

SENATE FILE NO. SF0131

Wyoming Cancer Control Act.

Sponsored by: Senator(s) Scott, Massie and Peterson and
 Representative(s) Diercks, Iekel, Landon and
 Millin

A BILL

for

1 AN ACT relating to public health; providing for a
 2 comprehensive cancer control program; providing for
 3 screening and preventive treatment for colorectal cancer as
 4 a necessary support of the poor; providing for additional
 5 education, outreach and screening for breast and cervical
 6 cancer; creating a commission on pain to focus on issues
 7 dealing with pain caused by cancer and other diseases;
 8 providing definitions; authorizing positions; providing
 9 appropriations; and providing for an effective date.

10

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

12

13 **Section 1.** W.S. 35-25-201 through 35-25-206 are
 14 created to read:

15

16

CHAPTER 25

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PUBLIC PROGRAMS

ARTICLE 2

WYOMING CANCER CONTROL ACT

35-25-201. Short title.

This act shall be known and may be cited as the "Wyoming Cancer Control Act."

35-25-202. Definitions.

(a) As used in this act:

(i) "CDC" means the federal center for disease prevention and control;

(ii) "County cancer resource coordinator program" means a program undertaken through a private organization, county hospital, hospital district hospital or city or county health department which provides local level education, outreach, patient navigation services, community planning and data collection in order to lessen the impact of cancer on Wyoming people;

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2 (iii) "Department" means the department of
3 health;

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5 (iv) "Evidence based" means relying on
6 scientifically valid evidence. Scientifically valid
7 evidence relies on studies and experiments which are
8 competently done, but which have varying degrees of
9 reliability and are normally less than perfect. Different
10 methodologies also produce different degrees of
11 reliability. The following hierarchy of methodologies
12 shall be used: the best is systematic reviews of multiple
13 randomized controlled trials or epidemiological studies;
14 the second best is one (1) or more randomized controlled
15 trials; the third best is one (1) or more epidemiological
16 studies; the fourth best is other scientifically valid
17 studies; and the fifth best is the recommendations of
18 nationally and internationally recognized groups of experts
19 in the field. This hierarchy of evidence shall be used to
20 judge the relative validity of different forms of evidence,
21 but in determining the validity of evidence position in the
22 hierarchy shall not supersede professional judgment and
23 common sense in evaluating the quality of scientific work
24 involved. In determining the validity of the above or in

1 case of conflicting results in the above, the professional
2 judgment of locally licensed practitioners, academic
3 experts in relevant fields at the University of Wyoming or
4 the University of Washington Medical School, or
5 professionals within the department shall be used. The
6 department may also seek the advice of the statewide
7 comprehensive cancer control steering committee.
8 Testimonials of individuals whether practitioners, patients
9 or otherwise where the testimonials are not supported by
10 statistically valid information or adequate scientifically
11 valid explanation of physical processes involved shall not
12 be considered evidence;

13

14 (v) "Medicaid" means the joint federal and state
15 program of health care financing for the poor authorized by
16 Title XIX of the federal Social Security Act and title 42
17 of the Wyoming statutes;

18

19 (vi) "Statewide comprehensive cancer control
20 steering committee" means a committee whose mission is
21 defined by the 2006-2010 Wyoming cancer control plan and
22 which provides advice and guidance to the Wyoming
23 comprehensive cancer control program. The committee is a
24 private entity whose members include government employees;

1

2 (vii) "This act" means W.S. 35-25-201 through
3 35-25-206.

4

5 **35-25-203. Cancer control plan and program.**

6

7 (a) Utilizing a comprehensive, evidence based
8 approach the department shall develop, improve,
9 periodically update and implement a comprehensive cancer
10 control plan. The planning and implementation shall be
11 tailored to provide the most effective programming for
12 cancer control based on the funds available for each
13 biennium and the human and institutional resources
14 available. The department shall begin with the plan and
15 recommendations in the Wyoming cancer control plan
16 published in October 2005 by the Wyoming comprehensive
17 cancer control consortium. The comprehensive cancer
18 control plan shall promote and enhance:

19

20 (i) Cancer prevention and education for both the
21 public, health care professionals and institutions;

22

23 (ii) Evidence based early detection, screening,
24 diagnosis and treatment;

1

2 (iii) Research;

3

4 (iv) Palliative care including pain management
5 and other steps to improve the quality of life of probably
6 terminal cancer patients;

7

8 (v) Rehabilitation of cancer victims; and

9

10 (vi) Programs to assist cancer survivors in
11 returning to normal life.

12

13 (b) In financing and implementing the program
14 established pursuant to subsection (a) of this section the
15 department shall consider the use of the Medicaid program.
16 This section does not constitute authorization to expand
17 the services and eligibilities of the Medicaid program
18 which requires specific legislative authorization. The
19 department may recommend such authorization where
20 appropriate.

21

22 (c) The department may contract with one (1) or more
23 third parties to develop and implement the plans authorized
24 by this section. Any contract awarded under this section

1 shall be awarded on the basis of competitive bids and shall
2 include specific requirements relating to outcome based
3 evaluation.

4

5 (d) Subject to the restriction of subsection (b) of
6 this section, the department may accept state, federal,
7 local and nongovernmental funds for developing and
8 implementing the plans established pursuant to this
9 section.

10

11 (e) The department may solicit proposals for grants
12 under this section by publication of a request for
13 proposals. Grant recipients under this section may include
14 local governments, private nonprofit organizations, schools
15 and other organizations as appropriate. Any grants to
16 organizations not political subdivisions of the state of
17 Wyoming or under the absolute control of the state shall be
18 subject to any restriction necessary to comply with Article
19 16, Section 6 of the Wyoming Constitution. Any request for
20 proposals used during the competitive grant process shall
21 include specific requirements relating to outcome based
22 evaluation of the grant recipient's performance.

23

1 (f) The department shall make every reasonable effort
2 to collaborate and coordinate with relevant public and
3 private entities including state and local governments and
4 the CDC to assure maximum effective use of resources
5 including people and money. The department shall take
6 advice, as appropriate, from the statewide comprehensive
7 cancer control steering committee.

8

9 (g) Considering funds available and the purposes for
10 which those funds are made available, the department shall
11 give priority to the following cancer control and
12 prevention programs:

13

14 (i) The county cancer resource coordinator
15 program. Initially this program shall be a pilot program
16 in two (2) sites, preferably one (1) urban and one (1)
17 rural. Each program shall cover at least one (1) county
18 and may cover several counties. The program may be
19 expanded to additional sites if sufficient funds become
20 available;

21

22 (ii) Public education relating to cancer
23 prevention and awareness for all cancers, including the use
24 of media campaigns. Particular education and media

1 campaigns may concentrate on specific cancers when that is
2 appropriate;

3

4 (iii) Early detection of cancer including those
5 cancers identified in the state cancer control plan and
6 specifically including the Wyoming colorectal cancer early
7 detection and prevention program;

8

9 (iv) Programs which promote the reduction of
10 risk factors to reduce cancer and other chronic diseases
11 within the state; and

12

13 (v) Programs which enhance treatment and quality
14 of care of those impacted by cancer within the state.

15

16 (h) The department may propose cancer control as a
17 specific line item in its biennial budget.

18

19 (j) The department shall, in accordance with the
20 Wyoming Administrative Procedure Act, promulgate rules and
21 regulations as appropriate to implement this act.

22

23 (k) The department shall report on its activities
24 under this act to the joint labor, health and social

1 services interim committee and the joint appropriations
2 interim committee. The report shall not exceed two
3 thousand (2,000) words in length plus any useful charts,
4 graphs and exhibits. The report shall be due on October 1
5 of every odd numbered year.

6

7 **35-25-204. Wyoming colorectal cancer early detection**
8 **and prevention program.**

9

10 (a) Subject to the availability of appropriations,
11 the department shall undertake a colorectal cancer
12 screening and prevention program for those who have
13 difficulty affording the screening due to lack of income in
14 relation to the cost of the screening.

15

16 (b) Initially the screening and prevention program
17 funded under this program shall consist of colonoscopies
18 which shall consist of both the examination of the colon
19 and rectum and the removal and pathological examination of
20 polyps in accordance with the normal standards of care for
21 colonoscopies. This program shall include any care for
22 complications resulting from the procedure, but shall not
23 include any follow up surgery or additional care needed if
24 an actual cancer or other condition requiring additional

1 care is found. After July 1, 2008, the department may, by
2 rule and regulation, authorize other forms of screening to
3 participate in the program provided these other forms of
4 screening are evidence based and are shown by the evidence
5 to be as effective or as cost effective as traditional
6 colonoscopies. If virtual colonoscopies using CT scans or
7 other techniques involving radiation are authorized the
8 department shall publish, as part of the rule, an analysis
9 of the radiation risks involved including specifically the
10 frequency with which the radiation involved can be expected
11 to cause a fatal cancer during the remaining expected life
12 span of an individual aged fifty-five (55) years.

13

14 (c) Except as provided in subsection (d) of this
15 section, from July 1, 2007, to June 30, 2008, the financial
16 eligibility to participate in the program shall be as set
17 forth in this subsection. Starting July 1, 2008, any
18 financial eligibility established in the biennial budget
19 bill shall govern, except as set forth in subsection (d) of
20 this section. Starting July 1, 2007 Wyoming residents with
21 incomes at or below two hundred and fifty percent (250%) of
22 the federal poverty level shall be eligible to participate
23 in this program and this shall remain the standard if the
24 biennial budget bill does not establish a different

1 standard and unless a different standard is established
2 pursuant to subsection (d) of this section. The department
3 shall investigate whether using adjusted gross income or
4 some other figure from a federal income tax return would
5 provide an administratively easier definition of
6 eligibility and shall use such a standard if authorized to
7 do so in the biennial budget bill.

8

9 (d) Eligibility for the program set forth in this
10 section shall be limited to individuals who are Wyoming
11 residents and have been so for at least one (1) year. The
12 eligibility shall be for one (1) colonoscopy every ten (10)
13 years, counting any ones done before the effective date of
14 this act or before the individual became a Wyoming
15 resident. Initially eligibility shall be restricted to
16 individuals who are at least fifty (50) years old and who
17 have not become eligible for the federal Medicare program.
18 The department may by rule and regulation modify this age
19 eligibility if the standard age recommendations for
20 colonoscopies are modified by the CDC or nationally or
21 internationally recognized bodies of experts on the subject
22 and if in the department's judgment the changes are
23 evidence based. The department may make other groups at
24 special risk for colon cancer eligible for this program if

1 the additional eligibility is evidence based. In the event
2 that analysis shows spending in the program will exceed the
3 budget available, the department shall take action to
4 reduce the spending to the amount of budget available.
5 Action taken by the department may include:

6

7 (i) If a sufficient budget for this program in a
8 coming biennium has been passed, deferring up to thirty
9 (30) days worth of bills to the coming biennium;

10

11 (ii) Temporarily reducing the financial
12 eligibility for the program;

13

14 (iii) Instituting a waiting list;

15

16 (iv) Temporarily reducing or dropping
17 eligibility for individuals at special risk for colon
18 cancer outside the normal age range; and

19

20 (v) A temporary moratorium on screenings.

21

22 (e) The department shall develop an internet based
23 application process for determining individual eligibility.

24 The result of a successful application may be a voucher

1 that the individual may present to a provider the
2 department has contracted with or may be an online
3 statement of eligibility that the providers can access or
4 both. The department may use city or county health
5 departments, other public health offices, providers,
6 advocacy groups and any other appropriate governmental or
7 private entities to assist individuals in completing the
8 application process.

9

10 (f) The department shall obtain colonoscopy providers
11 by a sealed, competitive bid process. The initial
12 contracts shall be for at least the balance of the first
13 fiscal year and shall not exceed three (3) years in length.
14 Multi-year contracts may provide for an annual or biennial
15 inflation adjustment. Except as provided by subsection (g)
16 of this section the low bidder contracted within each
17 county shall be the sole provider in that county. The
18 lowest bidder contracted within the state may accept
19 patients from anywhere in the state. Where there is no
20 provider within a county, residents of the county shall go
21 to the lowest bid provider within one hundred (100) highway
22 miles of their home community, except they may go to any
23 provider further away whose contracted price was lower.
24 Residents of any county which has a contracted provider may

1 go to any provider in the state with a lower contracted
2 price. The department shall publish the contracted bid
3 prices on its website. The department shall contract only
4 with providers or organizations employing providers whose
5 training and experience qualifies them to do the
6 screenings. The department may use a prequalification
7 process or may use qualifications as an item in the
8 evaluation of bids received. The department may consult
9 with the statewide cancer control steering committee in
10 determining the professional qualifications required. In
11 determining the lowest bid price for this section the
12 department shall consider the bid price for a screening
13 with no polyps found plus the bid cost times the
14 statistically expected rate for polyp removal and
15 pathological examination. The department may define this
16 statistically expected rate in the request for proposals.
17 All contracts entered into pursuant to this section shall
18 provide that the department may limit the eligibilities or
19 numbers of screenings done to stay within the funds
20 appropriated and may suspend the contract if no or
21 insufficient funds are appropriated.

22

23 (g) If a provider who is contracted with on the basis
24 of his bid is unwilling or unable to meet the demand, the

1 department may contract with a second provider in his
2 county for a limited number of colonoscopies.

3

4 (h) If a cancer is found during a colonoscopy
5 performed under this section, and the individual is not
6 covered by the Medicaid program and is without health
7 insurance, the department is authorized to pay for the
8 treatment needed for that individual. The individual shall
9 be responsible for the first ten thousand dollars
10 (\$10,000.00) of costs not covered by insurance, unless the
11 department waives this deductible in whole or in part
12 because the individual lacks the assets or earning ability
13 to pay it. The department shall not pay more than fifty
14 thousand dollars (\$50,000.00) for treatment in any one (1)
15 case.

16

17 (j) The insurance commissioner shall review the rate
18 setting methodology of health insurance companies doing
19 business in Wyoming to ensure that rates charged in Wyoming
20 reflect any savings to the company due to the state paying
21 for colonoscopies the insurance company would otherwise pay
22 for. The commissioner may order adjustments to the rates
23 charged if the methodology used does not cause such savings
24 to be reflected in the rates charged.

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35-25-205. Breast and cervical cancer programs.

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(a) The breast and cervical cancer program within the department is authorized to obtain private and federal grant funds and to seek appropriations for:

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9

(i) Education, outreach and breast and cervical cancer screenings for those unable to afford them;

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(ii) Continuation of the existing pilot outreach program for the medically underserved population in the Big Horn Basin and expansion of that program to other areas of the state; and

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21

(iii) Implementation of the program known as the native sisters program for outreach to members of the Shoshone and Arapaho Tribes, provided that any grants or contracts entered into pursuant to this paragraph shall contain any restrictions necessary to comply with Article 16, Section 6 of the Wyoming Constitution.

22

23

35-25-206. Pain management.

24

1 (a) There is hereby established within the department
2 the Wyoming state commission on pain. The commission shall
3 focus on the pain caused by cancer as well as other sources
4 of acute and chronic pain. The commission shall consist of
5 seventeen (17) members who are residents of the state.
6 Except for the members specifically named in paragraphs (i)
7 and (ii) of this subsection, the governor shall appoint the
8 members of the commission. The members of the commission
9 shall include:

10

11 (i) The director of the department or his
12 designee, who shall serve as chair of the commission;

13

14 (ii) The attorney general or his designee;

15

16 (iii) One (1) physician, physician's assistant
17 or advanced nurse practitioner who specializes in primary
18 care;

19

20 (iv) One (1) physician, physician's assistant or
21 advanced nurse practitioner with experience or training in
22 pain management or palliative care or who provides care in
23 a hospice;

24

1 (v) Two (2) registered nurses with expertise in
2 hospice, oncology, anesthesia, long term care or pain
3 management or the management of symptoms which may cause
4 pain;

5

6 (vi) One (1) dentist with training or experience
7 in pain management or management of symptoms which may
8 cause pain;

9

10 (vii) One (1) pharmacist with training or
11 experience in pain management or the management of symptoms
12 which may cause pain;

13

14 (viii) One (1) employee of a state, county or
15 city law enforcement agency proficient in drug enforcement
16 regulations and issues;

17

18 (ix) One (1) mental health services provider;

19

20 (x) One (1) physical therapist or physical
21 therapy assistant who specializes in or has experience in
22 pain management;

23

1 (xi) Two (2) members of the public with
2 experience with voluntary or nonprofit health
3 organizations, commercial or governmental health
4 organizations or advocacy groups with an interest in pain
5 management;

6

7 (xii) One (1) member of the general public;

8

9 (xiii) One (1) member of the general public who
10 has been diagnosed with chronic pain;

11

12 (xiv) One (1) member of the Arapaho Tribe and
13 one (1) member of the Shoshone Tribe. In making these two
14 (2) appointments the governor shall consult with the
15 appropriate tribal councils.

16

17 (b) The governor shall seek to appoint the members of
18 the commission by July 1, 2007. The initial terms shall
19 commence July 1, 2007. Excepting the members designated by
20 office, eight (8) of the initial members shall serve until
21 June 30, 2009 and seven (7) of the initial members shall
22 serve until June 30, 2008. Thereafter members shall be
23 appointed to a two (2) year term. Members shall continue
24 to serve until their successor is duly appointed and

1 qualified. Any vacancy on the commission shall be filled
2 subject to the same constraints as the original
3 appointment.

4

5 (c) Members shall serve without compensation but,
6 subject to appropriations, members shall be reimbursed for
7 travel and per diem in the same manner as members of the
8 state legislature.

9

10 (d) The department shall furnish administrative
11 support and staff as necessary for the effective operation
12 of the commission.

13

14 (e) The commission shall normally meet four (4) times
15 per year, approximately one (1) meeting per quarter. The
16 chairman may call additional meetings. The chairman shall
17 specify the time and the place for meetings.

18

19 (f) The department may accept on behalf of the
20 commission any appropriate federal grants or contracts and
21 any gifts or donations from individuals, private
22 organizations or foundations and any other funds that
23 become available.

24

1 (g) The commission on pain shall:

2

3 (i) As appropriate hold public hearings to
4 gather information from the public and interested parties
5 or issues pertaining to pain or the management of symptoms
6 that may cause pain;

7

8 (ii) Make recommendations, which shall be
9 evidence based to the extent practical, on acute and
10 chronic pain management treatment practices to appropriate
11 organizations and individuals;

12

13 (iii) Analyze statutes and rules and regulations
14 regarding pain management and management of pain relieving
15 drugs and make recommendations as appropriate to the
16 legislature, to the congress of the United States and to
17 organizations promulgating rules and regulations;

18

19 (iv) Study the use of alternative therapies
20 regarding pain management and the treatment of symptoms
21 which may cause pain, consider the extent to which the
22 alternative therapies are effective at relieving pain, and
23 make recommendations for the removal of any inappropriate
24 sanctions for the use of alternative therapies;

1

2 (v) Review the requirements and recommendations
3 of professional licensing boards in the state concerning
4 education and continuing education concerning acute and
5 chronic pain management and make any recommendations to the
6 professional licensing boards as are appropriate;

7

8 (vi) Examine the pain management needs of all
9 people who have acute or chronic pain including the special
10 needs of adults, cancer victims, children, racial and
11 ethnic minorities and medically underserved populations;

12

13 (vii) Identify the roles and responsibilities of
14 health care professionals in pain management and the
15 management of symptoms that may cause pain and make
16 recommendations on integrating the management of pain and
17 symptoms that may cause pain into the customary practice of
18 health care professionals;

19

20 (viii) Review guidelines on pain and symptom
21 management issued by the United States department of health
22 and human services;

23

1 (ix) Provide a report on the activities of the
2 commission to the director of the department and the joint
3 labor, health and social services interim committee by
4 October 1 of every even numbered year. The report shall
5 not exceed three thousand (3,000) words in length plus any
6 useful charts, graphs and exhibits. The report may
7 include:

8

9 (A) Any issues identified and
10 recommendations including recommendations for legislation
11 developed by the commission;

12

13 (B) Any recommendations concerning pain
14 management educational criteria made to any health
15 profession's educational programs at the University of
16 Wyoming or the community colleges;

17

18 (C) Information regarding the impact and
19 effectiveness or prior recommendations, if any, that have
20 been implemented; and

21

22 (D) A review of current practices and
23 policies regarding the management of pain and symptoms that

1 may cause pain and any changes to those practices and
2 policies.

3

4 **Section 2.**

5

6 (a) For the fiscal biennium ending June 30, 2008,
7 eight million dollars (\$8,000,000.00) is appropriated from
8 the general fund to the department of health for the
9 colorectal cancer screening program authorized by this act.

10

11 (b) Four hundred thousand dollars (\$400,000.00) is
12 appropriated from the general fund to the department of
13 health for treatment of cancers found during the colorectal
14 screening process.

15

16 (c) One hundred twenty thousand dollars (\$120,000.00)
17 is appropriated from the general fund to the department of
18 health for breast and cervical cancer education, outreach
19 and screening.

20

21 (d) Thirty thousand dollars (\$30,000.00) is
22 appropriated from the general fund to the department of
23 health for the outreach pilot program for medically
24 underserved populations.

1

2 (e) One hundred thousand dollars (\$100,000.00) is
3 appropriated from the general fund to the department of
4 health to implement the native sisters program.

5

6 (f) One hundred thousand dollars (\$100,000.00) is
7 appropriated from the general fund to the department of
8 health for the expenses of the commission on pain.

9

10 (g) Two hundred eighty thousand dollars (\$280,000.00)
11 is appropriated from the general fund to the department of
12 health for the expenses of administering the programs
13 provided by this act and four (4) additional FTE's for the
14 department of health are authorized.

15

16 **Section 3.** This act is effective immediately upon
17 completion of all acts necessary for a bill to become law
18 as provided by Article 4, Section 8 of the Wyoming
19 Constitution.

20

21

(END)