendment.

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(c) Any member state may withdraw from this compact by enacting a statute repealing the same. Under this subsection:

(i) A Member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute;

(ii) Withdrawal shall not affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

33-40-215. [SECTION 13] Construction and severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person or circumstance is

held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

33-40-216. [SECTION 14] Binding effect of compact and other laws.

(a) A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(b) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(c) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(d) Any lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(e) All agreements between the commission and the member states are binding in accordance with their terms.

(f) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

CHAPTER 41 - GEOLOGISTS

33-41-101. Short title.

This act shall be known and may be cited as the "Wyoming Geologists Practice Act".

33-41-102. Definitions.

(a) As used in this act:

(i) "Board" means the Wyoming board of professional geologists within the department of administration and information;

(ii) Repealed By Laws 1997, ch. 170, § 2.

(iii) Repealed By Laws 1997, ch. 170, § 2.

(iv) "Geologist" means a person who is a graduate of an institution of higher education that is accredited by a regional or national accrediting agency, with a minimum of thirty (30) semester or forty-five (45) quarter hours of course work in geology;

(v) "Geologist-in-training" means a geologist who is a candidate for licensure who meets all other requirements for licensure as stated in this act except length of experience;

(vi) "Geology" means the science which treats of the earth in general, the earth's processes and its history, investigation of the earth's crust and the rocks and other materials which compose it, and the applied science of utilizing knowledge of the earth's history, processes, constituent rocks, minerals, liquids, gases and other materials for the use of mankind;

(vii) "Practice of geology" means the performance of geological services or work such as consultation, investigation, evaluation, planning, preparation of geologic reports and maps and inspection of geological work;

(viii) "Practice of geology before the public" means the performance of geological services or work including consultation, investigation, evaluation, planning, preparation of geologic reports and maps, the inspection of geological work and the responsible supervision of geological services or work, the performance of which is relevant to public welfare or the safeguard of life, health, property and the environment, unless exempt under this act. "Practice of geology before the public" does not include cutting descriptions for water wells, descriptive logs for drill holes for mineral exploration, lithologic descriptions and stratigraphic picks for oil and gas well logs, geologic information contained within notices and other routine forms required by state and federal agencies, geologic reports and other documents not available for dissemination outside of the entity preparing the reports or documents, nor any technical papers or reports prepared

specifically for publication by the state or federal geological survey or by other geological, scientific or trade organizations;

(ix) "Professional geologist" means a geologist who has met the academic and experience qualifications established by the board and has been licensed by the board;

(x) "Qualified geologist" means an individual who is not licensed under this act but who possesses all the qualifications for licensure specified in this act;

(xi) "Responsible charge" means the independent control and direction by use of initiative, skill and independent judgment of geological work or the supervision of the work;

(xii) "Subdiscipline of geology" means the recognized practice of geology, including but not limited to environmental geology, petroleum geology, engineering geology, geophysics, geochemistry and hydrogeology;

(xiii) "Subordinate" means any individual who practices geology or assists a professional geologist in the practice of geology without assuming the responsible charge for the work;

(xiv) "This act" means W.S. 33-41-101 through 33-41-121.

33-41-103. Professional identification.

(a) Only individuals licensed by the board to engage in the practice of geology shall use the designation of "professional geologist" or "P.G."

(b) Only professional geologists registered in a subdiscipline of geology shall use the term professional in conjunction with the title of their subdiscipline.

33-41-104. Prohibited acts and conduct.

(a) Unless duly licensed in accordance with the provisions of this act, no person in this state shall:

(i) Employ, use, cause to be used as a professional, business or commercial identification title, name,

representation, claim or means of advantage or benefit, the title "professional geologist" or any variation or abbreviation thereof;

(ii) Employ, use, cause to be used to make use of any letter, card, abbreviation, word, symbol, slogan, sign or any combination or variation thereof, which in any manner tends or is likely to create any impression with the public or any member thereof, that any individual is a professional geologist or that any individual is qualified or authorized to practice geology before the public unless the individual is duly licensed under this act and is practicing in accordance with the provisions of this act; or

(iii) Practice, continue to practice, offer or attempt to practice geology or any subdiscipline or part thereof before the public as defined by this act.

(b) For purposes of this act, any person who performs or offers or attempts to perform any of the acts specified under subsection (a) of this section is presumed to be engaged in the practice of geology before the public.

33-41-105. Creation of the board.

The Wyoming board of professional geologists is created within the department of administration and information to administer the provisions of this act.

33-41-106. Powers and duties; actions and proceedings.

(a) The board shall, pursuant to the Wyoming Administrative Procedure Act, promulgate and enforce all rules and regulations.

(b) The board shall not be required to give any appeal bond in any cause arising under this act. The attorney general shall represent the board in all actions and proceedings to enforce the provisions of this act.

(c) Consistent with the provisions of the Wyoming Governmental Claims Act, each present and former member of the board, its agents, employees, and members of committees duly appointed by the board under this act to assist the board in carrying out its duties and responsibilities, shall be exempt from civil liability for any act or omission occurring while acting in an official capacity.

(d) The board may employ or contract with individuals it determines necessary to administer its affairs and shall furnish necessary support and clerical services. Costs related to these services shall be paid from the funds of the board.

(e) The board shall prepare and promulgate a "code of professional conduct" which shall be published and shall be acknowledged and subscribed to by all professional geologists. The board may revise and amend the "code of professional conduct" from time to time and shall immediately notify each licensee in writing of the revisions or amendments.

(f) The board may administer continuing education programs for individuals regulated by the board under this act.

(g) The board shall have the authority to enter into interstate and intrastate agreements and associations with other licensing boards or boards of registration for the purpose of establishing reciprocity or comity, developing regional or national geologist examinations, evaluating applicants or other activities to enhance the services of the board to the state, the licensee and the public.

(h) The board shall certify applicants that have met all requirements for a geologist-in-training, shall license qualified geologists that have met all requirements for licensure as a professional geologist and may recognize and establish subdisciplines of geologic practice, establish qualifications and examinations and issue licenses in each subdiscipline to applicants that have met all requirements established by the board.

33-41-107. Members of the board; appointment; terms of office.

(a) The board shall have six (6) members, to be appointed by the governor, with the advice and consent of the senate. The state geologist shall be the seventh and a permanent member of the board. Insofar as possible, the board shall proportionally represent the various geologic subdisciplines practicing in the state.

(b) Except for the state geologist, members of the board shall hold office for staggered terms of four (4) years. Each appointed member shall be limited to serving on the board for eight (8) consecutive years. A member may be reappointed after a

four (4) year absence. Each member shall hold office until his successor is appointed and has been qualified.

33-41-108. Qualifications of members of the board.

(a) All appointed members of the board shall be professional geologists. Minimum qualifications for these board members shall be:

(i) Residency of the state;

(ii) Seven (7) years practicing professional experience;

(iii) Five (5) years as a professional geologist but this qualification shall be waived for the first six (6) years the board is in existence; and

(iv) Two (2) years in a professional decision-making capacity.

33-41-109. Compensation and expenses.

Each member of the board not otherwise in full-time employment with the state shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii) while engaged in official business or actual duties of the board. The fees and expenses shall be paid from the funds of the board.

33-41-110. Removal of members of the board; vacancies.

(a) Vacancies in the membership of the board shall be filled for the unexpired term by the governor as provided by W.S. 33-41-107.

(b) The governor may remove any board member as provided by W.S. 9-1-202.

33-41-111. General requirements for registration.

(a) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified to be a professional geologist:

(i) A bachelors degree in geology granted through an accredited institution of higher education approved by the board or graduation from an accredited institution of higher education

in a four (4) year academic degree program other than geology, but with the required number of course hours to qualify as a geologist;

(ii) Certification as a geologist-in-training;

(iii) Successful completion of the board's examinations;

(iv) A specific record of four (4) years of active professional practice in geologic work of a character satisfactory to the board, indicating the applicant is competent to be placed in responsible charge of the work; and

(v) Submission of written endorsements from peers attesting to the applicant's professional competency, the number and form of which shall be determined by rule and regulation of the board.

(b) Repealed By Laws 2011, Ch. 129, § 202.

(c) Repealed By Laws 1997, ch. 170, § 2.

(d) Any individual having the necessary qualifications prescribed in this act is entitled to licensure even though the individual is not practicing geology at the time of making the application.

33-41-112. Certification of geologist-in-training.

(a) The following shall be considered as minimum evidence that the applicant is qualified for certification as a geologist-in-training:

(i) A bachelors degree in geology granted through an accredited institution of higher education approved by the board or graduation from an accredited institution of higher education in a four (4) year academic degree program other than geology, but with the required number of course hours to qualify as a geologist; and

(ii) A passing score on the board's examination in the fundamentals of geology.

(b) Repealed By Laws 2011, Ch. 129, § 202.

33-41-113. Applications; registration fees.

(a) Applications for licensure as a professional geologist or certification as a geologist-in-training shall be on forms prescribed by the board.

(b) The board shall not maintain unnecessary fund balances. The board shall establish reasonable and necessary fees pursuant to W.S. 33-1-201 for the administration of this act for the following:

(i) Each examination or reexamination;

(ii) Each license or certificate and each renewal thereafter;

(iii) Each duplicate license or certificate where the original is lost or destroyed and affidavit is made thereof.

33-41-114. Examinations.

Upon payment of the examination fee, an examination shall be administered at a time and place determined by the board. The scope of the examinations and the methods of procedure shall be prescribed by the board. The board may permit reexamination of an applicant on payment of an appropriate fee.

33-41-115. Licenses; seals.

(a) The board shall issue a license under a seal approved by the board, to any applicant who has satisfactorily met all the requirements for licensure as a professional geologist. The license shall show the full name of the licensee, a license number and shall be signed by the chairman of the board under the seal of the board.

(b) Upon notice of licensure, each licensee shall obtain a seal of design established by the board bearing the licensee's full name, license number and the words "professional geologist".

(c) All documents offered to the public and prepared or issued by or under the supervision of a professional geologist, shall include the full name, signature, date, license number and seal of the licensee.

(d) It shall be unlawful for any individual to affix a seal on any document if the license of the licensee named

thereon has expired or has been suspended or revoked unless the license has been renewed or reissued.

33-41-116. Practice by firms, partnerships, corporations and joint stock associations.

(a) No firm, partnership, corporation or joint stock association collectively called "organizations" for the purpose of this section shall engage in the practice of geology before the public or use the title "professional geologist" except as follows:

(i) The geological work of the organization shall be performed by or under the supervision of one (1) or more professional geologists who shall sign and seal all documents;

(ii) If the principal business of the organization, as determined by the board, is the practice of geology before the public, a principal, officer or director of the organization shall be a professional geologist and shall have overall supervision and control of the geological work performed by the organization in this state;

(iii) The organization shall identify the principals, officers, and directors responsible for the geologic work, their license numbers, a description of the geologic work or services offered to the public, and any other information the board may require.

33-41-117. Exemptions.

(a) The following are exempt from the licensing provisions of this act if they do not use the title of professional geologist or are not directly represented or held out to the public to be legally qualified to engage in the practice of geology before the public:

(i) Any individual not a resident of and having no established place of business in this state is exempt from the licensing provisions of this act if the individual:

(A) Is legally qualified to practice geology in another jurisdiction whose requirements for practice have been deemed by the board to be comparable to those required by this state;

(B) Has notified the board, in writing, of his intent to practice geology for a period not to exceed six (6) months in this state;

(C) Has provided proof of current registration or licensure in another state recognized by the board; and

(D) Affixes the individual's seal from the jurisdiction state.

(ii) An individual who has recently become a resident of this state shall be exempt, at the board's discretion, from the licensing provisions of this act if that individual:

(A) Has filed an application for licensure as a geologist with the board and the application is pending board action;

(B) Is legally qualified to practice geology in another jurisdiction whose requirements for practice are similar to those required by this state; and

(C) Affixes the individual's seal from the jurisdiction in which the individual is legally qualified to practice on all work completed while the application for a license to practice in this state is pending.

(iii) An employee or subordinate of an individual holding a license under this act, or any employee of an individual exempted from licensure by paragraphs (i) and (ii) of this subsection is exempt from licensure under this act provided that the employee's practice does not include responsible charge;

(iv) Professional engineers and land surveyors, licensed by the board of professional engineers and professional land surveyors pursuant to W.S. 33-29-201 through 33-29-801 are exempt from the registration provisions of this act, providing, that no name, title, or words are used which tend to convey the impression that a nonregistered individual is offering to perform services as a professional geologist;

(v) Any individual, individual practitioner or regular full-time employee of a firm, partnership, association, corporation or other business entity engaged in the exploration for and development of coal, uranium, oil, natural gas, geothermal and other energy minerals, precious and nonprecious

metals and minerals, industrial and other minerals, including sand, gravel and aggregate;

(vi) Individuals engaged in teaching or research in the physical or natural sciences;

(vii) Individuals providing mineral abstracting services, lease brokering services or prospect generation to other persons engaged in the exploration or development of fossil fuels or other mineral resources;

(viii) Individuals engaged in the practice of well drilling including drilling for water and for the exploration or development of fossil fuels or other mineral resources;

(ix) Individuals engaged in the practice of subsurface sewage disposal;

(x) Individuals providing soils engineering, sampling, testing or other activities in or related to the agricultural application of soils sciences;

(xi) Individuals engaged in drafting, sampling, sample preparation and routine laboratory work in which the elements of initiative, scientific judgment and decision making are either lacking or not required, including other activities which do not use scientific methods to process and interpret geologic data;

(xii) Individuals practicing any profession or trade for which a license is required by law, if the name, title or words are not used to convey the impression an individual is offering to perform services as a professional geologist.

(b) Repealed By Laws 1997, ch. 170, § 2.

33-41-118. Reciprocity or comity.

(a) The board may issue a license to any individual who has made application, has provided proof of certification, registration or licensure under requirements which the board determines to be substantially similar to those established pursuant to this act, and has paid any applicable fees.

(b) The board may also issue a license to any geologist who has made application and paid the applicable fees, has provided proof of certification, registration or licensure in

another jurisdiction and has provided proof of experience in the practice of geology. The acceptable number of years of experience and licensure shall be determined by the board.

33-41-119. Revocation, suspension, probation, reprimand, reissuance and refusal of certificate.

(a) The board may take the following disciplinary actions, singly or in combination against a licensee, certificated geologist-in-training or organization as identified in W.S. 33-41-116, for any violation of this act or based upon professional disciplinary action taken in another jurisdiction:

(i) Deny issuance or renewal of a license or certificate;

(ii) Suspend or revoke a license or certificate in accordance with the Wyoming Administrative Procedure Act, W.S. 16-3-101 through 16-3-115;

(iii) Censure, reprimand or issue public or private admonishment;

(iv) Impose limitations, conditions or restrictions;

(v) Require participation in a peer review program;

(vi) Require remedial education or training as prescribed by the board;

(vii) Impose probation requiring regular reporting to the board;

(viii) Require restitution of compensation or fees.

(b) Any individual aggrieved by a decision of the board, shall have the right to appeal the order of the board to the district court of the county of his residence in Wyoming, or of the county in which the alleged offense relied upon as grounds for revocation took place.

(c) If the board proposes to suspend or revoke an individual's license or certificate, the person is entitled to a hearing before the board.

(d) The board may reissue a license or certificate to any individual whose license or certificate has been revoked,

provided five (5) or more members of the board vote in favor of the reissuance. A new license or certificate, to replace any license or certificate revoked, lost, destroyed or mutilated, may be issued, subject to the rules of the board.

(e) Notwithstanding subsections (a) through (d) of this section, upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-41-120. Violations; grounds for discipline.

(a) Any individual who holds himself out to the public as a professional geologist in this state without being licensed or exempted in accordance with the provisions of this act, or any individual presenting or attempting to use as his own the license or the seal or another, or any person who shall knowingly give any false or forged evidence of any kind to the board or to any member thereof in obtaining a license or certificate, or any individual who shall violate any of the provisions of this act is guilty of a misdemeanor and upon conviction may be fined not to exceed seven hundred fifty dollars ($750.00), imprisoned up to six (6) months, or both. A conviction in a court of law for any of these offenses shall be grounds for the revocation of the license or certificate.

(b) Any professional geologist licensed under this act who holds himself out to the public to practice a subdiscipline of geology in which the individual is not qualified or cannot demonstrate to the board that he is qualified to practice that subdiscipline violates the provisions of this act. A violation under this subsection shall be considered fraudulent practice and may result in board action under W.S. 33-41-119.

(c) The board is charged with aiding in the enforcement of this act, and the board may present to a district attorney complaints relating to violations of any of the provisions of this act. The board through its members, officers, counsel and agents may assist in the trial of any cases involving alleged violation of this act, under the direction of the district attorney.

(d) The attorney general shall act as legal advisor to the board and shall render legal assistance as may be necessary in enforcing and making effective the provisions of this act.

33-41-121. Applicability.

This act shall not be construed as repealing or amending any law affecting or regulating licensed professional engineers and professional land surveyors pursuant to the provisions of W.S. 33-29-201 through 33-29-801, nor shall this act be construed to affect or prevent the practice of any other legally recognized profession by the members of the profession licensed by the state or under its authority.

CHAPTER 42 - WATER WELL DRILLING CONTRACTORS AND

33-42-101. Short title.

This act shall be known and may be cited as the "Water Well Drilling Contractors and Water Well Pump Installation Contractors Act."

33-42-102. Definitions.

(a) As used in this act:

(i) "Board" means the state board of examining water well drilling contractors and water well pump installation contractors;

(ii) "Underground water" means any water, including hot water and geothermal steam, under the surface of the land or under the bed of any stream, lake or reservoir;

(iii) "Water well drilling contractor" means any person responsible for or causing the construction, equipping, test pumping or development of any water well for compensation or otherwise as provided by this act;

(iv) "Water well pump installation contractor" means any person who is in the business of installing pumping equipment in water wells for compensation or otherwise as provided by this act;

(v) "Well" means any artificial opening in the ground for the production of groundwater or the disposal of water underground, including developed springs, test wells, monitoring

wells, deep well ground beds (cathodic protection bores), geothermal or heat exchange wells, drive points and excavations for the purpose of artificial recharge to the groundwater bodies or disposal of wastes. The term "well" does not include excavations made for the dewatering of construction sites, mines or oil and gas wells, and the prospecting for and removal of mineral products, nor wells for the production of the media for secondary oil recovery;

(vi) "This act" means W.S. 33-42-101 through 33-42-117.

33-42-103. License.

(a) It is unlawful for any person to use in connection with his name or to advertise any title or description tending to convey the impression that he is a licensed water well drilling contractor or water well pump installation contractor unless he has been licensed under this act.

(b) The drilling, construction or completion of water wells, including the installation of pumping equipment, shall be considered a business activity affecting the public interest and requiring reasonable standards of competence.

(c) The licensing of water well drilling contractors and the licensing of water well pump installation contractors are separate and distinct activities. Licensing requirements shall be specific to each profession and shall be addressed in rules and regulations.

(d) A copy of the license of a licensed water well drilling licensee or water well pump installation licensee overseeing the job and assuming liability for the water well drilling or water well pump installation shall be conspicuously posted at the water well drilling or water well pump installation site.

(e) Nothing in this act shall be construed to require licensure of any person operating drilling equipment or conducting other drilling or boring operations which do not require a permit from the state engineer to appropriate ground water.

(f) It shall be unlawful for any person to construct, alter or rehabilitate a water well or install pumping equipment in a water well without a license as provided by this act unless

the activity is exempted from the licensing requirements of this act.

33-42-104. Board of examining water well drilling contractors and water well pump installation contractors created; composition; appointment; terms; vacancies; qualification; compensation.

(a) The state board of examining water well drilling contractors and water well pump installation contractors is created to consist of the following seven (7) members:

(i) The state engineer or his authorized representative;

(ii) The director of the department of environmental quality or his authorized representative; and

(iii) Five (5) members appointed by the governor as follows:

(A) One (1) water well drilling contractor engaged in the practice of irrigation well contracting or a municipal or industrial well contractor;

(B) One (1) water well drilling contractor engaged in the practice of domestic and stock water well contracting;

(C) One (1) at large water well drilling contractor;

(D) One (1) water well pump installation contractor; and

(E) One (1) member of the general public who owns an active water well.

(b) The members appointed by the governor shall serve for a term of four (4) years, except three (3) of the initial appointments shall be for a term of two (2) years. Each member shall hold office until his successor is appointed and has been qualified. The governor may remove any member of the board as provided by W.S. 9-1-202. A vacancy occurring in the board by death, resignation or otherwise, shall be filled by appointment by the governor upon recommendation of the remaining board members for the unexpired term.

(c) Each member of the board appointed by the governor shall have been a resident of this state for at least one (1) year at the time of his appointment. Each contractor board member shall have been engaged in the practice of his profession for at least five (5) years prior to his appointment. After the appointment of the initial board, any water well drilling contractor or water well pump installation contractor appointed to the board shall be licensed within six (6) months after appointment.

(d) The members of the board shall serve without compensation other than per diem and mileage as provided in W.S. 33-1-302(a)(vii) for the performance of their duties.

33-42-105. Organization of board; meetings; quorum; disposition of funds.

(a) The state engineer or his representative shall be secretary of the board and shall have charge of the records and be responsible for budget preparation and general administrative duties.

(b) The members of the board shall elect a chairman from their membership who shall hold office for a term of two (2) years. No member shall serve more than two (2) consecutive terms as chairman.

(c) Meetings of the board shall be called by the chairman or upon request of not less than four (4) members and held in an appropriate location. The board shall hold not less than two (2) meetings each year. Four (4) members shall constitute a quorum. No decision shall be made unless it receives the affirmative votes of at least four (4) members of the board.

(d) Fees collected by the board shall be paid into the account created under W.S. 33-42-116 which shall be used by the board to defray costs incurred in the administration of this act. The board shall not maintain unnecessary fund balances.

33-42-106. Powers of the board in general; enjoining unlawful acts.

(a) The board is entitled to the services of the attorney general in the conduct of its affairs and shall reimburse the attorney general for actual cost of legal services provided.

(b) Whenever any person has engaged or is about to engage in any acts or practices which constitute a violation of this act, the board, or the attorney general on its behalf, may make application to the appropriate court for an order enjoining those acts. Upon a showing by the board that the person has engaged or is about to engage in any illegal act, an injunction, restraining order or other appropriate order shall be granted by the court without bond, and without the necessity of a showing of actual damages by the board.

(c) The board may compel the attendance of witnesses, administer oaths and take testimony concerning all matters within its jurisdiction.

(d) The board may contract for services or employ persons deemed necessary for the implementation of the provisions of this act.

33-42-107. Duties of the board.

(a) The board shall:

(i) Supervise the general administration of this act;

(ii) Enforce the provisions of this act and any rules and regulations promulgated under it and take all action necessary to carry out the provisions of this act;

(iii) Examine the qualifications of anyone desiring to obtain a license to engage in the business of water well drilling or the business of water well pump installing within the state;

(iv) Adopt rules and regulations necessary to carry out the provisions of this act;

(v) Conduct hearings upon complaints with respect to any person licensed under this act in conformity with the Wyoming Administrative Procedure Act. The hearing shall be held in the county where the complaint originated; and

(vi) Establish continuing education for persons licensed to maintain knowledge of current industry standards. However, the board shall not impose continuing education requirements for any person which exceed eighteen (18) hours in any three (3) year period.

33-42-108. Licensure in general; qualifications of applicant; operator's license.

(a) The board shall issue a license to an applicant who:

(i) Is eighteen (18) years of age or older;

(ii) Has demonstrated professional competence by passing an examination prescribed by the board;

(iii) Has paid the required fees; and

(iv) Has provided written documentation of financial responsibility, including proof of general liability insurance.

(b) In the case of hardship, the board may provide special arrangements for administering the examination required by this act.

(c) Repealed By Laws 2008, Ch. 89, § 3.

(d) Repealed By Laws 2008, Ch. 89, § 3.

33-42-109. Fees; renewal; renewal of lapsed licenses; suspension or revocation.

(a) The board shall establish reasonable and necessary fees pursuant to W.S. 33-1-201 for:

(i) Application fees;

(ii) Repealed by Laws 2008, Ch. 89, § 2;

(iii) Examination and reexamination of license applicants;

(iv) Miscellaneous fees, including rosters, annual reports, address labels, copying fees and replacement licenses;

(v) License fees. License fees shall not exceed two hundred dollars ($200.00). License renewal fees shall not exceed two hundred dollars ($200.00) for each three (3) year renewal period thereafter.

(b) The initial license shall be for a period not to exceed three (3) years and shall expire on the third December 31 after receiving the initial license. Each subsequent license

shall be valid for three (3) calendar years and shall expire on December 31 of the third year.

(c) If a licensed water well drilling contractor or water well pump installation contractor does not submit an application for license renewal prior to the December 31 expiration date or does not remit the renewal fees, the license shall expire. The contractor shall have a thirty-one (31) day grace period to renew the expired license. If the license has not been renewed before February 1 of the new license period, it shall not be eligible for reinstatement until the applicant has met all the requirements of W.S. 33-42-108.

(d) All fees collected under this section shall be deposited into the account created under W.S. 33-42-116.

33-42-110. Examination; notification; reexamination.

(a) An applicant for a license shall demonstrate professional competence by passing a written or oral examination prescribed by the board.

(b) An examination shall be given at least twice annually. The examination shall be given at a location designated by the board.

(c) The written or oral examination shall test the applicant's general knowledge of the basics of well construction or pump installation procedures, Wyoming laws, rules, regulations and local ordinances concerning the construction of water wells or installation of water well pumps and pumping equipment.

(d) Not less than thirty (30) days prior to examination the board shall notify each applicant that his application and evidence submitted for licensing is satisfactory and accepted or unsatisfactory and rejected. If rejected, the reasons for rejection shall be given. The notice shall include the date and location of the examination.

(e) In the event an applicant fails to receive a passing grade on examination, he may reapply for examination within ninety (90) days.

(f) The board may contract with examination development consultants, water well technical experts, water pump installation technical experts or other technical experts as

deemed necessary to prepare the examinations and may assign a member or members of the board to work with the consultants and technical experts to assure compliance with the requirements of this act.

33-42-111. Denial, revocation or suspension of license; hearing.

(a) The board may withhold, deny, revoke or suspend any certificate or license issued or applied for in accordance with the provisions of this act upon proof that the certificate or license holder or applicant:

(i) Has used fraud or deception in applying for a certificate or license or in the taking of the examination;

(ii) Has willfully or negligently violated any of the provisions of this act, the rules and regulations adopted pursuant to this act or the statutes or rules and regulations of the state pertaining to underground water; or

(iii) Has failed while engaging in the business of water well construction contracting or water well pump installation contracting to comply with the state water well minimum construction standards.

(b) No certificate or license may be suspended or revoked unless there has been a hearing in conformity with the provisions of the Wyoming Administrative Procedure Act.

33-42-112. Exemptions.

(a) Repealed by Laws 2008, Ch. 89, § 1.

(b) Repealed by Laws 2008, Ch. 89, § 1.

(c) Repealed by Laws 2008, Ch. 89, § 1.

(d) Repealed by Laws 2008, Ch. 89, § 1.

(e) The licensure requirements of this chapter shall not apply to any person drilling an oil or gas well or installing a pump in an oil or gas well, where the oil or gas well is permitted pursuant to W.S. 30-5-115.

(f) The licensure requirements of this chapter shall not apply to any person:

(i) Installing a pump in a well on land owned or leased by him or on which he is employed on a regular basis;

(ii) Drilling a monitor well that does not require a permit from the state engineer;

(iii) Drilling a well on land owned by him.

(g) Subsections (a) through (d) of this section are repealed July 1, 2009.

33-42-113. License renewal.

(a) In order to be eligible to renew a license, a licensed water well drilling contractor or water well pump installation contractor shall:

(i) Complete eighteen (18) professional competence hours in three (3) years, as established by the board;

(ii) Submit payment of all applicable fees; and

(iii) Comply with all requirements under W.S. 33-42-111(a).

33-42-114. Reciprocity.

If a person holding a license entitling him to drill water wells or install pumping equipment in another state applies for a Wyoming water well drilling contractor's or water well pump installation contractor's license, if the other state offers reciprocity, and if the board determines the standards and requirements of the state in which the applicant is licensed are equal to or exceed the standards or requirements of this act, the board may waive the examination requirements except the applicant shall successfully complete an examination based on Wyoming statutes and rules relating to the drilling of water wells or installation of pump equipment. The applicant shall also pay all applicable fees.

33-42-115. Complaints and investigations.

If any information concerning a possible violation of this act or rules and regulations applicable to water well drilling or pump installation is received or obtained by a board member or the state engineer's office, the board may, on its own motion,

initiate proceedings under this act and in accordance with the Wyoming Administrative Procedure Act.

33-42-116. Account; expenditures.

The water well contractors account is created. Funds provided under W.S. 9-1-904(b), 33-42-105(d) and 33-42-109(d) shall be deposited into the account. Income earned on amounts within the account shall be credited to the account. Funds in the account are continuously appropriated to the board for the operation and management of the board and the administration of this act.

33-42-117. Penalties.

A violation of any provision of this act is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00), imprisonment for not more than six (6) months, or both.

CHAPTER 43 - RESPIRATORY CARE PRACTITIONERS

33-43-101. Short title.

This act shall be known and may be cited as the "Respiratory Care Practice Act of 2003."

33-43-102. Definitions.

(a) As used in this chapter:

(i) "Board" means the state board for respiratory care;

(ii) "Performance of respiratory care" means respiratory care in accordance with the prescription or verbal order of a licensed physician or other authorized health care professional and includes the diagnostic and therapeutic use of the following:

(A) Administration of aerosols, humidification and medical gases, except for the purpose of anesthesia;

(B) Hyperbaric therapy;

(C) Pharmacologic agents related to respiratory care procedures;

(D) Mechanical or physiological ventilatory support;

(E) Bronchopulmonary hygiene;

(F) Cardiopulmonary resuscitation;

(G) Maintenance of the natural airway;

(H) Insertion and maintenance of artificial airways;

(J) Specific diagnostic and testing techniques employed in the monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions and pulmonary function testing;

(K) Hemodynamic and other related physiologic measurements of the cardiopulmonary system;

(M) Respiratory care telecommunications;

(N) Cardiopulmonary disease management;

(O) Tobacco cessation;

(P) Sleep diagnostic procedures; and

(Q) Neurodiagnostics.

(iii) "Practice of respiratory care" means services which may be performed in any clinic, hospital, skilled nursing facility and private dwelling or other place deemed appropriate or necessary by the board, in accordance with the prescription or verbal order of a physician or other authorized health care professional and shall be performed under the supervision of a qualified medical director and shall include:

(A) Direct and indirect respiratory care services, including the administration of pharmacological, diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician or other authorized health care professional;

(B) Transcription and implementation of the written or verbal orders of a physician or other authorized health care professional pertaining to the practice of respiratory care;

(C) Observing and monitoring signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determining whether the signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics;

(D) Implementation, based on observed abnormalities, of appropriate reporting, referral, respiratory care protocols or changes in treatment, pursuant to a prescription by a person authorized to practice medicine under the laws of the state of Wyoming;

(E) Initiation of emergency procedures under the regulations of the board or as otherwise permitted in this act.

(iv) "Qualified medical director" means a licensed physician who has a special interest in the diagnosis and treatment of respiratory problems. The physician shall be, wherever possible, qualified by special training or experience in the management of acute and chronic respiratory disorders. The physician shall be competent to monitor and assess the quality, safety and appropriateness of the respiratory care services being provided. The medical director shall be accessible to and assure the competency of the respiratory care practitioner as well as require that respiratory care be ordered by a physician who has medical responsibility for that patient;

(v) "Respiratory care" means the allied health profession responsible for the treatment, management, diagnostic testing and control of patients with deficiencies and abnormalities associated with the cardiopulmonary systems under the supervision of a qualified medical director and includes the terms "inhalation therapy" and "respiratory therapy";

(vi) "Respiratory care practitioner" means:

(A) A person employed in the practice of respiratory care who has the knowledge and skill necessary to administer respiratory care as defined in paragraphs (ii) and (iii) of this subsection;

(B) A person who is capable of serving as a resource to the physician in relation to the technical aspects of respiratory care as to safe and effective methods for administering respiratory care modalities;

(C) A person who is able to function in situations of unsupervised patient contact requiring individual judgment; and

(D) A person capable of supervising, directing or teaching less skilled personnel in the provision of respiratory care services.

(vii) "This act" means W.S. 33-43-101 through 33-43-118.

33-43-103. Board created; members; appointment; terms; qualification; removal; vacancies.

(a) There is created a state board for respiratory care within the department of administration and information to administer the provisions of this act. The board shall consist of five (5) members. The initial board shall consist of one (1) public member, one (1) physician member who is licensed in the state of Wyoming with a special interest in pulmonary medicine, and three (3) members who shall have been engaged in the practice of respiratory care for a period of not less than five (5) years immediately preceding appointment to the board. Thereafter, practitioner members shall be licensed under this act prior to appointment to the board.

(b) The governor shall appoint the members of the board. Of the initial members appointed to the board, the physician member and the public member shall be appointed for terms as specified in paragraphs (i) and (iii) of this subsection, and one (1) respiratory care practitioner shall be appointed for a term of three (3) years, one (1) respiratory care practitioner shall be appointed for a term of two (2) years and one (1) respiratory care practitioner shall be appointed for a term of one (1) year. Thereafter, the terms of office of the members appointed shall be for the following periods:

(i) Physician member, three (3) years;

(ii) Respiratory care practitioner members, three (3) years each;

(iii) Public member, three (3) years.

(c) Vacancies in the board shall be filled by appointment by the governor as provided in subsection (b) of this section for the balance of an unexpired term and each member shall serve until his successor is appointed and qualified.

(d) The governor may remove any member from the board as provided in W.S. 9-1-202.

33-43-104. Board meetings; elections; quorum.

(a) The board shall meet at least twice each year and shall elect a chairman at the first meeting each year. The board may convene at the request of the chairman or as the board may determine for any other meeting as may be deemed necessary to transact its business.

(b) Three (3) board members constitute a quorum.

33-43-105. Board responsibilities; duties.

(a) The board shall:

(i) Examine, license and renew the licenses of duly qualified applicants;

(ii) Maintain an up-to-date list of every person licensed to practice respiratory therapy under this act. The list shall show the licensee's last known place of employment, last known place of residence and the date and number of his license;

(iii) Keep a record of all proceedings of the board and make the record available to the public for inspection during reasonable business hours;

(iv) Maintain an up-to-date list of persons whose licenses have been suspended, revoked or denied. This list shall include the names, social security numbers, type and cause of action, date and penalty incurred, and the length of penalty. This list shall be available for public inspection during reasonable business hours. This list shall be supplied to similar boards in other states upon request;

(v) Establish fees for licenses, permits, renewals and reinstatements in accordance with W.S. 33-1-201.

33-43-106. Board; general powers.

(a) The board may:

(i) In accordance with the Wyoming Administrative Procedure Act, adopt rules and regulations not inconsistent with the law as may be necessary to enable it to carry into effect the provisions of this act;

(ii) Employ personnel as necessary to perform the functions of the board;

(iii) Establish relicensure requirements and procedures as are appropriate, including adopting and publishing a code of ethics;

(iv) Secure the services of resource consultants as deemed necessary by the board. Resource consultants shall receive travel and per diem expenses in the same manner and amount as state employees, while engaged in consultative service to the board;

(v) Enter into agreements or contracts with outside organizations for the purpose of developing, administering, grading or reporting the results of licensing examinations. The contracting organizations shall be capable of providing an examination which meets the standards of the national commission for health certifying agencies, or their equivalent, be validated, and nationally recognized as testing respiratory care competencies.

33-43-107. Compensation of board members; immunity.

(a) Members of the board shall not receive compensation for their services but shall receive mileage and per diem as provided in W.S. 33-1-302(a)(vii) while engaged in the discharge of official duties.

(b) Members of the board shall have the same immunities from personal liability as state employees for actions taken in the performance of their duties under this act, as provided in W.S. 1-39-104.

33-43-108. Application for license; qualifications.

(a) An applicant for a license to practice respiratory care shall submit to the board written evidence, verified by oath, that the applicant:

(i) Has completed an approved four (4) year high school course of study or the equivalent thereof determined by the appropriate educational agency; and

(ii) Has completed a respiratory care educational program. A respiratory care educational program means a program accredited by the council on allied health education programs (CAHEP) in collaboration with the committee on accreditation for respiratory care (CoARC) or their successor organizations.

(b) The board may issue a license to practice respiratory care by endorsement to:

(i) An applicant who is currently licensed to practice respiratory care under the laws of another state, territory or country if the qualifications of the applicant are deemed by the board to be equivalent to those required in this state;

(ii) Applicants holding credentials, conferred by the national board for respiratory care, as a certified respiratory therapist (CRT) or as a registered respiratory therapist (RRT), provided the credential has not been suspended or revoked.

(c) Applicants applying for licensure under subsection (b) of this section shall be required to certify under oath that their credentials have not been suspended or revoked.

(d) Pursuant to rule and regulation, the board may grant a license to an applicant under this section based upon written evidence, verified by oath, of previous practical experience in the capacity of a respiratory care practitioner submitted by the applicant under this section.

33-43-109. Licensure; fees.

An applicant applying for a license to practice respiratory care shall pay an administrative fee to the board. Fees under this section shall be set by the board in accordance with W.S. 33-1-201. If an applicant fails to complete the requirements for licensing within three (3) years from the date of filing, the application is deemed to be abandoned.

33-43-110. Temporary permits.

Upon payment of a fee set by the board in accordance with W.S. 33-1-201, the board may issue a temporary permit to practice respiratory care for a period of six (6) months to an applicant for licensing, pending compliance with the requirements for licensing, providing the applicant shows written evidence, verified by oath, that the applicant is currently practicing, or has within the last six (6) months practiced respiratory care in another state, territory or country and was licensed to practice respiratory care in that state or is a student in a committee on accreditation for respiratory care (CoARC) approved respiratory care education program who expects to graduate within the next thirty (30) calendar days. Upon notification that a student in an approved program who has received a temporary permit under this section fails to successfully complete the program, the board shall revoke the temporary permit. On expiration of the permit and on payment of an additional fee set by the board in accordance with W.S. 33-1-201, the board may issue a permit to perform respiratory care for an additional period not to exceed twelve (12) months from the date of issuance of the original permit. Reapplication following abandonment of an application shall not entitle the applicant to a permit.

33-43-111. Temporary licenses.

The board shall issue a license to perform respiratory care to an applicant, who, prior to July 1, 2003, has passed the entry level or advanced practitioner examinations administered by the national board for respiratory care or its equivalent. Other applicants who are not students in a respiratory care education program and have not passed either of the examinations under this section or their equivalents prior to July 1, 2003, and who through written evidence, verified by oath, demonstrate that they are presently functioning in the capacity of a respiratory care practitioner as defined by this act, shall be given a temporary license to practice respiratory care for a period up to five (5) years commencing July 1, 2003. The applicants shall pass the licensure examination administered by the board during the five (5) year period in order to be issued a license to practice respiratory care.

33-43-112. Licensed respiratory care practitioner; use of L.R.C.P. professional.

(a) A person holding a license to practice respiratory care in this state may use the title, "licensed respiratory care practitioner" and the abbreviation, "L.R.C.P.".

(b) A licensee shall show his license when requested.

33-43-113. Renewal of license; lapse; reinstatement.

(a) A license shall be renewed annually except as hereafter provided. The board shall mail notices and applications for renewal at least sixty (60) calendar days prior to expiration for renewal of licenses to every person to whom a license was issued or renewed during the preceding renewal period. The licensee shall complete the application for renewal and return it to the board with the renewal fee set by the board in accordance with W.S. 33-1-201 before the date of expiration.

(b) Upon receipt of the application for renewal and the fee, the board shall verify its contents and shall issue the license for the current renewal period, which shall be valid for the period stated thereon. The board may establish continuing education requirements for annual renewal of the license.

(c) A licensee who allows his license to lapse by failing to renew it, may be reinstated by the board upon payment of the renewal fee and reinstatement fee set by the board in accordance with W.S. 33-1-201 provided that the request for reinstatement is made within thirty (30) days of the end of the renewal period.

(d) A respiratory care practitioner who does not engage in the practice of respiratory care during the succeeding renewal period is not required to pay the renewal fee as long as he remains inactive. If he desires to resume the practice of respiratory care, he shall notify the board of his intent and shall satisfy the current requirements of the board in addition to remitting the renewal fee for the current renewal period and the reinstatement fee.

(e) The board is authorized to establish reasonable fees for replacement and duplicate licenses.

33-43-114. Disposition of fees.

Fees received by the board and any monies collected under this act shall be deposited with the state treasurer, who shall credit the money to a separate account which shall only be used

by the board to defray costs incurred in the administration of this act.

33-43-115. License revocation; discipline.

(a) The board may revoke, suspend or refuse to renew any license or permit or place on probation, or otherwise reprimand a licensee or permit holder or deny a license to an applicant if, after hearing, it finds that the person:

(i) Is guilty of fraud or deceit in procuring or attempting to procure a license or renewal of license to practice respiratory care;

(ii) Is unfit or incompetent by reason of negligence, habits or other causes of incompetency as defined in the rules and regulations promulgated by the board;

(iii) Is addicted to a drug or intoxicant to a degree to render the licensee unsafe or unfit to practice respiratory care;

(iv) Is guilty of unprofessional conduct as defined by the rules established by the board, or has violated the code of ethics adopted and published by the board;

(v) Has practiced respiratory care after his license or permit has expired or has been suspended;

(vi) Has practiced respiratory care under cover of any permit or license illegally or fraudulently obtained or issued;

(vii) Has violated or aided or abetted others in violation of any provision of this act.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order.

33-43-116. Board hearings; investigations.

(a) Upon filing of written complaint with the board, charging a person with having been guilty of any of the acts

described in W.S. 33-43-115, the administrative secretary, or other authorized employee of the board shall make an investigation. If the board finds reasonable grounds for the complaint, a time and place for a hearing shall be set, notice of which shall be served on the licensee, permit holder or applicant at least fifteen (15) calendar days prior thereto. The notice shall be by personal service or by certified or registered mail sent to the last known address of the person.

(b) The board may issue subpoenas for the attendance of witnesses and the production of necessary evidence in any hearing before it. Upon request of the respondent or his counsel, the board shall issue subpoenas on behalf of the respondent.

(c) Unless otherwise provided in this act, hearing procedures shall be promulgated in accordance with, and a person aggrieved by a decision of the board may take an appeal pursuant to, the Wyoming Administrative Procedure Act.

33-43-117. Exceptions.

(a) No person shall practice respiratory care or represent himself to be a respiratory care practitioner unless he is licensed under this act, except as otherwise provided by this act.

(b) This act does not prohibit:

(i) The practice of respiratory care which is an integral part of the program of study by students enrolled in a respiratory care education program recognized by the committee on accreditation for respiratory care (CoARC) or its successor. Students enrolled in a respiratory therapy care education program shall be identified as "student-respiratory care practitioner" and shall only provide respiratory care under direct clinical supervision;

(ii) Self-care by a patient, or gratuitous care by a friend or family member who does not represent or hold himself out to be a respiratory care practitioner;

(iii) Respiratory care services rendered in the course of an emergency;

(iv) Respiratory care rendered by persons in the military services or working in federal facilities when functioning in the course of their assigned duties;

(v) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formalized or specialized training;

(vi) An individual, other than a respiratory care practitioner, employed by a home medical equipment company, from installing and maintaining home respiratory equipment, provided he does not perform patient assessment or patient care relating to home respiratory care.

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of the state of Wyoming.

(d) An individual who, by passing an examination which includes content in one (1) or more of the functions included in this act, offered by a testing body certified by the national commission for health certifying agencies or its equivalent, shall not be prohibited from performing procedures for which they were tested.

(e) Nothing in this act shall be construed to permit the practice of medicine.

33-43-118. Offenses.

(a) It is a violation of this act for any person to:

(i) Sell, fraudulently obtain or furnish any respiratory care permit, license or record, or aid or abet therein;

(ii) Practice respiratory care under cover of any respiratory care diploma, permit, license or record illegally or fraudulently obtained or issued;

(iii) Practice respiratory care unless duly licensed or otherwise authorized to do so under the provisions of this act;

(iv) Impersonate in any manner or pretend to be a respiratory care practitioner or use the title, "licensed

respiratory care practitioner," the letters, "L.R.C.P.," or any other words, letters, signs, symbols or devices to indicate the person using them is a licensed respiratory care practitioner, unless duly authorized by license or permit to perform under the provisions of this act;

(v) Practice respiratory care during the time his license or permit is suspended, revoked or expired;

(vi) Fail to notify the board of the suspension, probation or revocation of any past or currently held licenses, certifications or registrations required to practice respiratory care in this or any other jurisdiction;

(vii) Knowingly employ unlicensed persons in the practice of respiratory care in the capacity of a respiratory care practitioner;

(viii) Make false representations or impersonate or act as a proxy for another person or allow or aid any person to impersonate him in connection with any examination for licensing or request to be examined or licensed;

(ix) Otherwise violate any provision of this act.

(b) Any violation of this act is a misdemeanor and upon conviction shall be punishable by a fine of not more than one thousand dollars ($1,000.00), imprisonment for not more than six (6) months, or both fine and imprisonment for each offense.

CHAPTER 44 - UNIFORM ATHLETE AGENTS ACT

33-44-101. Short title.

This act may be cited as the "Uniform Athlete Agents Act."

33-44-102. Definitions.

(a) As used in this act:

(i) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract;

(ii) "Athlete agent" means an individual who enters into an agency contract with a student athlete or, directly or

indirectly, recruits or solicits a student athlete to enter into an agency contract. The term does not include a spouse, parent, sibling, grandparent or legal guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. The term includes an individual who represents to the public that the individual is an athlete agent;

(iii) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate;

(iv) "Contact" means a communication, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into an agency contract;

(v) "Endorsement contract" means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the student athlete may have because of publicity, reputation, following or fame obtained because of athletic ability or performance;

(vi) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics;

(vii) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or government; governmental subdivision, agency or instrumentality; public corporation; or any other legal or commercial entity;

(viii) "Professional sports services contract" means an agreement under which an individual is employed or agrees to render services as a player on a professional sports team, with a professional sports organization, or as a professional athlete;

(ix) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(x) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(xi) "Student athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student athlete for purposes of that sport; and

(xii) "This act" means W.S. 33-44-101 through 33-44-114.

33-44-103. Service of process.

By engaging in the business of an athlete agent in this state, a nonresident individual appoints the secretary of state as the individual's agent to accept service of process in any civil action related to the individual's business as an athlete agent in this state.

33-44-104. Athlete agents; delivery of disclosure form required.

(a) Except as otherwise provided in subsection (b) of this section, an individual may not act as an athlete agent in this state unless on the day of initial contact with any student athlete the athlete agent delivers to the student athlete the athlete agent disclosure form as required by W.S. 33-44-105.

(b) An individual may act as an athlete agent before delivering an athlete agent disclosure form for all purposes except signing an agency contract if:

(i) A student athlete or another acting on behalf of the student athlete initiates communication with the individual; and

(ii) Within seven (7) days after an initial act as an athlete agent, the individual delivers an athlete agent disclosure form to the student athlete.

(c) An agency contract resulting from conduct in violation of this section is void. The athlete agent shall return any consideration received under the contract.

33-44-105. Athlete agent disclosure form; requirements.

(a) The athlete agent disclosure form shall be in a record executed in the name of an individual and signed by the athlete agent under penalty of perjury and, except as otherwise provided in subsection (b) of this section, must state or contain:

(i) The name of the athlete agent and the address of the athlete agent's principal place of business;

(ii) The name of the athlete agent's business or employer, if applicable;

(iii) Any business or occupation engaged in by the athlete agent for the five (5) years next preceding the date of execution of the athlete agent disclosure form;

(iv) A description of the athlete agent's:

(A) Formal training as an athlete agent;

(B) Practical experience as an athlete agent; and

(C) Educational background relating to the athlete agent's activities as an athlete agent.

(v) The names and addresses of three (3) individuals not related to the athlete agent who are willing to serve as references;

(vi) The name, sport, and last known team for each individual for whom the athlete agent provided services as an athlete agent during the five (5) years next preceding the date of execution of the athlete agent disclosure form;

(vii) The names and addresses of all persons who are:

(A) With respect to the athlete agent's business if it is not a corporation, the partners, officers, associates or profit-sharers; and

(B) With respect to a corporation employing the athlete agent, the officers, directors and any shareholder of the corporation with a five percent (5%) or greater interest.

(viii) Whether the athlete agent or any other person named pursuant to paragraph (vii) of this subsection has been convicted of a crime that, if committed in this state, would be a felony or other crime that relates to the practice of serving as an athlete agent or to the ability to serve as an athlete agent, and identify the crime;

(ix) Whether there has been any administrative or judicial determination that the athlete agent or any other person named pursuant to paragraph (vii) of this subsection has made a false, misleading, deceptive or fraudulent representation;

(x) Any instance in which the conduct of the athlete agent or any other person named pursuant to paragraph (vii) of this subsection resulted in the imposition of a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution;

(xi) Any sanction, suspension or disciplinary action taken against the athlete agent or any other person named pursuant to paragraph (vii) of this subsection arising out of occupational or professional conduct; and

(xii) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the athlete agent or any other person named pursuant to paragraph (vii) of this subsection as an athlete agent in any state.

(b) An individual who has submitted an application for, and received a certificate of or a renewal of a certificate of, registration or licensure as an athlete agent in another state may submit a copy of the application and a valid certificate of registration or licensure from the other state in lieu of submitting an athlete agent disclosure form in the form prescribed pursuant to subsection (a) of this section, but only if the application to the other state:

(i) Was submitted in the other state within the six (6) months next preceding the date of delivery of the athlete agent disclosure form in this state and the athlete agent

certifies the information contained in the application is current;

(ii) Contains information substantially similar to or more comprehensive than that required in an athlete agent disclosure form under subsection (a) of this section; and

(iii) Was signed by the athlete agent under penalty of perjury.

33-44-106. Disqualifications.

(a) No person may engage in the business of an athlete agent who has:

(i) Been convicted of a crime that, if committed in this state, would be a felony or other crime that relates to the practice of serving as an athlete agent or to the ability to serve as an athlete agent;

(ii) Made a materially false, misleading, deceptive or fraudulent representation as an athlete agent or in the application for licensure or registration as an athlete agent in another state;

(iii) Engaged in conduct prohibited by W.S. 33-44-111;

(iv) Had a registration or licensure as an athlete agent suspended, revoked or denied or been refused renewal of registration or licensure in any state; or

(v) Engaged in conduct or failed to engage in conduct the consequence of which was that a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or educational institution.

33-44-107. Form of contract.

(a) An agency contract shall be in a record signed by the parties.

(b) An agency contract shall state or contain:

(i) The amount and method of calculating the consideration to be paid by the student athlete for services to

be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(ii) The name of any person other than the athlete agent who will be compensated because the student athlete signed the agency contract;

(iii) A description of any expenses that the student athlete agrees to reimburse;

(iv) A description of the services to be provided to the student athlete;

(v) The duration of the contract; and

(vi) The date of execution.

(c) An agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;

(2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, AT LEAST SEVENTY-TWO (72) HOURS PRIOR TO ENTERING INTO AN AGENCY CONTRACT AND AGAIN WITHIN SEVENTY-TWO (72) HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN FOURTEEN (14) DAYS AFTER SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(d) A copy of the athlete agent disclosure form delivered to the student athlete shall be attached to the agency contract.

(e) An agency contract that does not conform to this section is voidable by the student athlete.

(f) The athlete agent shall give a copy of the signed agency contract to the student athlete at the time of signing.

33-44-108. Notice to educational institution.

(a) At least seventy-two (72) hours prior to entering into an agency contract, the athlete agent shall give notice in a record of the existence of the contract and shall provide a copy of the athlete agent disclosure form to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(b) Within seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract and shall provide a copy of the athlete agent disclosure form to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(c) At least seventy-two (72) hours prior to entering into an agency contract, the student athlete shall give notice in a record of the existence of the contract and shall provide a copy of the athlete agent disclosure form to the athletic director of the educational institution at which the student athlete is enrolled.

(d) Within seventy-two (72) hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled that he has entered into an agency contract and shall provide a copy of the athlete agent disclosure form.

33-44-109. Student athlete's right to cancel.

(a) A student athlete may cancel an agency contract by giving notice in a record to the athlete agent of the cancellation within fourteen (14) days after the contract is signed.

(b) A student athlete may not waive the right to cancel an agency contract.

(c) If a student athlete cancels an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the agent to induce the student athlete to enter into the contract.

33-44-110. Required records; retention.

(a) An athlete agent shall retain the following records for a period of five (5) years:

(i) The name and address of each individual represented by the athlete agent;

(ii) Any agency contract entered into by the athlete agent; and

(iii) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete.

(b) Records required by subsection (a) of this section to be retained are subject to subpoena in a judicial proceeding.

33-44-111. Prohibited acts.

(a) An athlete agent may not do any of the following with the intent to induce a student athlete to enter into an agency contract:

(i) Give any materially false or misleading information or make a materially false promise or representation;

(ii) Furnish anything of value to a student athlete before the student athlete enters into the agency contract; or

(iii) Furnish anything of value to any individual other than the student athlete or another registered athlete agent.

(b) An athlete agent may not intentionally:

(i) Initiate contact with a student athlete unless providing the student athlete with the athlete agent disclosure form as provided in W.S. 33-44-104;

(ii) Refuse or willfully fail to retain or produce in response to subpoena the records required by W.S. 33-44-110;

(iii) Fail to disclose information required by W.S. 33-44-105;

(iv) Provide materially false or misleading information in an athlete agent disclosure form;

(v) Predate or postdate an agency contract;

(vi) Fail to notify a student athlete prior to the student athlete's signing an agency contract for a particular sport that the signing by the student athlete may make the student athlete ineligible to participate as a student athlete in that sport;

(vii) Ask or allow a student athlete to waive or attempt to waive rights under this act;

(viii) Fail to give notice required under W.S. 33-44-108; or

(ix) Engage in the business of an athlete agent in this state:

(A) At any time after conviction under W.S. 33-44-112; or

(B) Within five (5) years of entry of a civil judgment under W.S. 33-44-113.

33-44-112. Criminal and civil penalties.

The commission of any act prohibited by W.S. 33-44-111 by an athlete agent is a felony punishable by imprisonment of not less than one (1) year, a fine of not more than ten thousand dollars ($10,000.00), or both. In addition to any criminal penalties, the court may assess a civil penalty of up to ten thousand dollars ($10,000.00) for a violation of W.S. 33-44-111. Any penalty collected under the provisions of this section shall be deposited in the public school fund of the appropriate county as required by article 7, section 5 of the Wyoming constitution.

33-44-113. Civil remedies.

(a) An educational institution has a right of action against an athlete agent or a former student athlete for damages caused by a violation of this act. In an action under this section, the court may award to the prevailing party costs and reasonable attorneys' fees.

(b) Damages of an educational institution under subsection (a) of this section include losses and expenses incurred because, as a result of the activities of an athlete agent or former student athlete, the educational institution was injured by a violation of this act or was penalized, disqualified or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference or by reasonable self-imposed disciplinary action taken to mitigate sanctions.

(c) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student athlete.

(d) Any liability of the athlete agent or the former student athlete under this section is several and not joint.

(e) This act does not restrict rights, remedies or defenses of any person under law or equity.

33-44-114. Application; construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter of this act among states that enact it.

CHAPTER 45 - ATHLETIC TRAINERS

33-45-101. Short title.

This chapter shall be known and may be cited as the "Wyoming Athletic Trainers Licensing Act."

33-45-102. Definitions.

(a) As used in this chapter:

(i) "Athlete" means an individual associated with an educational institution, a professional, amateur or recreational

sports club, an athletic organization or a physically active occupation participating in exercises, sports, games or employment-related physical activity that require physical strength, agility, flexibility, range of motion, speed or stamina;

(ii) "Athletic injury" means:

(A) An injury or athletic-related illness or both that affects the athlete's participation or performance in sports, games, exercise or employment-related physical activity; and

(B) A condition that is within the scope of practice of an athletic trainer identified by a directing physician as benefiting from athletic training services.

(iii) "Board" means the state board of athletic training created under this chapter;

(iv) "License" means a current document certifying the athletic trainer has met the qualifications required to perform the functions and duties of an athletic trainer in this state;

(v) "Licensed athletic trainer" means a person licensed under this chapter who meets the qualifications set by the board and practices athletic training;

(vi) "Practice of athletic training" means the application of the principles and methods of prevention, recognition, evaluation and assessment of athletic injuries and illnesses, immediate care of athletic injuries including common injuries, medical emergencies, psychosocial intervention and referral, conditioning and rehabilitative exercise, nutritional aspects of injuries and illnesses, the use of therapeutic modalities, proper healthcare administration, professional development and the understanding and education of applications, precautions, interactions, indications and contraindications of pharmacology for athletes. "Practice of athletic training" does not include the practice of physical therapy as defined in W.S. 33-25-101(a)(i).

33-45-103. Board of athletic training established; qualifications; term of office; vacancies; removal.

(a) The state board of athletic training is created to implement and administer this chapter.

(b) The board shall consist of the following three (3) members:

(i) Two (2) licensed athletic trainers certified by a nationally accredited credentialing agency with at least five (5) years of training experience prior to appointment; and

(ii) One (1) licensed physician with at least five (5) years experience prior to appointment.

(c) Terms of initial board members shall be staggered with one (1) member serving for one (1) year, one (1) serving for two (2) years and one (1) serving for three (3) years.

(d) The governor shall appoint the members of the board. Except for initial board members as provided under subsection (c) of this section, the term of each member shall be three (3) years. Upon expiration of their terms, members of the board shall continue to hold office until the appointment of their successors. No person shall serve as a member of the board for more than two (2) consecutive terms.

(e) A vacancy that occurs for any reason in the membership of the board shall be filled within thirty (30) days by the governor. A person appointed to fill a vacancy shall serve for the unexpired portion of the term.

(f) The governor may remove any member of the board as provided in W.S. 9-1-202 or upon a recommendation of a majority of the board for any reason.

33-45-104. Board of athletic training; compensation.

Each member of the board shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii) while engaged in official business or actual duties of the board. The fees and expenses shall be paid from the funds of the board.

33-45-105. Board of athletic training; meetings.

A majority of the board constitutes a quorum for meetings and the transaction of official business. The board shall meet as often as needed, but not less than two (2) times a year.

33-45-106. Board of athletic training; powers and duties; fees; deposit in separate account to fund administration; separate account for enhancing practice of athletic training.

(a) The board shall:

(i) Administer this chapter;

(ii) Promulgate rules and regulations as necessary to carry out this chapter including:

(A) Continuing education requirements for the renewal of licenses;

(B) Professional conduct;

(C) Professional licensure;

(D) Ethical standards of practice;

(E) Provision of telehealth services;

(F) Provision of additional services during a declared state of emergency.

(iii) Approve or disapprove applications for licensure and issue licenses;

(iv) Censure, suspend or revoke licenses as provided in this chapter and the Wyoming Administrative Procedure Act;

(v) Initiate and conduct investigations, hearings and proceedings concerning alleged violations of this chapter and board rules;

(vi) Prescribe fees in accordance with W.S. 33-1-201 for implementing this chapter;

(vii) Keep a record of all proceedings and make available to licensees and other concerned parties an annual report of all board action.

(b) The board may employ or contract with individuals it determines necessary to administer its affairs and to provide necessary support and clerical services. Costs related to these services shall be paid from the funds of the board.

(c) All fees collected by the board shall be deposited by the state treasurer to the credit of the state board of athletic training account. Disbursements from the account shall not exceed the monies credited to it. The account shall be used by the board to defray costs incurred in the administration of this chapter.

(d) The board may accept federal, state, county, city or private funds, grants or appropriations to enhance the practice of athletic trainers. The funds shall be deposited by the state treasurer in a separate account. The funds shall be paid out upon an authorized voucher duly verified and signed by the chairman of the board, showing that the expenditure is authorized under this chapter. Upon presentation of the voucher, the auditor shall draw the warrant upon the treasurer but no warrant shall be drawn unless sufficient funds are in the account.

33-45-107. Licenses required; persons and practices not affected.

(a) After July 1, 2010, no person shall use any card, title, letters, insignia or abbreviation indicating that the person is an athletic trainer, except under a license issued in accordance with this chapter and rules adopted pursuant to this chapter.

(b) No person licensed as an athletic trainer under this chapter shall engage in the practice of athletic training except under the direction of a physician licensed by the Wyoming board of medicine.

(c) Nothing in this chapter shall prevent or restrict the practices, services or activities of:

(i) Any person licensed in this state by any other law from engaging in the profession or occupation for which the person is licensed or registered or otherwise regulated;

(ii) Any person employed by a school district in this state and holding a coaching endorsement issued by the professional teaching standards board;

(iii) Any person serving as a student athletic trainer for a school district or as an undergraduate student intern or trainee, provided the student intern or trainee is given the title of "athletic training student," and the

activities of any person acting pursuant to this paragraph are performed under the supervision of a licensed athletic trainer or a person meeting the qualifications of paragraph (ii) of this subsection;

(iv) Any person performing athletic training services in this state for no more than thirty (30) days in any calendar year if that person is:

(A) Employed by an organization, corporation or educational institution located in another state; and

(B) Representing the organization, corporation or educational institution in a short-term event held in Wyoming.

(d) Any person engaged in the practice of athletic training who is relocating to this state shall have one hundred twenty (120) days from the date of residency to complete application for licensure.

33-45-108. Applications; qualifications; issuance of license.

(a) An application for licensure under this chapter shall be on forms prescribed by the board. The application shall show that the applicant has reached the age of majority, is a graduate of an accredited four (4) year college or university in a program of study approved by the board and has passed the examination administered by a national certifying body approved by the board.

(b) Fees shall accompany all applications for original licenses, renewal licenses and other applications authorized by this chapter.

(c) The board shall issue a license to any applicant who has satisfactorily met all the requirements for licensure imposed under this chapter and board rule and regulation as an athletic trainer. The term of the license shall be not less than one (1) year and may be renewed subject to the requirements of this chapter.

33-45-109. Renewal of license.

The board shall prescribe the form and expiration date of licenses. Licenses may be renewed by submitting the required

application for renewal and fee to the board before the license expiration date. If a license is allowed to expire, the license may be renewed within a period of ninety (90) days after the expiration date upon payment of the renewal fee. A license which is not renewed within the ninety (90) day period may be reinstated upon payment of all fees due, including a reinstatement fee as established by the board. A license which has not been renewed is not valid. No reinstatement of a license may be granted more than five (5) years after its expiration.

33-45-110. Reciprocity.

Persons licensed to engage in the practice of athletic training under the laws of any other state having requirements substantially equal to those provided for in this chapter may be issued a license to practice in this state solely upon payment of the license fees as provided in this chapter.

33-45-111. Disciplinary action; suspension and revocation of license.

(a) After the hearing authorized by subsection (b) of this section, the board may deny a license or refuse to renew a license, may suspend or revoke a license or may impose probationary conditions if the licensee or the applicant has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. For purposes of this section, unprofessional conduct includes:

(i) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(ii) Being guilty of unprofessional conduct as defined by the rules of the board or violating the code of ethics adopted and published by the board;

(iii) Being convicted of a felony that relates to the practice of athletic training or to the ability to practice athletic training;

(iv) Being convicted of an offense involving a controlled substance;

(v) Being negligent in the practice of athletic training;

(vi) Violating any lawful order, rule or regulation rendered or adopted by the board; and

(vii) Violating any provision of this chapter.

(b) A denial, refusal to renew, suspension, revocation or imposition of probationary conditions upon a license may be ordered by the board after a hearing in the manner provided by rules and regulations adopted by the board. An application for reinstatement may be made to the board one (1) year after the date of the revocation of a license. The board may accept or reject an application for reinstatement and may hold a hearing to consider reinstatement. Any person aggrieved by any final action of the board may appeal to the district court under the Wyoming Administrative Procedure Act.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-45-112. Penalties.

(a) Any person who violates any provision of W.S. 33-45-107 is guilty of a misdemeanor punishable by imprisonment of not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both. Each violation shall constitute a separate offense.

(b) The board may seek an injunction in the district court to enjoin any person from violating this chapter.

CHAPTER 46 - MIDWIVES LICENSURE ACT

33-46-101. Short title.

This act shall be known and may be cited as the "Midwives Licensure Act".

33-46-102. Definitions.

(a) As used in this act:

(i) "Board" means the board of midwifery;

(ii) "Midwife" means any person who provides primary prenatal, intrapartum and postpartum care by affirmative act or conduct to women and newborns during the childbearing cycle;

(iii) "Midwifery" or "practice of midwifery" means providing primary maternity care that is consistent with a midwife's training, education and experience to women and their newborn children throughout the childbearing cycle, and includes identifying and referring women or their newborn children who require medical care to an appropriate health professional;

(iv) "This act" means W.S. 33-46-101 through 33-46-108.

33-46-103. Board of midwifery.

(a) The board of midwifery is established. The board shall regulate the practice of midwifery in the state to ensure the safety of women and newborn children receiving care from midwives.

(b) The board shall license as a midwife any person who applies in the manner prescribed by the board in rules and regulations and who:

(i) Pays the fees established by the board pursuant to this act;

(ii) Has graduated from a midwifery education program accredited by the midwifery education accreditation council, or a similar successor organization, or has five (5) years experience practicing as a licensed or certified midwife in another state;

(iii) Provides proof of current certification as a certified professional midwife by the North American registry of midwives or its successor organization;

(iv) Has completed a practicum or course of practical experience meeting the requirements established by rule and regulation of the board;

(v) Has provided the board with evidence of successful completion of board approved courses in the treatment of respiratory distress in newborns, pharmacology, the treatment

of shock, intravenous therapy and suturing specific to midwives. The board may accept graduation from an accredited program as provided by paragraph (ii) of this subsection as satisfying this requirement if those programs adequately cover these subjects;

(vi) Has provided the board fingerprints and other information necessary for a criminal history record background check as provided under W.S. 7-19-201;

(vii) Has successfully completed a personal interview with the board, if the board deems an interview appropriate in general or in a specific case;

(viii) Has not provided materially false or misleading information to the board;

(ix) Has not been convicted of a crime which in the judgment of the board renders the person unfit to practice midwifery.

(c) The board may by endorsement license any person as a midwife who applies in the manner prescribed by the board and who:

(i) Pays the fees established by the board pursuant to this act;

(ii) Is currently licensed or certified by any state with requirements at least as stringent as this state and is in good standing in that state;

(iii) Has successfully completed a personal interview with the board if the board deems an interview appropriate in general or in a specific case;

(iv) Has provided the board fingerprints and other information necessary for a criminal history record background check as provided under W.S. 7-19-201;

(v) Has not provided materially false or misleading information to the board;

(vi) Has not been convicted of a crime which in the judgment of the board renders the person unfit to practice midwifery;

(vii) Has not been sanctioned in another state without resolution satisfactory to the board.

(d) The period of licensure shall be two (2) years and the board shall renew the license upon application, payment of fees and completion of any required continuing education, absent cause to take action pursuant to subsection (e) of this section.

(e) The board may revoke, suspend or condition the license of a midwife or require the midwife to practice for a time under the supervision of a person licensed under the Medical Practice Act, a certified nurse midwife or another midwife as appropriate if the board finds the midwife has committed any one (1) or more of the following:

(i) Been convicted of a crime which renders the person unfit to practice midwifery;

(ii) Violated this act;

(iii) Abused or neglected women or newborns under the midwife's care;

(iv) Failed to refer women or newborn children in need of care or at risk of needing care beyond the abilities of the midwife to an appropriate health care professional in accord with standards of the national association of certified professional midwives or other national midwife certifying agency established for such purpose which has been reviewed and approved by the board;

(v) Provided a level or degree of care indicating a need for additional training of the midwife or additional professional supervision of the midwife.

(f) The board may authorize its chairman or executive secretary, if any, to issue a provisional license allowing any of the following:

(i) Any person eligible for licensure to practice under the supervision of another midwife, a person licensed under the Medical Practice Act or a certified nurse midwife until the board has the opportunity to act on the person's application for licensure, however this paragraph shall not apply to any person whose license or certificate is under revocation, suspension or disciplinary restriction in another state;

(ii) Any person undertaking the practicum required under this act to practice under the supervision of another midwife, a certified nurse midwife or a person licensed under the Medical Practice Act;

(iii) Any person licensed or certified in another state with requirements at least as stringent as this state to practice for not more than thirty (30) days to provide education and instruction in midwifery or to act as a locum tenens for a midwife licensed under this act. The board may define by rule and regulation the number of times during a year a provisional license pursuant to this paragraph may be issued.

(g) Unless otherwise provided in this act, hearing procedures shall be promulgated in accordance with, and a person aggrieved by a decision of the board may take an appeal pursuant to, the Wyoming Administrative Procedure Act.

(h) The practice of midwifery in Wyoming prior to the effective date of this act shall not constitute grounds for the board to deny licensure to or to discipline any person who otherwise qualifies for licensure under this act.

(j) The board shall make, adopt, amend, repeal and enforce reasonable rules and regulations necessary for the proper administration and enforcement of this act. The rules adopted by the board shall:

(i) Develop uniform and reasonable scope of practice standards for midwifery consistent with W.S. 33-46-102(a)(ii) and (iii), which shall, at a minimum:

(A) Prohibit a licensed midwife from providing care for a client with any one (1) or more of the following pregnancy disorders, diagnoses, conditions or symptoms:

(I) Placental abnormality;

(II) Multiple gestation;

(III) Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first;

(IV) Birth under thirty-seven (37) weeks or after forty-two (42) weeks gestational age;

(V) A history of more than one (1) prior cesarean section with no prior vaginal delivery, a cesarean section within eighteen (18) months of the current delivery or any cesarean section that was surgically closed with a classical or vertical incision;

(VI) Rhesus factor or other blood group or platelet sensitization, hematological disorders or coagulation disorders;

(VII) Preeclampsia;

(VIII) Cervical insufficiency or a history of cervical insufficiency.

(B) Prohibit a licensed midwife from providing care for a client with a history of any one (1) or more of the following disorders, diagnoses, conditions or symptoms unless the disorder, diagnosis, condition or symptom is being treated, monitored and managed during the current pregnancy by a physician licensed under the Medical Practice Act:

(I) Diabetes;

(II) Thyroid disease;

(III) Epilepsy;

(IV) Hypertension;

(V) Cardiac disease;

(VI) Pulmonary disease;

(VII) Renal disease;

(VIII) Previous major surgery of the pulmonary system, cardiovascular system, urinary tract or gastrointestinal tract;

(IX) Hepatitis.

(C) Require a licensed midwife to recommend that a client see a physician licensed under the Medical Practice Act and to document and maintain a record if the client has a history of any one (1) or more of the following disorders, diagnoses, conditions or symptoms:

(I) Previous complicated pregnancy;

(II) Previous cesarean section;

(III) Previous pregnancy loss in second or third trimester;

(IV) Previous spontaneous premature labor;

(V) Previous preterm rupture of membranes;

(VI) Previous preeclampsia;

(VII) Previous hypertensive disease of pregnancy;

(VIII) Prior infection with parvo virus, toxoplasmosis, cytomegalovirus or herpes simplex virus;

(IX) Previous newborn group B streptococcus infection;

(X) A body mass index of thirty-five (35) or higher at the time of conception;

(XI) Underlying family genetic disorders with potential for transmission;

(XII) Psychiatric illness.

(D) Require a licensed midwife to facilitate the immediate transfer to a hospital for emergency care, a client with any one (1) or more of the following disorders, diagnoses, conditions or symptoms:

(I) Maternal fever in labor;

(II) Suggestion of fetal jeopardy such as significant bleeding, thick meconium or abnormal fetal heart tones without delivery imminent;

(III) Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first;

(IV) Second stage of labor longer than two (2) hours without adequate progress;

(V) Current spontaneous premature labor;

(VI) Current preterm premature rupture of membranes;

(VII) Current preeclampsia;

(VIII) Current hypertensive disease of pregnancy;

(IX) Continuous uncontrolled bleeding;

(X) Bleeding which necessitates the administration of more than two (2) doses of oxytocin or other antihemorrhagic agent;

(XI) Delivery injuries to the bladder or bowel;

(XII) Seizures;

(XIII) Uncontrolled vomiting;

(XIV) Coughing or vomiting of blood;

(XV) Severe chest pain;

(XVI) Sudden onset of shortness of breath and associate labored breathing.

(E) Require that a licensed midwife recommend to the client that two (2) providers trained in neonatal resuscitation program be present at delivery;

(F) Require a licensed midwife to maintain records of all care provided to clients.

(ii) Develop a protocol for written informed consent to treatment, which shall include all of the following:

(A) The licensed midwife's experience and training;

(B) Instructions for obtaining a copy of rules adopted by the board pursuant to this act;

(C) Instructions for obtaining a copy of documents adopted by the national association of certified professional midwives that identify the nature of and standards of practice for responsible midwifery practice;

(D) Instructions for filing complaints with the board;

(E) Notice of the type and liability limits of professional or personal liability insurance maintained by the midwife or notice that the midwife does not carry liability insurance;

(F) A written protocol for emergencies that is specific for each individual client, including the following provisions:

(I) Transport to a hospital in an emergency;

(II) Notification of the hospital to which a client will be transferred upon initiation of the transfer;

(III) Accompaniment of the client to the hospital by the midwife, if feasible, or telephone notice to the hospital if the midwife is unable to be present personally;

(IV) Transmission of the client's record to the hospital, including the client's name, address, list of known medical conditions, list of prescription or over the counter medications regularly taken, history of previous allergic reactions to medications, the client's current medical condition and description of the care provided by the midwife;

(V) Next of kin contact information.

(G) A description of the procedures, benefits and risks of home birth, primarily those conditions that may arise during delivery;

(H) Any other information required by board rule.

(iii) Define a protocol for the use of those drugs approved by the board for administration to mothers and babies. The protocol shall include amounts and methods of obtaining, storing and disposing of approved drugs, indications and

contraindications for usage, dosage, route of administration and duration of treatment;

(iv) Define a protocol for management of newborns which shall at a minimum include immediate management of respiratory distress or other serious or potentially serious illness in the newborn, ensuring compliance with the newborn screening requirements of W.S. 35-4-801 and ensuring compliance with the relevant portions of vital records reporting pursuant to W.S. 35-1-401 through 35-1-431;

(v) Define a protocol for medical waste disposal;

(vi) Require midwives to report outcomes of all clients for which the midwife provided services at any point during labor or delivery to the board after each birth.

(k) Rules adopted by the board shall not:

(i) Require a licensed midwife to have a nursing degree or diploma;

(ii) Except as authorized by subsection (f) of this section or as a condition imposed as a disciplinary measure pursuant to W.S. 33-46-103(e), require a licensed midwife to practice midwifery under the supervision of another health care provider;

(iii) Except as a condition imposed as a disciplinary measure pursuant to W.S. 33-46-103(e), require a licensed midwife to enter into an agreement, written or otherwise, with another health care provider;

(iv) Limit the location where a licensed midwife may practice midwifery;

(v) Allow a licensed midwife to use vacuum extraction or forceps as an aid in the delivery of a newborn;

(vi) Grant a licensed midwife prescriptive privilege, except as provided in the protocol established pursuant to W.S. 33-46-103(j)(iii);

(vii) Allow a licensed midwife to perform abortions.

(m) At no less than five (5) year intervals, the board shall examine the reports provided under paragraph (j)(vi) of this section to assess the efficacy of the program.

33-46-104. Board membership and organization.

(a) The board shall consist of seven (7) members appointed by the governor including four (4) certified professional midwives, one (1) certified nurse midwife, one (1) physician licensed under the Medical Practice Act who is board certified in either obstetrics and gynecology or family medicine and who has experience in primary maternity care and one (1) consumer of midwifery care. The governor shall have the authority to appoint to the board qualified midwives licensed or certified in another state provided any person appointed becomes licensed in Wyoming within one (1) year of appointment.

(b) The initial appointments shall be for staggered terms with three (3) members being appointed for two (2) year terms, three (3) members being appointed for three (3) year terms and one (1) member being appointed for a four (4) year term. Thereafter, members shall be appointed for four (4) year terms. Vacancies shall be filled in the same manner as original appointments.

(c) The board shall elect a chairman and a vice chairman from among its membership. A majority of the board shall constitute a quorum. The meetings of the board shall be held at the call of the chairman or whenever a majority of the board members request and shall be held at least three (3) times per year.

(d) The attorney general shall provide legal counsel as necessary for the board and shall do so without charge until July 1, 2010 to assist the board in its organization and promulgation of initial rules.

33-46-105. Prohibited acts and exceptions.

(a) Unless licensed pursuant to this act, no person shall practice midwifery or hold himself out to be a midwife, a licensed midwife or a certified professional midwife except that a certified nurse midwife may hold himself out to be a midwife.

(b) The following shall not be considered to be practicing midwifery under this act:

(i) Any person rendering aid to a woman delivering a baby in the case of an emergency;

(ii) Any family member assisting a woman delivering a baby;

(iii) Any person recommending or referring a woman to medical care or a specific health care practitioner;

(iv) Any person licensed under another chapter of this title while practicing within the scope of the license.

33-46-106. Penalties.

Any person violating any provision of this act is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00), imprisonment for not more than one (1) year, or both.

33-46-107. Immunity.

(a) No person other than the licensed midwife who provided care to the patient shall be liable for the midwife's negligent, grossly negligent or willful and wanton acts or omissions.

(b) No hospital, person licensed under the Medical Practice Act, person licensed under the Nurse Practice Act, prehospital emergency medical personnel or any of their agents shall be liable for care provided to a woman or newborn child subsequent to care provided by a midwife, except that any hospital, person licensed under the Medical Practice Act, person licensed under the Nurse Practice Act, prehospital emergency medical personnel or any of their agents shall remain liable as otherwise provided by law for his or its own actions which are independent of the actions and omissions of the midwife.

(c) No person licensed under the Medical Practice Act, person licensed under the Nurse Practice Act or hospital in which they practice shall be liable for any failures of a midwife to meet any standard of care for patients on which they provide consultation to a midwife or accept a referral from the midwife but shall remain liable as otherwise provided by law for his or its own actions.

(d) For purposes of this section, "midwife" means the licensed midwife who provided care to the patient and any employer under whose authority the midwife provided that care.

33-46-108. Fees.

The board shall establish fees in accordance with W.S. 33-1-201 as necessary to provide for the administration of this act, including establishment of a reasonable working capital contingency fund. The board may establish fees for licensure, renewal of licenses, late applications, provisional licensure and per delivery fees for midwives conducting deliveries. Any per delivery fee established by the board shall not exceed fifty dollars ($50.00) and shall be forwarded to the board at the interval specified by board rules and regulations. The fees shall be deposited and managed in the same manner as other fees collected pursuant to this act.

CHAPTER 47 - DIETETICS LICENSURE ACT

33-47-101. Short title.

This act shall be known and may be cited as the "Dietetics Licensure Act."

33-47-102. Definitions.

(a) As used in this article:

(i) "Board" means the dietetics licensing board;

(ii) "Commission" means the commission on dietetic registration, the credentialing agency for the American dietetic association;

(iii) "Dietetics" means the integration and application of principles derived from the sciences of food, nutrition, management, communication, and biological, physiological, behavioral, and social sciences to achieve and maintain optimal human health. "Dietetics" includes the nutrition care process and medical nutrition therapy. "Dietetics" does not include medical differential diagnosis of the health status of an individual;

(iv) "General nonmedical nutrition information" means information on any one (1) or more of the following:

(A) Principles of good nutrition and food preparation;

(B) Food to be included in the normal daily diet;

(C) The essential nutrients needed by the body;

(D) Recommended amounts of the essential nutrients, based on established standards;

(E) The actions of nutrients on the body;

(F) The effects of deficiencies or excesses of nutrients;

(G) Food and supplements that are good sources of essential nutrients.

(v) "Medical nutrition therapy" means the use of specific nutrition services for the purpose of disease management to treat or rehabilitate an illness, injury or condition and includes:

(A) Interpreting dietary data and recommending nutrient needs relative to medically prescribed diets, including but not limited to tube feedings, specialized intravenous solutions and specialized oral feedings;

(B) Food and prescription drug interactions; and

(C) Developing and managing food service operations whose chief function is nutrition care and provision of medically prescribed diets.

(vi) "Medically prescribed diet" means a diet prescribed when specific food or nutrient levels need to be monitored, altered, or both, as a component of a treatment program from an individual whose health status is impaired or at risk due to disease, injury or surgery and may only be performed as initiated by or in consultation with a physician licensed in this state or an individual authorized by a state license to prescribe medical care;

(vii) "Nutrition assessment" means the systematic process of obtaining, verifying and interpreting biochemical, anthropometric, physical and dietary data in order to make decisions about the nature and cause of nutrition related problems. It is an ongoing, dynamic process that involves not only initial data collection but also reassessment and analysis

of client or community needs and provides the foundation for nutrition diagnosis and nutritional recommendations including enteral and parenteral nutrition;

(viii) "Nutrition care process" means the systematic problem solving method that dietitians use to critically think and make decisions when providing medical nutrition therapy or to address nutrition related problems and provide safe, effective, high quality care. The nutrition care process consists of four (4) distinct but interrelated steps including nutrition assessment, nutrition diagnosis, nutrition intervention and nutrition monitoring and evaluation;

(ix) "Nutrition diagnosis" means identifying and labeling nutritional problems that a dietetics practitioner is responsible for treating independently;

(x) "Nutrition intervention" means purposefully planned actions intended to positively change a nutrition related behavior, risk factor, environmental condition or aspect of health status for an individual, the individual's family, caregivers, target groups or the community at large;

(xi) "Nutrition monitoring and evaluation" means identifying patient or client outcomes relevant to the nutrition diagnosis and intervention plans and goals, and comparing those outcomes with previous status, intervention goals or a reference standard to determine the progress made in achieving desired outcomes of nutrition care. The purpose of nutrition monitoring and evaluation is to determine whether planned interventions should be continued or revised;

(xii) "Registered dietitian" means an individual registered with the commission or its successor organization;

(xiii) "This act" means W.S. 33-47-101 through 33-47-110.

33-47-103. Exemptions; persons and practices not affected.

(a) The following shall not be considered to be practicing dietetics under this act:

(i) A qualified member of a legally recognized profession who is otherwise licensed or certified by this state, while performing services consistent with the license or

certification, provided the member does not purport to be practicing dietetics and does not claim to be a dietitian;

(ii) A student enrolled in an accredited program in dietetics while engaged as part of the program in the practice of dietetics under the supervision of a licensed dietitian;

(iii) A dietitian who is serving in the armed forces or the commissioned corps of the public health service of the United States, who is employed by the veterans administration or a Wyoming department of health nutritional services program under the supervision of a licensed dietitian, while engaged in the practice of dietetics provided the practice is related to that service or employment;

(iv) A person employed by a school district who is responsible for menu planning, purchasing of food, meal preparation or food safety, who uses general nonmedical nutrition information in the performance of the person's duties and who does not purport to be practicing dietetics and does not claim to be a dietitian;

(v) A retailer who furnishes oral or written general nonmedical nutrition information related to food, food materials or dietary supplements or the marketing of food, food materials or dietary supplements;

(vi) A person who is employed as an instructor at a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, public health nutrition, food and nutrition, dietetics or food systems management or an equivalent major course of study as approved by the board;

(vii) A person providing weight control services;

(viii) A nonresident registered dietitian licensed in another state if the requirements for licensure are at least as stringent as the requirements for licensure contained in this act, or registered by the commission if the state of residence does not require licensure, while practicing dietetics in this state for up to twenty (20) days annually;

(ix) A person offering general nonmedical nutritional information, either as part of the sales of nutritional products or independently, who does not represent that they are a licensed dietician.

33-47-104. Board created; membership; appointment; terms; removal; meetings; compensation; immunity.

(a) The dietetics licensing board is created. The board shall regulate the practice of dietetics in the state by providing for the licensing and regulation of persons engaged in the practice of dietetics to ensure the safety of the public seeking nutritional advice.

(b) The board shall consist of three (3) members. The initial board shall consist of one (1) member of the public and two (2) registered dietitians who shall have been engaged in the practice of dietetics for a period of not less than five (5) years immediately preceding appointment to the board. Thereafter, dietitian members shall be licensed under this act prior to appointment to the board.

(c) The governor shall appoint the members of the board. The initial appointments shall be for staggered terms with one (1) registered dietitian appointed for a term of three (3) years, one (1) member of the public appointed for a term of two (2) years and one (1) registered dietitian appointed for a term of one (1) year. Thereafter, members shall be appointed for three (3) year terms.

(d) Vacancies in the board shall be filled by appointment by the governor as provided in subsection (b) of this section for the balance of an unexpired term. Each member shall serve until the member's successor is appointed and qualified. The governor may remove any member from the board as provided in W.S. 9-1-202.

(e) The board shall meet at least twice each year and shall elect a chairman at the first meeting each year. The board may convene at the request of the chairman or as the board may determine for any other meeting as may be deemed necessary by the chairman to transact the board's business. The board shall adopt rules for the transaction of its business. Two (2) board members shall constitute a quorum.

(f) Members of the board shall not receive compensation for their services but shall receive mileage and per diem as provided in W.S. 33-1-302(a)(vii) while engaged in the discharge of official duties.

(g) Members of the board shall have the same immunities from personal liability as state employees for actions taken in the performance of their duties under this act, as provided in W.S. 1-39-104.

33-47-105. Board powers and authority.

(a) The board shall:

(i) Examine, license and renew the licenses of duly qualified applicants;

(ii) Maintain an up-to-date list of every person licensed to practice dietetics under this act. The list shall show the licensee's last known place of employment, the license issue date and the registration number of the license;

(iii) Keep a record of all proceedings of the board and make the record available to the public for inspection during regular business hours;

(iv) Maintain an up-to-date list of persons whose licenses have been suspended, revoked or denied. The list shall include the names, type and cause of action, date and penalty incurred and the length of penalty. The list shall be available for public inspection during regular business hours and shall be supplied to similar boards in other states upon request;

(v) Establish reasonable fees for application, examination, licensing, certification, specialty examination designation, renewal, late renewal, reinstatement and other services provided pursuant to W.S. 33-1-201;

(vi) Adopt rules and regulations related to application, fees, discipline, suspension and revocation.

(b) The board may:

(i) Employ personnel or enter into an agreement as necessary to perform the functions of the board;

(ii) Establish relicensure requirements and procedures as are appropriate, including adopting and publishing a code of ethics as well as compliance guidance opinions as deemed necessary by the board;

(iii) Secure the services of resource consultants. Resource consultants shall receive travel and per diem expenses in the same manner and amount as state employees while engaged in consultative service to the board;

(iv) Enter into contracts with appropriate organizations for the purpose of developing, administering, grading or reporting the results of licensing examinations. The contracting organizations shall be capable of providing an examination which meets the standards of the commission or an equivalent organization. The examination shall be validated and nationally recognized as testing dietetic core competencies;

(v) Establish continuing education requirements for license renewal.

33-47-106. Licensure; application; qualifications; issuance and revocation of licenses; fees; temporary permits.

(a) An applicant for a license to practice dietetics shall submit to the board written evidence, verified by oath, that the applicant:

(i) Has received a baccalaureate or post baccalaureate degree from a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, public health nutrition, food and nutrition, dietetics, food systems management or an equivalent major course of study as approved by the board. Applicants who have obtained a degree outside of the United States and its territories shall have their academic degree validated by the board as equivalent to the same degree conferred by a regionally accredited college or university in the United States;

(ii) Has completed a documented supervised preprofessional practice experience component in dietetics of not less than nine hundred (900) hours under the supervision of a registered dietitian, a licensed dietitian or an individual with a doctoral degree conferred by a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics or food systems management;

(iii) Has successfully completed the registration examination for dietitians administered by the commission or an examination of an equivalent level approved by the board;

(iv) Has reached the age of majority; and

(v) Has not been convicted of a felony or a misdemeanor that relates adversely to the practice of dietetics, or the ability to practice dietetics, in the courts of this state, another jurisdiction or another country. As used in this paragraph, "conviction" includes a finding or verdict of guilt, an admission of guilt, a plea of nolo contendere, a plea agreement in which the defendant has pled guilty yet not admitted to all the facts that comprise the crime or a conditional plea as part of a deferred prosecution or deferred sentencing agreement.

(b) Until June 30, 2012, the board shall waive the examination required by subsection (a) of this section and shall grant a license to any applicant who:

(i) Makes satisfactory application to the board and is registered with the commission; or

(ii) Received a baccalaureate or post baccalaureate degree from a United States regionally accredited college or university with a program in dietetics or an equivalent major course of study as approved by the board and who has completed a board approved practical experience and met the educational requirements for registration by the commission or its equivalent.

(c) If an applicant fails to complete the requirements for licensing within one (1) year from the date of filing an application, the application shall be deemed to be abandoned.

(d) The board may issue a temporary permit to practice dietetics for a period of six (6) months to an applicant for licensing, provided:

(i) The applicant is currently practicing or has within the last twelve (12) months practiced as a licensed dietitian in another state, territory or country that required licensure of dietitians;

(ii) The applicant is currently practicing or has within the last twelve (12) months practiced as a registered dietitian in another state, territory or country that did not require licensure of dietitians; or

(iii) The applicant is a student in a commission approved dietetics education program who expects to graduate within thirty (30) calendar days of the application filing date. Upon notification that a student in an approved program who has received a temporary permit under this section fails to successfully complete the program, the permit shall immediately expire.

(e) On payment of an additional fee established pursuant to W.S. 33-47-105(a)(v), the board may extend a permit to practice dietetics for an additional period not to exceed six (6) months from the date of issuance of the original permit.

(f) Upon payment of a fee established pursuant to W.S. 33-47-105(a)(v), the board shall issue a license to practice dietetics to an applicant who was a dietitian registered prior to July 1, 2011 by the commission or its equivalent.

(g) Unless licensed to practice under this act, no person shall represent himself to the public as being a dietitian or a licensed dietitian. Only a person holding a license to practice dietetics in this state may use the title "licensed dietitian" or the abbreviation "LD" to indicate that the person is a licensed dietitian.

33-47-107. License renewal, revocation; hearings.

(a) A licensed dietitian shall renew the license every two (2) years. The board shall notify and provide applications for renewal to licensed dietitians at least sixty (60) calendar days prior to expiration of the license. A licensee seeking renewal shall complete the application for renewal and return it to the board with the renewal fee at least fifteen (15) days before the license expiration date. The renewal request shall be accompanied by evidence satisfactory to the board that the licensee has complied with this act and completed any applicable continuing education requirements.

(b) Upon receipt of the application for renewal and the fee, the board shall promptly verify its contents and issue a renewal license.

(c) A licensee who fails to submit a timely application for renewal may be reinstated by the board upon payment of the renewal fee and reinstatement fee established by the board provided that the request for reinstatement is made within ninety (90) days of the license expiration date.

(d) A licensed dietitian who does not engage in the practice of dietetics following expiration of the dietitian's license is not required to pay the renewal fee and shall be deemed inactive. If an inactive licensee desires to resume the practice of dietetics, the license shall be reissued upon application to the board, payment of renewal and reinstatement fees and submission of evidence that the applicant satisfies the current requirements for licensure.

(e) Fees received by the board and any monies collected under this act shall be deposited and credited to the board as provided in W.S. 33-1-202.

(f) The board may revoke, suspend or refuse to renew any license or permit or place on probation, reprimand a licensee or deny a license to an applicant if it finds that the person:

(i) Is guilty of fraud or deceit in procuring or attempting to procure a license or renewal of license to practice dietetics;

(ii) Is unfit or incompetent by reason of negligence, habits or other causes of incompetency as defined in the rules and regulations of the board;

(iii) Is addicted to a drug or intoxicant to a degree that renders the licensee unsafe or unfit to practice dietetics;

(iv) Is guilty of unprofessional conduct as defined by rules of the board, or has violated the code of ethics adopted and published by the board;

(v) Has practiced dietetics under cover of any permit or license illegally or fraudulently obtained or issued, or under a license that has expired or been suspended;

(vi) Has violated or aided or abetted others in violation of any provision of this act.

(g) Upon filing of written complaint with the board charging a person with having been guilty of any of the acts prohibited by this act, the executive director or other authorized employee of the board shall conduct an appropriate investigation. If the board finds reasonable grounds to substantiate the allegations of the complaint, the board may

refuse to grant, revoke, suspend or restrict the license of an applicant or licensee.

(h) The applicant or licensee shall be afforded an opportunity for a hearing on the board's action under subsection (f) or (g) of this section. Notices, hearings and appeals shall be in accordance with the Wyoming Administrative Procedure Act. The board may issue subpoenas for the attendance of witnesses and the production of necessary evidence in any hearing before it. Upon request of the respondent or his counsel, the board shall issue subpoenas on behalf of the respondent.

33-47-108. Reciprocity.

Reciprocity may be provided for dietitians licensed in other states which have laws at least as stringent as this act, or registered dietitians if their previous state of residence does not require licensure, provided that the applicant meets the requirements of W.S. 33-47-106.

33-47-109. Disclosure of information.

A licensed dietitian or any person employed in a licensed dietitian's professional practice shall not disclose without the consent of the client any communication made by a client to the dietitian or the dietitian's employees in the course of professional practice, except as required by law.

33-47-110. Injunctive relief.

The board may seek an injunction in the district court to enjoin any person from violating this act.

CHAPTER 48 - WYOMING COMBAT SPORTS COMMISSION

33-48-101. Wyoming combat sports commission created; appointment; term; rules and regulations; definitions.

(a) The Wyoming combat sports commission is created to implement and administer this chapter.

(b) The commission shall consist of three (3) members.

(c) Terms of initial commission members shall be staggered with one (1) member serving for one (1) year, one (1) serving for two (2) years and one (1) serving for three (3) years.

(d) The governor shall appoint the members of the commission. Except for initial commission members as provided under subsection (c) of this section, the term of each member shall be three (3) years. Upon expiration of their terms, members of the commission shall continue to hold office until the appointment of their successors.

(e) A vacancy that occurs for any reason in the membership of the commission shall be filled within thirty (30) days by the governor. A person appointed to fill a vacancy shall serve for the unexpired portion of the term.

(f) The governor may remove any member of the commission as provided in W.S. 9-1-202 or upon a recommendation of a majority of the commission for any reason.

(g) The commission shall adopt a seal and shall make rules for the administration of this chapter.

(h) As used in this chapter:

(i) Repealed by Laws 2020, ch. 124, § 2.

(ii) "Mixed martial arts" means unarmed combat involving the use, subject to any limitations set forth in this chapter or by rule of the commission, of a combination of techniques from different disciplines of the martial arts including, without limitation, grappling, submission holds, kicking and striking;

(iii) "Unarmed combat" means any form of competition in which a blow is usually struck which may reasonably be expected to inflict injury;

(iv) "Boxing" means boxing, sparring or any form of competition in which a blow is usually struck that may reasonably be expected to inflict injury and where the only authorized strikes are punches using padded gloves over the hands;

(v) "Commission" means the Wyoming combat sports commission.

33-48-102. Wyoming combat sports commission; powers and duties; subpoenas; oaths.

(a) The commission shall keep a full and accurate record of all acts and doings of the commission. The commission shall prepare for service of notices and other papers as may be necessary and shall have the power to administer oaths and issue subpoenas in all matters pertaining to the administration of the commission's duties. Falsely swearing before the commission shall be attended by the same consequences and be subject to the same penalties as if the disobedience or false swearing occurred in an action in the district court.

(b) A majority of the commission constitutes a quorum for meetings and the transaction of business. The act of the majority of members of the commission shall be the act of the commission. The commission shall meet as often as needed, but not less than four (4) times a year. The meetings shall be held in accordance with W.S. 16-4-401 through 16-4-407. The commission shall keep permanent records of its meetings.

(c) Any subpoena issued by the commission shall be subject to the following:

(i) The subpoena shall describe the objects required to be produced and shall prescribe a return date within a reasonable period of time within which the objects can be assembled and made available. If any tangible materials subpoenaed are located outside of this state, the person to whom the subpoena is issued shall make the materials available to the commission at a convenient location;

(ii) At any time before the return date specified on the subpoena, the person summoned may, in the district court in which the person resides or does business, petition for an order modifying the subpoena, setting aside the subpoena or prohibiting disclosure of specified materials;

(iii) If any party fails or refuses to obey a subpoena, the attorney general may, upon request of the commission and reasonable notice to all affected persons, apply to the district court for an order compelling compliance.

33-48-103. Wyoming combat sports commission; per diem; mileage.

Commission members shall receive as compensation the salary, per diem and mileage allowance as allowed to state legislators for each day or portion thereof in which they are engaged in the performance of their duties, payments of the same to be made out

of the Wyoming combat sports commission's appropriation. Provided, that if any state officer is appointed to act as a commission member, compensation for the services shall not be reimbursed except for any necessary expenses incurred or paid subject to the submission of appropriate receipts.

33-48-104. Wyoming combat sports commission; report to legislature; repeal of chapter.

(a) The commission shall make a full report to the joint travel, recreation, wildlife and cultural resources interim committee of all proceedings during the two (2) years preceding the first day of December before the beginning of the general session of the legislature. The report shall contain a statement of persons, clubs, organizations or corporations issued licenses, the number of licenses revoked, suspended or denied, the gross receipts from each person, club, organization or corporation, and other information and comments in relation to the work of the commission as public interest may require.

(b) If the commission raises fees pursuant to W.S. 33-48-108(b) and determines that the money received under this chapter remains insufficient to continue operations, the commission shall report that information to the legislature and shall not request any appropriation from the legislature. W.S. 33-48-101 through 33-48-117 are repealed, effective upon adjournment of the first legislative session convened after the date a report under this subsection is made.

33-48-105. Jurisdiction over mixed martial arts and boxing matches and licenses; power of municipalities.

(a) The commission shall have sole direction, management, control of, and jurisdiction over, all mixed martial arts and boxing matches to be conducted, held or given within the state. No mixed martial arts or boxing match shall be conducted, held or given within the state except pursuant to a license granted by the commission and in accordance with the provisions of this chapter and the rules and regulations of the commission. Every license shall be subject to such rules as the commission may prescribe. The commission may, at its discretion, issue and for cause revoke, deny or suspend a license to conduct, hold or give a mixed martial arts or boxing match. The commission shall have full power and authority to limit the number of mixed martial arts and boxing matches to be held or given by any person, club, organization or corporation in this state. No provision of this chapter shall prevent any incorporated city or town from

prohibiting by ordinance any mixed martial arts or boxing match, provided that no match shall be held other than in compliance with this chapter.

(b) Any person, club, organization or corporation in this state seeking to hold a boxing match may seek a license for the match from another state's boxing commission, agency or regulatory body, subject to approval of the Wyoming combat sports commission. A license issued pursuant to this subsection shall be subject to the rules and regulations of the issuing state's regulatory body.

33-48-106. License application; fee and bond.

Application for a license to conduct mixed martial arts and boxing matches shall be in writing, shall be addressed to the commission and shall be verified by the individual promoter or by an officer of the club, organization or corporation on whose behalf the application is made. The application shall be accompanied by a fee as established by the commission in accordance with W.S. 33-1-201. The application shall show that the club, organization or corporation has been in existence not less than thirty (30) days. Before any license is issued under this chapter to any person, club, organization or corporation, the applicant shall file with the state treasurer a bond in an amount established by the commission, not to exceed the greater of ten thousand dollars ($10,000.00) or the total estimated expenses associated with the match, with good and sufficient surety, conditioned for the faithful performance of the conditions of this chapter. The applicant shall provide an estimate of the expenses for the match based on matches held at venues with similar audience capacity and other relevant factors. The commission shall verify that the application contains a good faith estimate of anticipated expenses for the match.

33-48-107. Report of person, club, organization or corporation; admission fee to be paid.

(a) Every person, club, organization or corporation which exercises any of the privileges conferred by this chapter shall within seventy-two (72) hours after the determination of every match:

(i) Furnish to the commission, or its representative, a written report, verified by the individual promoter or an officer of the club, organization or corporation. The report

shall show the number of tickets sold for the match, the amount of gross proceeds from the match and other matters as the board may prescribe; and

(ii) Pay to the commission a fee of five percent (5%) of its total gross receipts from the sale of tickets of admission and admission fees to any mixed martial arts or boxing match.

33-48-108. Disposition of fees.

(a) All money received by the commission under this chapter shall be deposited with the state treasurer and credited to the Wyoming combat sports commission account, which is hereby created.

(b) If at any time the commission determines that the money received under this chapter is insufficient to continue operations without additional state funding, the commission shall increase fees in accordance with W.S. 33-1-201 to the extent required to continue operations. If the commission raises fees under this subsection and the money received under this chapter remains insufficient to continue operations, the commission shall provide a report to the legislature as specified in W.S. 33-48-104(b).

33-48-109. Amateur matches.

Whenever an amateur mixed martial arts or boxing match is held by any person, club, organization or corporation, and the match is not for pecuniary profit, the provisions of this chapter shall not apply.

33-48-110. Commission representatives.

The commission shall appoint official representatives designated as commission representatives for the state. Each commission representative shall receive from the commission a card authorizing him to act as a representative wherever the commission may designate him to act. Except as provided in W.S. 33-48-109, a commission member or commission representative shall be present at all matches conducted for pecuniary profit and see that the rules and regulations of the commission are strictly observed. A commission representative may also be present at the counting of the gross receipts and, if present, shall without undue delay provide to the commission the written report received by the commission representative from the

individual promoter or officer of the club, organization or corporation showing the number of tickets sold, the gross amount of proceeds and other matters as the commission may prescribe. The commission may establish compensation for, and pay, any commission representatives appointed under this section from fees deposited in the Wyoming combat sports commission account in accordance with W.S. 33-1-202 and this chapter.

33-48-111. Rules for conduct of matches.

(a) The commission shall promulgate rules and regulations regarding the conduct of matches not inconsistent with this chapter or the unified rules of mixed martial arts and the unified rules of boxing adopted by the association of boxing commissions.

(b) No betting or wagering at any mixed martial arts or boxing match shall be permitted by any person directly associated with the mixed martial arts or boxing match, including the contestants, spectators and members of the club or organization, before, after or during any match, in or around the premises where the match is held. Nothing in this subsection shall be construed to prohibit betting or wagering as may be allowed by law away from the premises where the match is held, or to authorize betting or wagering otherwise prohibited by law.

33-48-112. Examination by physician.

Each contestant shall be examined not more than twelve (12) hours prior to a mixed martial arts or boxing match by a physician who has been licensed to practice in Wyoming and who has been designated by the commission. The physician shall certify in writing, over his signature, as to the contestant's physical condition to engage in the match. The physician's compensation shall be provided by the individual promoter or entity unless otherwise agreed.

33-48-113. Referees.

No person shall act as a referee to a mixed martial arts or boxing match without a certificate granted by the commission. The commission is authorized to grant certificates to competent referees upon the application and the payment of an annual fee as established by the commission in accordance with W.S. 33-1-201 and the commission may revoke any certificate granted to any referee for cause as the commission may deem sufficient.

33-48-114. Penalty for contestants violating rules of commission.

(a) In addition to any penalty imposed under W.S. 33-48-117, any contestant who shall be found to be in violation of any rule or regulation of the commission shall be penalized as follows:

(i) For the first offense he shall be restrained by order of the commission from participating in any mixed martial arts or boxing match to be held or given by any person, club, organization or corporation licensed to give or hold any mixed martial arts or boxing match for a period of not less than three (3) months nor more than one (1) year at the discretion of the commission;

(ii) For a second offense he shall be disqualified from further admission or participation in any mixed martial arts or boxing match, held or given by any person, club, organization or corporation licensed under this chapter.

33-48-115. Failure to make reports; unsatisfactory reports; examination of records, officers.

Whenever any person, club, organization or corporation fails to make a report of any match at the time prescribed by this chapter, or whenever the report is unsatisfactory to the commission, the commission may examine or cause to be examined, the books and records of the person, club, organization or corporation, and examine under oath its officers and other persons as witnesses for the purpose of determining the total amount of its gross receipts for any match and the amount of monies due pursuant to the provisions of this chapter. The commission shall determine the amount due based upon the results of the examination. Should the person, club, organization or corporation fail to pay any monies determined to be due, together with the expenses incurred in making the examination, for a period of twenty (20) days after notice of the amount due by the commission, the person, club, organization or corporation shall forfeit its license and shall be disqualified from receiving any new license or any renewal of its license. In addition, the person, club, organization or corporation shall forfeit to the state of Wyoming the bond required to be filed by W.S. 33-48-106, which may be recovered by the attorney general in the name of the state of Wyoming. Appeals of a disqualification under this section may be made as provided in the Wyoming Administrative Procedure Act.

33-48-116. Weights and classes.

The weights and classes of mixed martial arts and boxing participants and the rules and regulations of mixed martial arts and boxing shall be the same as the weights and classes and rules and regulations adopted by the association of boxing commissions in the unified rules of mixed martial arts and the unified rules of boxing, except as otherwise provided in this chapter.

33-48-117. Penalty.

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both.

CHAPTER 49 - ACUPUNCTURE PRACTICE ACT

33-49-101. Short title.

This chapter shall be known and may be cited as the "Wyoming Acupuncture Practice Act".

33-49-102. Definitions.

(a) As used in this chapter:

(i) "ACAOM" means the accreditation commission for acupuncture and oriental medicine educational institutions, or its equivalent as determined by the board;

(ii) "Acupuncture" means the insertion of acupuncture needles into the body, with or without the application of electric current or heat to the needles, for the therapeutic purpose of promoting, maintaining and restoring health, including the treatment of dysfunctions of the body involving pain;

(iii) "Acupuncturist" means any person to whom a license to practice acupuncture in this state has been issued under this chapter;

(iv) "Auricular acupuncture" means a practice trained by a nationally recognized auricular acupuncture program for the

purpose of treating mental and emotional health, post and acute trauma, substance abuse and chemical dependency;

(v) "Board" means the Wyoming board of acupuncture created under this chapter;

(vi) "License" means a license to practice acupuncture in this state issued by the board pursuant to this chapter and consistent with the scope of practice a person is qualified to perform as a result of their NCCAOM diplomate status, post graduate training, NADA certificate of training completion or as otherwise authorized by the board;

(vii) "Licensee" means a person licensed by the board under this chapter;

(viii) "NADA" means the national acupuncture detoxification association, or its equivalent as determined by the board;

(ix) "NCCAOM" means the national certification commission for acupuncture and oriental medicine, or its equivalent as determined by the board.

33-49-103. Board created; members; appointment; terms; qualification; removal; vacancies.

(a) The Wyoming board of acupuncture is created to implement and administer the provisions of this chapter. The board shall consist of five (5) members who are legal residents of Wyoming. The board shall consist of one (1) member of the public, one (1) member who is NCCAOM certified, two (2) members who have been engaged in the practice of acupuncture for a period of not less than five (5) years immediately preceding appointment to the initial board and one (1) member who is a health care professional licensed pursuant to this title other than this chapter.

(b) The governor shall appoint the members of the board. Of the initial members appointed to the board, two (2) members shall be appointed for a term of two (2) years and three (3) members shall be appointed for a term of four (4) years. Thereafter, the terms of office shall be four (4) years. Each member shall serve until the member's successor is appointed and qualified. No member shall serve more than two (2) consecutive full terms.

(c) Any vacancy on the board shall be filled by the governor for the balance of the unexpired term.

(d) The governor may remove any member from the board pursuant to W.S. 9-1-202.

33-49-104. Board meetings; elections; quorum.

The board shall meet at least once each year and elect a chairman at the first meeting each year. The board may convene at the request of the chairman or as determined by the board for any other meeting as may be deemed necessary to transact its business. Meetings may be carried out via telecommunications. Three (3) board members shall constitute a quorum.

33-49-105. Reimbursement of expenses and immunity.

(a) Members of the board shall not receive compensation for their services but shall receive mileage and per diem as provided in W.S. 33-1-302(a)(vii) while engaged in the discharge of official duties.

(b) Members of the board shall have the same immunities from personal liability as state employees for actions taken in the performance of their duties under this chapter, as provided in W.S. 1-39-104.

33-49-106. Board responsibilities and duties.

(a) The board shall:

(i) Administer this chapter;

(ii) Determine the following standards for licensees:

(A) Continuing education requirements;

(B) Professional conduct standards;

(C) Ethical standards of practice.

(iii) Approve or disapprove applications for licensure and issue licenses, renewals and reinstatements;

(iv) Establish tiered licensing as necessary for the purpose of differentiating auricular acupuncture;

(v) Censure, suspend or revoke licenses as provided in this chapter and the Wyoming Administrative Procedure Act;

(vi) Initiate and conduct investigations, hearings and proceedings concerning alleged violations of this chapter and board rules;

(vii) Keep a record of all proceedings and make available to licensees and other concerned parties an annual report of all board action;

(viii) Establish application and licensure fee requirements for licensees regulated under this chapter;

(ix) Prescribe fees in accordance with W.S. 33-1-201 for implementing this chapter;

(x) Promulgate rules and regulations as necessary to carry out this chapter.

(b) The board may employ or contract with individuals it determines necessary to administer its affairs and provide support services.

(c) All fees collected by the board shall be deposited by the state treasurer to the credit of the Wyoming board of acupuncture account. Disbursements from the account shall not exceed the monies credited to it. The account shall be used by the board to defray costs incurred in the administration of this chapter.

33-49-107. Licensure required; components; exemptions; other licensed health care professionals.

(a) Beginning January 1, 2018, unless the person is licensed to practice acupuncture in compliance with this chapter and the rules and regulations adopted pursuant thereto, no person shall:

(i) Practice acupuncture or hold himself out as an acupuncturist or as being able to practice acupuncture in Wyoming;

(ii) Use the title of acupuncturist or any variant thereof; or

(iii) Use any configuration of letters, including L. Ac., after his name indicating a degree in acupuncture.

(b) Any license issued under this chapter shall:

(i) Be issued in the name of the licensed acupuncturist;

(ii) State the licensing and expiration dates; and

(iii) Be displayed at all times in a conspicuous manner in the place of business or employment of the licensee.

(c) The following persons are exempt from this chapter's licensure requirements:

(i) An acupuncturist licensed to practice acupuncture in another jurisdiction while teaching or demonstrating or providing acupuncture in connection with teaching or participating in an educational seminar in Wyoming. Any exemption under this paragraph shall not exceed sixty (60) days cumulatively in a calendar year;

(ii) An acupuncturist licensed in another jurisdiction who enters this state to provide acupuncture during a natural disaster or a public health emergency, as declared by the governor pursuant to W.S. 35-4-115(a)(i);

(iii) With board approval, a person in training may practice acupuncture provided all services are performed under the direct supervision of an acupuncturist licensed in this state.

(e) Nothing in this chapter shall be construed to prohibit or restrict any other licensed health care provider in this state from practicing acupuncture within their statutory scope of practice. However, no person may represent themselves as an acupuncturist in any manner unless licensed in accordance with this chapter.

33-49-108. Application for license; renewal and reinstatement; qualifications; fees; reporting.

(a) An applicant for licensure to practice acupuncture under this chapter shall:

(i) Apply for licensure with the board by providing an application in the form and manner prescribed by the board;

(ii) Pay the required fees established by the board; and

(iii) Furnish to the board evidence that the applicant has:

(A) Graduated from an accredited ACAOM program and passed NCCAOM examination;

(B) Graduated from an accredited ACAOM program and continuously practiced acupuncture in this state for at least ten (10) years before January 1, 2018;

(C) Completed other examination, education or apprenticeship processes the board considers substantively qualifying; or

(D) NADA certificate of training completion, if applying for an auricular acupuncturist license.

(b) Licenses shall be renewed or reinstated according to a schedule established by the board pursuant to this chapter. If a licensee fails to renew a license pursuant to the schedule established by the board, the license shall expire and the licensee shall not practice acupuncture in this state.

(c) An applicant for licensure or licensee shall report any pending or final administrative or disciplinary actions, or other judgments, as well as the terms of any settlement or other disposition of an action or judgment, against the applicant or licensee involving malpractice or improper practice of acupuncture, whether occurring in Wyoming or in any other jurisdiction upon application for licensure, renewal or reinstatement, or not later than thirty (30) days after the licensee becomes aware of such actions or judgments.

33-49-109. Licensure by endorsement.

(a) The board may issue a license by endorsement to practice acupuncture in Wyoming to an applicant who is licensed to practice acupuncture in another state subject to the following:

(i) The other state shall have substantially equivalent acupuncture licensure requirements as Wyoming, including similar licensure by endorsement provisions for licensees of this state;

(ii) The applicant shall not have any disciplinary actions pending at the time of application;

(iii) The applicant shall not have had a license to practice acupuncture suspended or revoked in this state or any other; and

(iv) The person shall adhere to all requirements of continuing education and ethical standards established by the board.

33-49-110. Hearings and investigations.

(a) Upon receiving a complaint charging a licensee or applicant with any act prohibited by this chapter, the board may conduct an investigation. If the board finds reasonable grounds to substantiate the allegations of the complaint, a time and place for a hearing shall be set, notice of which shall be served on the licensee or applicant at least fifteen (15) calendar days prior to the hearing. The notice shall be by personal service or by certified or registered mail sent to the last known address of the licensee or applicant.

(b) The board may issue subpoenas for the attendance of witnesses and the production of necessary evidence in any hearing before it. Upon request of the respondent or his counsel, the board shall issue subpoenas on behalf of the respondent.

(c) Hearings under this section shall be held in accordance with, and a person aggrieved by a decision of the board may take an appeal pursuant to, the Wyoming Administrative Procedure Act.

33-49-111. Disciplinary action; suspension and revocation of license; application for reinstatement.

(a) After any hearing conducted pursuant to W.S. 33-49-110, the board may approve, deny, suspend, revoke or refuse to renew a license or impose probationary conditions on the license if the licensee or applicant has engaged in

unprofessional conduct. For purposes of this section, unprofessional conduct includes any of the following:

(i) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(ii) Violating the ethical standards of practice or rules of professional conduct as adopted and published by the board;

(iii) Being convicted of a felony that relates to the practice of acupuncture or to the ability to practice acupuncture;

(iv) Being convicted of an offense involving a controlled substance;

(v) Being negligent in the practice of acupuncture;

(vi) Violating any lawful order, rule or regulation rendered or adopted by the board;

(vii) Violating any provision of this chapter.

(b) An application for reinstatement may be made to the board not earlier than one (1) year after the date of the revocation of the license. The board may accept or reject an application for reinstatement and may hold a hearing to consider reinstatement. An applicant for reinstatement aggrieved by any final action of the board may appeal to the district court pursuant to the Wyoming Administrative Procedure Act.

(c) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-49-112. Violations; penalties; proceedings.

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction shall be subject to the fines and penalties prescribed in W.S. 6-10-103. If the board has reason to believe that any individual is liable under

this section, it may certify the facts to the prosecuting attorney of the jurisdiction in which the offense was committed.

(b) The attorney general, the board, any county or district attorney or any citizen may obtain an injunction in the name of the state of Wyoming upon the relation of a complainant enjoining any person from engaging in the practice of acupuncture without a license. The district court of the district in which the offending person resides or the district court of Laramie county has original jurisdiction of any such injunction proceedings. An injunction may be issued without proof of actual damage sustained and upon proof of one (1) or more acts constituting the practice of acupuncture without a license. The standard of proof of any violation of this subsection shall be by a preponderance of the evidence.

(c) Nothing in this section shall limit any additional civil or criminal liability under the laws of this state.

(d) Notwithstanding any other provision of this chapter, the Wyoming Acupuncture Practice Act shall not apply to persons licensed under title 33, chapter 25 or chapter 26 of the Wyoming statutes.