

ENROLLED ACT NO. 119, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
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AN ACT relating to professions and occupations; revising Medical Practice Act provisions including definitions and general provisions, the state board of medicine, licensing, investigations and disciplinary proceedings and physicians assistants; creating disciplinary provision pertaining to physicians assistants; conforming amendments; repealing certain provisions; and providing for an effective date.

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

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

**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.

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

**Section 2.** W.S. 33-26-102(a)(iv), (vi), (vii)(D), (viii), (ix), (xi)(A) through (C), (E), by creating a new subparagraph (F), (xii), (xiii), (xiv), (xvii)(B), (E) and by creating new paragraphs (xviii) through (xxi), 33-26-103(a)(iii), (vi), (viii) and by creating a new paragraph (x), 33-26-201(a), (c), (d)(ii) and (e), 33-26-202(b)(viii), (x), (xii) and by creating a new paragraph (xiv), 33-26-203, 33-26-301(b)(ii), (iii) and by creating a new paragraph (iv), 33-26-302(a), 33-26-303(a)(intro), (iv) through (x) and by creating a new subsection (b), 33-26-304, 33-26-305(a), (c) and (d), 33-26-307(a)(intro) and (b), 33-26-401, 33-26-402(a)(intro), (vi) through (viii), (xi), (xv), (xix), (xxi) through (xxiii), (xxv), (xxvi), (xxvii) by creating new subparagraphs (B) through (T), by creating new paragraphs (xxxii) and (xxxiv) and (b), 33-26-403(a) through (c) and by creating a new subsection (e), 33-26-404(a) through (c), 33-26-405(a)(intro), (iv), (ix), by creating a new paragraph (x) and (b)(iii), 33-26-406(a) through (c), 33-26-407, 33-26-408(c) through (e) and by creating new subsections (f) through (j), 33-26-409(a), (c) and (d), 33-26-410(c), 33-26-501(a)(iii)(A), (B), (iv), (v)(A) and by creating new paragraphs (viii) through (x), 33-26-503(a) and (b) by creating a new paragraph (vi), 33-26-504(b)(ii) and (iii), 33-26-506(a) and (c), 33-26-507(a)(intro), 33-26-508(a)(intro) and (b), 33-26-509(a) and by creating new subsections (c) through (g) and 33-26-510(c) are amended to read:

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

(a) As used in this chapter:

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

(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 formal-peer review process for the purpose of furthering quality health care;

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

(D) Excessive use or abuse of drugs, including alcohol-Chemical impairment.

(viii) "Lapsed" means the status of a license when the holder of a license to practice medicine-licensee fails to secure a renewal certificate-renew the license by July 1 of any year or when the holder of a temporary license to practice medicine 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;

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

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

(B) ~~Prescribes or provides medical diagnosis or medical treatment for human disease, injury, deformity, ailment, pregnancy or delivery of infants~~ 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., physician, surgeon, osteopathic physician or osteopathic surgeon, doctor, or any other words, letters or abbreviations ~~which represent the person as being engaged in the practice of medicine~~ 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

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

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

(xii) "Reactivation" after a license has lapsed means the completion of ~~an application, payment of a fee and fulfillment of all other~~ requirements ~~for the granting~~

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~~of an initial license, including an interview before the board set forth in W.S. 33-26-305(c);~~

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

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

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

(C) 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.

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

(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:

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

(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. ~~examination.~~

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

(xix) "RCPSC" 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; and

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

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

(a) This chapter does not apply to:

(iii) ~~The performance of official duties by a physician or physician assistant of the United States armed services or a physician or physician assistant employed by the federal government~~ Commissioned medical officers of the United States armed services and medical officers of the United States public health service of the veterans administration of the United States 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;

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(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;

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

(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.

**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, one (1) of whom shall possess the degree of doctor of osteopathy, one (1) physician assistant and two (2) ~~nonphysician~~ lay members not directly related to physicians, 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, and a vice-president, and a secretary.

(c) Physician and physician assistant members shall reside in, and practice medicine in this state, and nonphysician—hold a full and unrestricted license and

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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:

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

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

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

(b) The board is empowered and directed to:

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

(x) ~~Determine on a monthly basis by contact whether or not any licensee has been denied a license or had his license suspended or revoked by another state medical licensing or examining board~~ Verify the status of licenses and privileges held by licensees and federal data banks, and make a similar inquiry with regard to all applicants for licensure;

(xii) Participate in and contribute to a program or programs to assist in the return to practice of licensees who ~~are physically or mentally impaired~~ have



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exhibited disruptive behaviors, substance dependence or are suffering from physical or mental impairment;

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

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

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

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

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

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

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

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

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

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

**33-26-302. USMLE examination.**

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

**33-26-303. Requirements for granting license.**

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

(iv) ~~Provides~~ Has provided written evidence that he has completed at least one (1) year of postgraduate training in an A.C.G.M.E., A.O.A. or ~~Canadian~~ R.C.P.S.C. accredited program. An applicant who graduated from a medical school not accredited by the L.C.M.E. or A.O.A. shall present written evidence that he has completed at least two (2) years of medical education at the medical school from which he graduated and that he has completed at least three (3) years of postgraduate training in an A.C.G.M.E., A.O.A. or ~~Canadian~~ R.C.P.S.C. accredited program;

(v) Has ~~completed at least two (2) years of on-campus medical education at the medical school from which~~

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he graduates 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, the examination ~~administered by the A.O.A. or an appropriate composite.~~ For purposes of this section, "FLEX" means the federal licensure examination developed by the national board of osteopathic medical examiners;

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

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

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

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

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(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.

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

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

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

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

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

(b) A temporary license is valid until the date of the next board meeting following the date of issuance. The board, in its discretion may extend the a temporary license for up to one hundred eighty (180) days an additional term no longer than the date of the second regular board meeting following the date of issuance.

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

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(a) All licenses other than temporary licenses to practice medicine shall ~~expire on lapse at 12:01 a.m.~~ July 1 of each year. A licensee may renew his license by sending his signature, current address, the registration number, practice related information requested by the board, 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 renewal fee to the board after April 1 but prior to July 1 of each year. The licensee additionally shall report any ~~information concerning~~ 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.

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

(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".

### **33-26-307. Fees.**

(a) The board shall set by regulation appropriate ~~fees in an amount not exceeding the maximum fees specified in the following schedule:~~ 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.

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(b) All money received or collected under this chapter shall be paid to the state treasurer for deposit in an account within the earmarked revenue fund. The money in the account is subject at all times to the warrant of the state auditor drawn upon written requisition of the president and attested by the executive secretary of the board, with seal attached, for the payment of any board expenses.

**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 ~~appearing to show that a licensee may be impaired or has engaged in errant conduct~~ 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, ~~to revoke, suspend, restrict, or limit a license,~~ the board shall ~~request~~ 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,

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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 ~~grant or~~ 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:

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

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

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

(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 ~~an addict or drug~~ a known abuser;

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

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

(xxi) ~~Repeated~~ 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) ~~Negligence or malpractice~~ 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;

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

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

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

(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



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conducting an investigation for possible professional incompetence or improper professional conduct.<sup>†</sup>

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

(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;

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(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 constitutes moral turpitude, including but not limited to conviction of or pleading guilty or nolo contendere to domestic abuse, stalking, sexual assault, sexual abuse or unlawful exploitation of a minor, indecent exposure, incest or distribution of pornography;

(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 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;

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(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.

(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.

(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.

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

(a) The board may order a licensee to undergo one (1) or more mental, physical competency or medical competency examinations if it has reasonable cause to believe that the licensee is impaired. Any disciplinary proceeding pending against the licensee 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 requested 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 results-report of the examination in any board proceedings on the ground that the results constitute a privileged communication in which the licensee is a respondent. If a licensee fails to submit to an examination when requested by the board, the board may suspend the license unless the failure was beyond the licensee's control initiate a disciplinary proceeding against the licensee based upon a violation of this section.

(c) If the board finds that there is reasonable cause to conduct an-a mental, physical competency or medical competency examination of the licensee, it shall appoint three (3) practicing licensees who are not board members to serve as an examination committee. At least one (1) of the licensees shall be a psychiatrist if a question of mental illness is involved and, if available, at least one (1) member shall be from the same medical specialty as the licensee under investigation. The examination committee shall conduct an examination and report its recommended findings to the board within thirty (30)-sixty (60) days following the date of their appointment.

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(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 any a proceeding to deny, refuse to renew or reinstate, revoke, restrict or suspend a license on the grounds that a licensee is impaired or has engaged in errant conduct 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 16-3-113(c).

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

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(a) Following a hearing to refuse to renew or reinstate, revoke, restrict or suspend a license on the grounds ~~that a licensee is impaired or has engaged in errant conduct~~ 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:

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

(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:

(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 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. 33-26-405 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.

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(b) The petitioner shall submit a petition in writing to the board. ~~The petition shall state reasons and contain information demonstrating that the petitioner is no longer impaired and is able to safely, skillfully and competently resume the practice of medicine or has otherwise corrected the conduct or condition which formed the basis for the revocation, restriction or condition placed on his license~~ 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.

(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 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.

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

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(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 ~~administrative and~~ judicial ~~appeal~~ 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, ~~or a person charged with practicing medicine without a license,~~ the board shall bear the burden of proving a violation of this act by ~~a preponderance of the clear and convincing~~ clear and convincing evidence.

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

(c) ~~All board records except final orders are not subject to public disclosure or discovery and are not admissible in any nonboard proceeding except when necessary for further board action or upon judicial review of a board order.~~ 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 ~~any board action taken which limits the privileges of a licensee 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. ~~The board shall report any board action taken which limits the privileges~~



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~~of a licensee~~ and to all appropriate agencies including the federation of state medical boards, the national practitioner data bank and other state medical boards.

(e) This ~~subsection~~ 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

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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.**

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(a) Each health care entity shall report:

(i) Any action ~~taken~~ 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) ~~On physicians when the entity~~ Any action that:

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

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

(I) While the ~~physician~~ licensee is under investigation by the entity for possible incompetence or improper professional conduct; 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 ~~physician licensee~~ licensee in the society.

(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

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the attention of the person responsible for reporting.  
~~them. Claims shall be reported whether or not the person believes the claim is valid.~~ 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.**

(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. ~~or contrary to any provision of this chapter.~~ 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. or in violation of this chapter The standard of proof of any violation of this subsection shall be by a preponderance of the evidence.

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**33-26-501. Definitions.**

(a) As used in this article:

(iii) "Physician assistant" means any person who:

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

(B) Satisfactorily completes a certification examination administered by ~~the National Commission on the Certification of Physician Assistants~~ 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;

(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 ~~the National Commission on the Certification of Physician Assistants~~ NCCPA or other national physician assistant certifying agency established for such purpose which has been reviewed and approved by the board;

(v) "Supervising physician" means a:

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

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(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.

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

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

(b) The board shall:

(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.

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

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

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

(iii) Has satisfactorily completed a certification examination administered by ~~the National~~

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~~Commission on the Certification of Physician's Assistants~~  
NCCPA or other national certifying agency established for such purposes which has been reviewed and approved by the board and is currently certified;

**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 sending his signature, current address, practice related information requested by the board and renewal fee to the board prior to expiration of his current 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.

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

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

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

(a) ~~Following a contested case hearing~~ The board may ~~deny or revoke a license on the following~~ refuse to renew,

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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(a)(i) through (x), (xii) and (xiv) through (xxxiv) 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) The board may assess all or part of the costs of the contested case proceeding against a disciplined physician assistant~~ 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.

### **33-26-509. Reinstatement.**

(a) Except as provided in subsection (b) of this section, any person whose license has been ~~relinquished or~~ revoked, restricted or suspended under this chapter, voluntarily or by action of the board, may petition for reinstatement ~~at intervals~~ 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 one (1) year six (6) months after the board enters its final order ~~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 stating reasons and containing information demonstrating to the board's satisfaction that he is able to safely, skillfully and



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~~competently resume practice as a physician assistant. The petitioner may request a contested case hearing if the board refuses to grant the 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.~~

(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.

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(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.**

(c) A physician assistant may prescribe medications only as an agent of the supervising physician. A physician assistant may not prescribe schedule ~~II through schedule V~~ I drugs as defined by W.S. ~~35-7-1015~~ 35-7-1013 through ~~35-7-1022~~ 35-7-1014. The supervising physician may delegate authority to the physician assistant to dispense prepackaged medications in rural clinics when pharmacy services are not physically available. The board shall,

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after consultation with the state board of pharmacy,  
promulgate rules and regulations governing the prescription  
of medications by a physician assistant.

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

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk