Certification Page
Regular and Emergency Rules

Revised May 2014

☐ Emergency Rules *(After completing all of Sections 1 and 2, proceed to Section 5 below)* ☑ Regular Rules

1. General Information

a. Agency/Board Name Wyoming Department of Health		
b. Agency/Board Address 6101 Yellowstone Rd., Ste. 420	c. City Cheyenne	d. Zip Code 82002
e. Name of Contact Person Sharla Allen	f. Contact Telephone Number 307-777-7293	
g. Contact Email Address sharla.allen@wyo.gov	h. Adoption Date October 2, 2014	
i. Program Office of Rural Health		

2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted:

c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed
(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)

Chapter Number:	Chapter Name:	New	Amended	Repealed
1	Medical Malpractice Insurance Assistance Program	☐	☐	☑
4	Wyoming Hospital Improvement Grants	☐	☐	☑
9	The Critical Access and Rural Hospital Technology Grant Program	☐	☐	☑
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐

d. ☑ The Statement of Reasons is attached to this certification.

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

3. State Government Notice of Intended Rulemaking

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the **Secretary of State**:	May 28, 2014
b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Legislative Service Office**:	May 28, 2014
c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the **Attorney General**:	May 28, 2014

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. ☐ Yes ☐ No ☑ N/A

b. A public hearing was held on the proposed rules. ☐ Yes ☑ No

If "Yes:"	Date:	Time:	City:	Location:

5. Final Filing of Rules

a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**:	October 2, 2014
b. Date on which final rules were sent to the **Legislative Service Office:**	October 2, 2014
c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State**:	October 2, 2014

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual *(Blue ink as per Rules on Rules, Section 7)*	Thomas O Forslund
Printed Name of Signatory	Thomas O. Forslund
Signatory Title	Director
Date of Signature	October 2, 2014

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

Attorney General: 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

LSO: 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules (PDFs) emailed to Criss.Carlson@wyoleg.gov: clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

SOS: 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

CHAPTER 1

Rules and Regulations for Medical Malpractice Insurance Assistance Program
Intent to Adopt Repealed Rules

Statement of Reasons

The Wyoming Department of Health proposes to repeal Chapter 1 of the Rules and Regulations for Medical Malpractice Insurance Assistance Program which were enacted pursuant to the provisions of W.S. § 35-1-901 through 903, and the Wyoming Administrative Procedure Act at W.S. § 16-3-101 through 115.

These rules were promulgated to assist physicians with payment of medical malpractice "tail coverage" insurance due to an insurance provider withdrawing coverage for physicians in the state. Applications were accepted for these loans from April 1, 2006 through March 30, 2007. All loans awarded under the program have been repaid to the Department and the Medical Malpractice Insurance Assistance Program has expired.

As required by W.S. § 16-3-103(a)(i)(G), the Rules and Regulations for the Medical Malpractice Insurance Assistance Program met minimum substantive state statutory requirements when enacted, but are no longer statutorily authorized.

CHAPTER 4

Rules and Regulations for Wyoming Hospital Improvement Grants
Intent to Adopt Repealed Rules

Statement of Reasons

The Wyoming Department of Health proposes to repeal the Rules and Regulations for Wyoming Hospital Improvement Grants, which were promulgated pursuant to Senate Enrolled Act No. 53, enacted during the 2006 Legislative Budget Session, and the Wyoming Administrative Procedure Act at W.S. § 16-3-101 through 115.

These rules were promulgated to award grants of up to two hundred fifty thousand dollars to three (3) hospitals to assist them in obtaining magnet hospital certification through the American Nurses Credentialing Center. In addition, the Department also awarded grants to four (4) smaller hospitals for improving nursing excellence.

The Department is repealing the rules for the Wyoming Hospital Improvement Grants because the grant funds for the program have been spent, and the rules are, therefore, obsolete and unnecessary.

As required by W.S. § 16-3-103(a)(i)(G), the Rules and Regulations for Wyoming Hospital Improvement Grants met minimum substantive state statutory requirements when enacted, but are no longer statutorily authorized.

CHAPTER 9

Rules and Regulations for the Critical Access and Rural Hospital Technology Grant Program
Intent to Adopt Repealed Rules

Statement of Reasons

The Wyoming Department of Health proposes to repeal the Rules and Regulations for the Critical Access and Rural Hospital Technology Grant Program which were promulgated pursuant to the provisions of Section 355 of the Wyoming Department of Health Budget at 2011 Wyo. Sess. Laws 260, and the Wyoming Administrative Procedure Act at W.S. § 16-3-101 through 115..

The Department promulgated these rules to create a process for administering the award of grant funds for the purchase of technologies by critical access and rural hospitals, to assist those hospitals in meeting the federal requirement of "meaningful use" of electronic health records under the American Recovery and Reinvestment Act of 2009. All funds have been expensed to the hospitals under this program and the Critical Access and Rural Hospital Technology Grant Program has expired.

As required by W.S. § 16-3-103(a)(i)(G), the Rules and Regulations for the Critical Access and Rural Hospital Technology Grant Program met minimum substantive state statutory requirements when enacted, but are no longer legislatively authorized.

Office of Rural Health Rules

Chapter 1

Medical Malpractice Insurance Assistance Program

CHAPTER 1 IS BEING REPEALED

~~MEDICAL MALPRACTICE INSURANCE ASSISTANCE PROGRAM~~

~~Chapter 1~~

~~Section 1. Authority.~~

~~This Chapter is promulgated by the Department of Health pursuant to the Medical Malpractice Insurance Assistance Act, 2004 Special Session, and Enrolled Act No. 3 (codified at W.S. 35-1-901 *et seq.*), the Medical Malpractice Insurance Account, 2006 Budget Session, Enrolled Act No. 20 (to be codified at W.S. 35-1-901 *et seq.*), and the Wyoming Administrative Procedures Act at W.S. 16-3- 101 *et seq*.~~

~~Section 2. Purpose and Applicability.~~

~~(a) These rules shall apply to and govern the Medical Malpractice Insurance Assistance Program. They shall become effective upon adoption for all applications for assistance submitted on or before March 30, 2007.~~

~~(b) The Department may issue Manuals, Bulletins, or both, to interpret the provisions of these rules and regulations. Such Manuals and Bulletins shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in Manuals or Bulletins shall be subordinate to the provisions of these rules and regulations.~~

~~Section 3. General Provisions.~~

~~(a) This Chapter is intended to be read in conjunction with the Medical Malpractice Insurance Assistance Act, 2004 Special Session, Enrolled Act No. 3 (codified at W.S. 35-1-901 *et seq.*), and the Medical Malpractice Insurance Account, 2006 Budget Session, Enrolled Act No. 20 (to be codified at W.S. 35-1-901 *et seq.*),~~

~~(b) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of this Chapter of these rules and regulations.~~

~~Section 4. Definitions.~~

~~The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular shall include the plural and vice versa. Throughout these rules gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal number s, in random distribution. Words in each gender shall include individuals of the other gender.~~

~~For the purpose of these rules, the following definitions shall apply:~~

~~(a) "Account" means the Medical Malpractice Insurance Assistance Account created by the Act and funded by an appropriation from the Wyoming Legislature;~~

~~(b) "Act" means the Medical Malpractice Insurance Assistance Act, 2004 Special Session, Enrolled Act No. 3 (to be codified at W.S. 35-1-901 through 35-1-903);~~

~~(c) "Adverse action" is as defined in Chapter 1, Rules for Medicaid Administrative Fair Hearings of the Wyoming Medicaid rules, which definition is incorporated by this reference;~~

~~(d) "Applicant" means a physician or contracting entity that submits an application for assistance;~~

~~(e) "Application" means the form, specified by the Department, on which an applicant indicates an interest in receiving assistance;~~

~~(f) "Application date" means the post-marked date of an application for assistance, or the date it is stamped into the Department if it is hand-delivered;~~

~~(g) "Approve" is the Department's determination that a physician or a contracting entity is eligible for assistance;~~

~~(h) "Assistance" means a loan pursuant to this Act that permits a physician or a contracting entity to purchase specified insurance coverage or participate in a risk retention group. The total amount of assistance available shall be limited to that amount appropriated by the Wyoming Legislature for this program;~~

~~(i) "Capital contribution" means a payment, other than a premium or an annual fee, made to a risk retention group as a condition of participation in the group;~~

~~(j) "Child Health Insurance Program (CHIP)" means the Child Health Insurance Program created by 2003 Wyo. Sess. Laws 0064 (codified at W.S. 35-25-101 *et seq.*), and administered by the Department;~~

~~(k) "Claims-made policy" means a malpractice insurance policy, which provides liability coverage to a physician for events that occur during the policy period and for which a claim is made during the policy period;~~

~~(l) "Contested case" means "Contested case" as defined in Chapter 1, Rules for Medicaid Administrative Fair Hearings of the Wyoming Medicaid rules, which definition is incorporated by this reference;~~

~~(m) "Contract" means an agreement between a physician or a contracting entity and the Department under which the Department agrees to provide assistance under this Act in exchange for an agreement by the physician or contracting entity to comply with the statutory requirements of this Act, as well as requirements promulgated under this Chapter;~~

~~(n) "Contracting entity" means an entity which contracts with a Wyoming licensed health care facility to provide physician services to the facility and which in fulfillment of such a contract procures medical malpractice insurance for physicians providing the contracted services;~~

~~(o) "Department" means the Wyoming Department of Health, its agent, designee, or successor;~~

~~(p) "Director" means the director of the Department, the director's agent, designee, or successor;~~

~~(q) "Documentation" means written evidence, in the form specified by the Department, to support an assertion or position;~~

~~(r) "Insurer" means any person engaged as indemnitor, surety or contractor in the business of entering into contracts of insurance or of annuity;~~

~~(s) "Malpractice insurance" means an insurance policy that insures a physician, a contracting entity, or both, against liability for medical malpractice;~~

~~(t) "Medicaid" means medical assistance and services provided pursuant to Title XIX of the Social Security Act or the Wyoming Medical Assistance and Services Act of 1967, as amended. "Medicaid" includes any successor or replacement program enacted by Congress or the Wyoming Legislature. "Medicaid" in Wyoming is also known as "Equality care";~~

~~(u) "Medicare" means the health insurance program for the aged and disabled under Title XVIII of the Social Security Act.~~

~~(v) "Physician" means a person licensed under W.S. 33-26-303.~~

~~(w) A "prime interest rate" means the prime interest rate as established by the Federal Reserve System.~~

~~(x) "Promissory note" means a written promise to pay a specified sum of money to the bearer of the note at a specified time or on demand. Under this Act, the Promissory note will be the contract between the physician or contracting entity and the Department;~~

~~(y) "Program" means the Malpractice Insurance Assistance Program created by the Act and implemented by this Chapter;~~

~~(z) "Provider" means "Provider" as defined in Chapter 3, Provider Participation, of the Wyoming Medicaid rules, which is incorporated by this reference;~~

~~(aa) "Public records" means "Public records" as defined in W.S. 16-4-201 (a)(v), which is incorporated by this reference;~~

~~(bb) "Risk retention group" is as defined in W.S. 26-36-103(a)(i). However, assistance under this Chapter is limited to participation in risk retention groups in which, the majority of ownership is held by physicians who are licensed and practicing in Wyoming;~~

~~(cc) "Security interest" means interest in property obtained pursuant to a security agreement.~~

~~Section 5. Eligible Applicants.~~

~~Physicians and contracting entities, as defined in Section 4 of these Rules, are eligible for assistance under the terms of this program.~~

~~Section 6. Criteria for Application.~~

~~Subject to the availability of funds appropriated, applications may be accepted and considered for loans according to the following criteria:~~

~~(a) Physicians may apply for a loan to pay for medical malpractice insurance coverage as specified in this Act. The physician shall establish that:~~

~~(i) He/she was previously insured for prior events and those events are not eligible for coverage under the prior claims-made policy because the period for making a claim under the policy has expired;~~

~~(ii) Current coverage by the insurer providing the coverage is no longer available due to either the insolvency of the insurer or the withdrawal of the insurer from the state of Wyoming; and~~

~~(A) The physician has procured or will procure coverage from his previous insurer for prior events not covered due the expiration of the period for making claims, or~~

~~(B) He/she has procured or will procure a subsequent medical malpractice policy covering prior events.~~

~~(b) Contracting entities shall meet the same criteria as outlined in Sections 6.a.i. ii.~~

~~Section 7. Application Form.~~

~~(a) To be eligible to participate in this program a physician or contracting entity shall submit an application to the Department upon application forms approved by the Department;~~

~~(b) The Application shall include forms, eligibility criteria, rights and responsibilities regarding receiving assistance;~~

~~(c) An application shall be provided upon request;~~

~~(d) A separate application shall be required for each applicant;~~

~~(e) The application may be mailed or hand-delivered to the Department;~~

~~(f) Applications must be post-marked or date-stamped by the Department on or before March 30, 2007;~~

~~(g) The application must be complete prior to consideration by the Department.~~

~~Section 8. Application Process.~~

~~(a) The Director or his/her designee shall administer this program according to the rules of this program, and shall determine whether the applicant is eligible under these rules;~~

~~(b) The Department shall provide the applicant written notice of its determination;~~

~~(c) Documentation of the action taken and the reasons for the action shall be placed in the applicant's file;~~

~~(d) The Director or his/her designee may request documentation to corroborate any information requested in the application;~~

~~(e) The funds appropriated by the legislature will be allocated by the Department for loans to physicians or contracting entities for the purpose identified under in the Act and pursuant to these rules;~~

~~(f) The Director or his/her designee shall be responsible for servicing the loans for those physicians or contracting entities;~~

~~(g) The denial of assistance is not an adverse action, and an applicant who does not receive assistance has no right to reconsideration pursuant to Chapter 3, Rules for Medicaid Administrative Fair Hearings of the Wyoming Medicaid rules or a contested case pursuant to Chapter 1, Rules for Medicaid Administrative Fair Hearings of the Wyoming Medicaid rules, or any other provision of the Departments rules or the Wyoming Administrative Procedure Act.~~

~~Section 9. Criteria for Approval of Loan.~~

~~An application shall be approved if the application is complete, the applicant meets the requirements of these rules and the Act, and the applicant agrees to the terms and conditions of the loan assistance program;~~

~~(a) Physicians.~~

~~(i) Amount. The principal amount of the loan shall be the amount applied for, but shall not exceed the premium for the coverage purchased or to be purchased under this Act~~

~~by the physician. This amount shall be prorated to reflect the percentage of the physician's or the contracting entity's actual practice in Wyoming;~~

~~(ii) Terms of the contract. Upon approval of the application, the physician shall enter into a contract with the Department and shall sign a promissory note as approved by the Department prior to disbursement of any funds. The contract shall include the following terms:~~

~~(A) Practice in Wyoming. The physician shall agree to practice in Wyoming in the physician's specialty or sub-specialty for a period of three (3) years after the effective date of the malpractice insurance policy purchased with the loan proceeds ;~~

~~(B) Interest rate. The interest rate for loans made pursuant to this Chapter shall be determined by the Wyoming State Treasurer at an annual rate equal to the average prime interest rate during the preceding fiscal year plus one percent (1%) and shall be adjusted effective January 1st of each calendar year, including January 1st 2005. To determine the average prime interest rate, the State Treasurer shall average the prime interest rate for at least seventy-five percent (75%) of the thirty (30) largest banks in the United States.~~

~~(C) Time for repayment. Loans made pursuant to this Act shall be repaid in no more than five (5) years from the date the loan funds are disbursed;~~

~~(D) Participation in Medicaid and CHIP. The physician shall become or shall continue as a Medicaid and CHIP services provider for the three (3) year period specified above in subsection (A);~~

~~(E) Breach of contract. In addition to any other civil or criminal penalties that may be imposed by law, any physician or contracting entity that fails or refuses to fulfill the terms of the contract required under this Act shall be in breach of the contract. In the event of a breach of the contract, the physician shall immediately repay the outstanding principal on the loan, plus accrued interest under the contract, together with attorney fees, and any other costs of collection;~~

~~(F) Documentation. A physician shall, upon written request of the Department, promptly provide documentation to show that the physician is in compliance with the contract. In addition, the physician shall, at the times specified in the contract but in no event less than once per year, submit documentation showing compliance with the terms of the contract. The physician shall promptly notify the Department in writing of any change in name, address or other terms which may affect the term s of the Contract; and~~

~~(G) Disclosure of delinquency. The Department may disclose any delinquency or default on the loan or the contract to credit bureaus.~~

~~(b) Contracting entities.~~

~~(i) Loans. The Department may make loans pursuant to this Act to contracting entities to permit them to purchase insurance coverage provided under the Act for the contracting entity's physicians.~~

~~(ii) Eligibility. Except as specifically provided for below, a contracting entity is eligible for a loan to purchase coverage under this Act to the same extent and on the same terms as a physician pursuant to subsection (a).~~

~~(iii) Terms of the contract. The contracting entity shall enter into a contract with the Department and, in addition to the requirements found in Sections 9(a)(ii) above, the following terms shall be included in the contract:~~

~~(A) Time for repayment. Loans made pursuant to this Act shall be repaid in no more than five (5) years from the date the loan funds are disbursed.~~

~~(B) Documentation. The contracting entity is responsible to provide the documentation requested in Sections 9(a)(ii)(F}, above.~~

~~Section 10. Loans to Participate in a Risk Retention Group.~~

~~The Department may make loans pursuant to this Chapter to physicians to permit them to participate in risk retention groups, including the cost of any required capital contribution.~~

~~(a) Eligibility. A physician is eligible for a loan to participate in a risk retention group if the physician is licensed and practicing medicine in Wyoming;~~

~~(b) Amount of loan. The principal amount of the loan shall be no greater than the amount needed to participate in the risk retention group, except that the amount of the loan shall not exceed one hundred fifty percent (150 %) of the physician's most recent annual malpractice insurance premium. The amount shall also be prorated for the percentage of the physician's actual practice in Wyoming. The Department may approve the making of the loan upon its determination of compliance with this section. Loan proceeds shall not be disbursed until the physician has paid or immediately will pay for this participation in the risk retention group.~~

~~(c) Terms of the contract. Upon approval of the application, the physician shall enter into a contract with the Department. The contract shall include the following terms:~~

~~(i) Physician's Specialty. The physician shall continue to practice in the physician's specialty or sub-specialty for the entire period of time for which the loan remains unpaid;~~

~~(ii) Interest rate. The interest rate for loans made pursuant to this Chapter shall be determined by the Wyoming State Treasurer at an annual rate equal to the average prime interest rate during the preceding fiscal year plus one percent (1 %) and shall be adjusted effective January 1st of each calendar year, including January 1st 2005. To~~

~~determine the average prime interest rate, the State Treasurer shall average the prime interest rate for at least seventy-five percent (75%) of the thirty (30) largest banks in the United States;~~

~~(iii) Time of repayment. Loans made pursuant to this Section shall be repaid within ten (10) years from the date of disbursement of loan proceeds, together with interest as determined by the State Treasurer and as noted in Section I O(c)(iii), above;~~

~~(iv) Participation in Medicaid and CHIP. The physician shall become and shall remain a provider of Medicaid and CHIP services for the entire period of time for which the loan remains unpaid;~~

~~(v) Documentation. A physician shall, upon request of the Department, promptly provide documentation to establish that the physician has complied with the terms of the contract and to determine the amount of the loan that should be provided under the Act;~~

~~(vi) Insufficient funds. If funding from the account is insufficient to provide assistance to all eligible applicants, the Department may, at its discretion, reduce the amount of assistance to each eligible applicant on a pro rata basis. In no event may the Department make loans in excess of the total appropriation.~~

~~(vii) Security interest. The physician shall provide the state with a security interest in the physician's membership or shareholder interest in the risk retention group; and~~

~~(viii) Breach of contract. In addition to any other civil or criminal penalties that may be imposed by law, any physician or contracting entity that fails or refuses to fulfill the terms of the contract required under this section shall be in breach of the contract. In the event of a breach of the contract, the physician shall immediately repay the outstanding principal on the loan, plus accrued interest under the contract, together with attorney fees, and any other costs of collection.~~

~~Section 11. Records.~~

~~(a) Public records. The name of any physician or contracting entity that receives a loan pursuant to this Chapter, and the amount of such loan, shall be public records.~~

~~(b) Confidential records. Any information submitted to the Department by a physician or contracting entity under this Act, which is not already a matter of public record, is confidential and is not a public record under W.S. 16-4-201 through 16-4-205.~~

~~Section 12. Interpretation of Chapter.~~

~~(a) The order in which the provisions of this Chapter appear is not to be construed to mean that any one provision is more or less important than any other provision.~~

~~(b) The text of this Chapter shall control the titles of its various provisions.~~

~~Section 13. Superseding Effect.~~

~~When promulgated, this Chapter supersedes all prior rules or policy statements issued by the Department, including Manuals or Bulletins, which are inconsistent with this Chapter.~~

~~Section 14. Severability.~~

~~If any portion of this Chapter is found to be invalid or unenforceable, the remainder shall continue in full force and effect.~~

Office of Rural Health Rules

Chapter 4

Wyoming Hospital Improvement Grants

CHAPTER 4 IS BEING REPEALED

~~WYOMING HOSPITAL IMPROVEMENT GRANTS~~

~~CHAPTER 4~~

~~Section 1. Authority.~~

~~These rules are promulgated by the Department of Health pursuant to Senate Enrolled Act No. 53, enacted during the 2006 Budget Legislative Session, and the Wyoming Administrative Procedures Act at W.S. 16-3-101, *et seq.*~~

~~Section 2. Purpose and Applicability.~~

~~(a) These rules implement a method of selecting recipients for three (3) hospitals in the state to achieve magnet hospital certification and for small hospitals to achieve quality nursing practices, quality nursing working environments, increased retention of nursing staff, and demonstrated improved outcomes for patients.~~

~~(i) The three (3) hospitals seeking Magnet Recognition Program designation shall be eligible for up to two hundred fifty thousand dollars ($250,000) to meet the criteria developed by the American Nurses Credentialing Center in effect on January 1, 2006. Any subsequent changes in the Magnet Recognition Program shall continue to promote quality that supports professional practice and excellence in the delivery of nursing services to patients. If subsequent changes do not reflect these elements, the unexpended amount of grant funds shall be returned to the Department.~~

~~(ii) The small hospitals, with under one hundred (100) beds, seeking grants for technical and professional assistance to promote quality nursing practices, quality nursing working environments, increased retention of nursing staff and demonstrated improved outcomes for patients shall be eligible for up to fifty thousand dollars ($50,000) as a single entity. Small hospitals of three or more organizations may form a consortium to address the four required areas at each hospital and be eligible for up to two hundred thousand dollars ($200,000). One organization shall be named the lead entity, negotiate the contract, and be responsible for organizing the matching funds requirement.~~

~~(iii) The technical and professional assistance may be contracted to a Wyoming hospital that has previously prepared or submitted a Magnet Recognition Program application or to the University of Wyoming's Nightingale Center.~~

~~Section 3. Special Provisions.~~

~~(a) If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.~~

~~(b) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of this Chapter.~~

~~Section 4. Definitions.~~

~~The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout these gender pronouns are used interchangeably except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers, in random distribution. Words in each gender shall include individuals of the other gender.~~

~~(a) "Beds" means operating beds for the care of patients staying twenty-four (24) hours or more according to the American Nurses Credentialing Center Magnet Recognition Program. This category does not include bassinets.~~

~~(b) "Designation" means a process required by the American Nurses Credentialing Center in order to receive Magnet Recognition. The process requires the appraisal of both qualitative and quantitative data about nursing care within a specific hospital, submission of an application of intent, submission of documentation and a site visit.~~

~~(c) "Consortium" means a group of three (3) or more small hospitals, with each under one hundred (100) beds, joining efforts to address the four required areas of the grant at each hospital.~~

~~(d) "Department" means the Wyoming Department of Health, Rural and Frontier Health Division, Office of Rural Health.~~

~~(e) "Eligible recipient" means any licensed Wyoming hospital that accepts Medicaid (Title XIX of the Social Security Act or the Wyoming Medical Assistance Services Act), Medicare (Title XVIII of the Social Security Act) and the State Child Health Insurance Program (Kid Care CHIP).~~

~~(f) "Grant" means a grant of funds under a contract agreement.~~

~~(g) "Grant amount" means the state program funds plus the matching funds from the local hospital.~~

~~(h) "Grant Application" means a written document required by the Department of Health, Rural and Frontier Health Division, Office of Rural Health, in order to request funding under the Magnet Hospital Grant Program or the Small Hospital Improvement Grant Program.~~

~~(i) "In-kind services" means services that directly contribute to preparation of the application for Magnet Recognition or for achieving quality nursing practices, quality nursing working environments, increased retention of nursing staff and demonstrated improved outcomes for patients. These services may include salary and expenses for staff who are directly working on aspects of the application or specific forces of magnetism, such as self-~~

~~assessment, data collection regarding patient outcomes or nursing satisfaction surveys; costs to educate and support nursing staff working directly on components of Forces of Magnetism; and/or costs for materials needed for the application for Magnet Recognition or for achieving designated Forces of Magnetism.~~

~~(j) "Lead Entity" means the small hospital signing the grant contract and organizing the consortium members for responsibilities to address the four (4) required areas of the grant and the matching funds.~~

~~(k) "Magnet Recognition" means a formal designation given by the American Nurses Credentialing Center.~~

~~(l) "Magnet Recognition Program Application" means submission of a letter of intent, followed by submission of written documentation by March or July of the following year based on scheduling by the American Nurses Credentialing Center (ANCC).~~

~~(m) "Magnet Recognition Criteria" means the fourteen (14) Forces of Magnetism and associated specific components identified by the American Nurses Credentialing Center as of January 1, 2006, that reflect high quality nursing practices, quality nursing working environments and demonstrated improvement in patient outcomes.~~

~~(n) "Recipient Hospital" means a hospital licensed in Wyoming that accepts Medicaid, Medicare, and Kid Care CHIP.~~

~~(o) "Small Hospital" means a hospital licensed in Wyoming with less than one hundred (100) beds.~~

~~(p) "This Act" means Senate Enrolled Act No. 53 in the State of Wyoming Fifty-Eighth Legislature 2006 Budget Session.~~

~~Section 5. Authority to Award and Administer Grant Funds.~~

~~(a) The Department shall have the following responsibilities with regard to administering the grant awards:~~

~~(i) It shall develop a Request for Proposal (RFP), in consultation with the Office of Rural Health, for funding for up to three (3) grants to any Wyoming hospital seeking Magnet Recognition and for small hospitals of less than one hundred (100) beds to promote quality nursing practices, quality nursing working environments, increased retention of nursing staff and demonstrated improved outcomes for patients. The RFP developed by the Department and the Office of Rural Health shall comply with all of the Department of Administration and Information's RFP requirements. The RFP shall prioritize grant recipient requirements;~~

~~(ii) It shall provide technical and professional assistance to eligible~~

~~recipients making an application through the RFP for the grant funds for the purpose of completing a Magnet Recognition Program application or for promoting quality nursing practices, quality nursing working environments, increased retention of nursing staff and demonstrated improved outcomes for patients by addressing the selected criteria of the Magnet Recognition Program;~~

~~(iii) It shall collect and analyze the RFP applicant information and shall, in consultation with the Office of Rural Health, select grant recipients pursuant to the priorities outlined in the RFP;~~

~~(iv) It shall enter into a contract with the grant recipient that further outlines the project requirements, detailing how measurable outcomes will be achieved, and ensuring that the grant funds are used to effectuate the goals of the project;~~

~~(v) It shall fund three (3) hospitals to achieve Magnet Recognition Program designation;~~

~~(vi) It shall fund small hospitals to promote quality nursing practices, quality nursing working environments, increased retention of nursing staff and demonstrated improved outcomes for patients by meeting the selected criteria; and~~

~~(vii) It shall inform the Joint Labor, Health and Social Services Interim Committee if legislation is needed to authorize any additional rules and regulations to effectuate the goals of the projects.~~

~~Section 6. Criteria for and Priorities Given to Magnet Hospital Grant Program Awards.~~

~~The following criteria and priorities shall be considered in awarding funds under this project:~~

~~(a) Demonstrated provision of medical care to patients qualified under Medicaid, Medicare, and Kid Care CHIP;~~

~~(b) Indication in writing the hospital's commitment to acquisition of Magnet Recognition Program designation within a five (5) year period following receipt of the grant;~~

~~(c) Indication in writing and in their grant budget a match of forty percent (40%) of the grant award with in-kind or in-cash funds to be expended in achieving Magnet Recognition Program designation;~~

~~(d) Agreement to submit periodic reports of progress in preparing, submitting and acquiring Magnet Recognition Program designation to the Department of Health, Rural and Frontier Health Division, Office of Rural Health as specified by that Department; and~~

~~(e) The grant application shall include a budget that specifies how grant funds will be expended.~~

~~Section 7. Criteria for and Priorities Given to Small Hospital Grant Program Awards.~~

~~The following criteria and priorities shall be considered in awarding funds under this project:~~

~~(a) Demonstrated provision of medical care to patients qualified under Medicaid, Medicare, and Kid Care CHIP;~~

~~(b) Indication in writing the hospital's commitment to meet the selected characteristics which address quality of nursing practice, quality of nursing working environments, increased retention of nursing staff and outcomes for patients within a five (5) year period following receipt of the grant;~~

~~(c) Small hospitals commitment in writing and in their grant budget a match of twenty percent (20%) of the grant award with in-kind services or in-cash funds to be expended with the grant funds;~~

~~(d) Agreement to report periodically to the Department regarding the use of grant funds and measurable results obtained with those funds; and~~

~~(e) The grant application shall include a budget that specifies how grant funds will be expended.~~

~~Section 8. Application Form for Magnet Hospital Grant Program.~~

~~(a) Application for the Magnet Hospital Grant Program will be submitted per the RFP process.~~

~~(b) Application for the Magnet Hospital Grant Program shall include:~~

~~(i) Narrative description of how the hospital shall achieve Magnet Recognition Program designation within five (5) years. The narrative shall include annual objectives, activities, timelines, outcomes and measurements to be achieved in each year of the grant;~~

~~(ii) A detailed budget and budget narrative that specifies how grant funds shall be expended annually in a format to be established by the Department for each year of the requested grant including budget for forty percent (40%) match; and~~

~~(iii) A verification of understanding of the obligation to repay one hundred~~

~~percent (100%) of the grant if the Office of Rural Health determines no progress has been made toward Magnet Recognition Program application in the first year, or fifty percent (50%) if the Office of Rural Health determines a lack of progress or failure to achieve Magnet Recognition Program designation in the subsequent four (4) years after the grant award date.~~

~~Section 9. Application Form for Small Hospital Grant Program.~~

~~(a) Application for the Small Hospital Grant will be submitted per the RFP process.~~

~~(b) Application for Small Hospital Grant Program shall include:~~

~~(i) A statement of how the hospital shall achieve the key elements of the excellence in nursing. The narrative shall include a description of quality nursing practices; quality work environment; increased retention of nursing staff; and improved outcomes for patient care;~~

~~(ii) A detailed budget narrative that specifies how grant funds shall be expended annually in a format to be established by the Department for each year of the requested grant including budget for twenty percent (20%) match; and~~

~~(iii) A verification of understanding of the obligation to repay one hundred percent (100%) of the grant if the Office of Rural Health determines no progress has been made toward excellence in nursing in the first year, or fifty percent (50%) if the Office of Rural Health determines a lack of progress or failure to achieve excellence in nursing in the subsequent four (4) years after the grant award date.~~

~~Section 10. Application Process.~~

~~(a) The Manager of the Office of Rural Health or his/her designee shall administer this program according to the rules of this program, and shall determine whether the applicant is eligible under these rules;~~

~~(b) The funds appropriated by the legislature will be allocated by the Office of Rural Health to recipient hospitals as contracted and budgeted per the application and resulting individual contract;~~

~~(c) The Department shall provide the application written notice of its determination;~~

~~(d) Documentation of the action taken and the reasons for the action shall be placed in the applicant's file; and~~

~~(e) The Manager of the Office of Rural Health or his/her designee may request~~

~~documentation to collaborate any information requested in the application before a determination is made.~~

~~Section 11. Reporting Requirements.~~

~~(a) The Department may require an award recipient to provide information on an annual basis.~~

~~(b) The Department may request a site visit to verify and collaborate information submitted.~~

Office of Rural Health Rules

Chapter 9

Critical Access and Rural Hospital Technology Grant Program

CHAPTER 9 IS BEING REPEALED

~~CHAPTER 9~~

~~Rules and Regulations for the Critical Access and Rural Hospital Technology Grant Program~~

~~General Provisions~~

~~Section 1. Authority.~~

~~These rules are promulgated by the Department of Health, Public Health Division, Rural and Frontier Health Section, Office of Rural Health pursuant to the 2011 Wyoming Session Laws, Chapter 88, Section 355, Critical Access and Rural Hospital Technology Grants, and the Wyoming Administrative Procedures Act at W.S 16-3-101, *et seq*.~~

~~Section 2. Purpose and Applicability.~~

~~(a) These rules implement the Critical Access and Rural Hospital Technology Grant Program and create a process for administering the award of grant funds for the purchase of technologies by critical access and rural hospitals, as defined in W.S. 35-1-1002(a)(ii), to assist those hospitals in meeting the federal requirements of "meaningful use" of electronic health records under the American Recovery and Reinvestment Act of 2009. Any electronic health record technology or module purchased with grant funds from this Program must be certified, as defined in Section 4 of these rules.~~

~~(b) The Department may issue manuals, bulletins or both to interpret the provision of these rules and regulations. Such manuals and bulletins shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in manuals or bulletins shall be subordinate to the provisions of these rules and regulations.~~

~~(c) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of these rules and regulations.~~

~~Section 3. Severability.~~

~~If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.~~

~~Section 4. Definitions.~~

~~The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and visa-versa. Throughout these rules gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers in random distribution. Words in each gender shall include individuals of the other gender.~~

~~For the purpose of these rules, the following definitions shall apply:~~

~~(a) "Applicant" means a critical access or rural hospital, as defined in W.S. 35-1-1002(a)(ii), which is applying for this grant.~~

~~(b) "Certified Electronic Health Record (Certified EHR)" means electronic health record technology or modules that offer the necessary technological capability, functionality, and security to help with meeting "meaningful use" criteria. Certification also helps providers and patients be confident that the electronic health IT products and systems used are secure, can maintain data confidentially, and can work with other systems to share information. Information on which electronic health record systems and modules are certified for the Medicare and Medicaid EHR Inventive Programs can be found online at http://healthit.hhs.gov/.~~

~~(c) "Current Ratio" means the comparison of current assets to current liabilities (current ratio equals current assets divided by current liabilities).~~

~~(d) "Days Cash on Hand" means the numbers of days of cash available based on the following equation: cash on hand plus investment plus non-restricted funds at month's end divided by operating expense minus bad debt expense minus depreciation expense divided by 30.4.~~

~~(e) "Department" means the Wyoming Department of Health, Public Health Division, Rural and Frontier Health Section, Office of Rural Health.~~

~~(f) "Electronic Health Record (EHR)" means an electronic version of a patient's medical history that is maintained by the provider over time, and may include all of the key administrative clinical data relevant to that person's care under a particular provider, including demographics, progress notes, problems, medications, vital signs, past medical history, immunizations, laboratory data, and radiology reports. The EHR automates access to information and has the potential to streamline the clinician's workflow. The EHR also has the ability to support other care-related activities directly or indirectly through various interfaces, including evidence-based decision support, quality management, and outcomes reporting. This definition, as well as additional information on EHRs, can be found on the Centers for Medicare and Medicaid Services (CMS) website at http://www.cms.gov/EHealthRecords/.~~

~~(i) For the purposes of the Medicare and Medicaid Incentive Programs, eligible professionals, eligible hospitals, and critical access hospitals must use certified EHR technology. A list of certified EHR systems and modules is available online at http://healthit.hhs.gov/.~~

~~(g) "Grant" means an award of state funds to an applicant through a written Grant Award Agreement.~~

~~(h) "Grant Amount" means the Program funds identified in the Grant Award Agreement.~~

~~(i) "Grant Award Agreement" means a legally enforceable and binding agreement describing the terms of the commitment between the Department and the grantee.~~

~~(j) "Grantee" means an applicant approved for a grant under the Program.~~

~~(k) "Grant Term" means the time frame under which a grantee must adhere to the Grant Award Agreement and Program requirements.~~

~~(l) "Meaningful Use" means the use of certified electronic health record technology in ways that can be measured significantly in quality and in quantity. The American Recovery and Reinvestment Act of 2009 specifies three (3) main components of "meaningful use": 1) the use of certified EHR in a meaningful manner, such as e-prescribing; 2) the use of certified EHR technology for electronic exchange of health information to improve quality of healthcare; and 3) the use of certified EHR technology to submit clinical quality and other measures. The full definition of "meaningful use" can be found online at www.cms.gov/EHRIncentivePrograms/30_Meaningful_Use.asp#BOOKMARK1/.~~

~~(m) "Operating Margin" means the ratio of operating income divided by revenue (operating margin = operating income / revenue).~~

~~(n) "Program" means the Critical Access and Rural Hospital Technology Grant Program.~~

~~(o) "Repayment Agreement" means a written amendment to the Grant Award Agreement setting forth the terms of repayment of grant funds to the state when grantee fails to comply with the terms of the Program, the rules and/or the Grant Award Agreement.~~

~~(p) "Rural Hospital" means a hospital with forty (40) beds or less, as defined by W.S. 35-1-1002(a)(ii). This includes Critical Access Hospitals.~~

~~Section 5. Critical Access and Rural Hospital Technology Grants Terms and Service.~~

~~(a) The Department shall issue Grant Award Agreements to the selected applicants. The Agreement shall set forth the terms of the grant, including, but not limited to, the grant amount, grant term, approved project, and payment terms.~~

~~(b) The grantee shall provide reports on the project status to the Department as set forth in the Grant Award Agreement between the grantee and the Department.~~

~~(c) Grantees must comply with all Grant Award Agreement requirements for the entire term of the Grant Award Agreement.~~

~~(d) No single grant award under this Program shall exceed Four Hundred Thousand Dollars ($400,000).~~

~~Section 6. Department Responsibilities.~~

~~(a) The Department shall develop an application form, process and timeline. The Department shall make the application form available in electronic format accessible by the public.~~

~~(b) The Department will accept applications during a specific time frame as determined and publicly announced by the Department. The Department will make determinations of grant awards within sixty (60) days of grant application submission.~~

~~(c) The Department will accept applications for funds to purchase technologies to assist critical access and rural hospitals in meeting the federal requirements of "meaningful use" of electronic health records in accordance with the American Recovery and Reinvestment Act of 2009. Any electronic health record technology or module purchased with funds from this Program must be certified, as defined in Section 4 of these rules.~~

~~(d) The Department will determine if the application meets the requirements in these rules prior to considering the applicant for a grant award.~~

~~(e) Applications that do not meet the requirements in these rules or that do not outline a project that will assist the applicant in meeting the federal requirements of "meaningful use" of electronic health records will be returned to the applicant with a written explanation.~~

~~(f) The Department shall determine the total amount of the grant authorized for each approved application. The grant amount for any single grant award shall not exceed Four Hundred Thousand Dollars ($400,000) regardless of the amount of grant funds requested in the approved application. The Department may consider all applications at one time in an effort to provide funds on a pro rata basis to the eligible applicants to assist as many applicants as possible in achieving "meaningful use."~~

~~(g) The Department shall notify the selected applicants and coordinate the Grant Award Agreement between the grantee and the Department. The Agreement shall set forth the terms of the grant, including, but not limited to, the grant amount, grant term, approved project, and payment terms.~~

~~(h) The Department shall make grant payments in the following manner:~~

~~(i) An initial, up-front grant payment may be made at the time the Grant Award Agreement is finalized. This initial payment shall not exceed ten percent (10%) of the total grant award amount.~~

~~(A) The applicant may submit a request for an initial payment amount over ten percent (10%) of the total grant amount at the time the Grant Award Agreement is finalized. The decision to approve or deny such requests is at the sole discretion of the Department.~~

~~(ii) The Department will make the remaining payments based upon invoice from the grantee for completed work as identified in the Grant Award Agreement.~~

~~(iii) The Department will verify that grantees have supplied all required documentation as required under the Grant Award Agreement prior to making payments under the Grant Award Agreement.~~

~~(i) The Department shall verify grantee's compliance with the Program requirements by reviewing reports supplied by the grantee as required under the Grant Award Agreement.~~

~~(j) The Department shall collect, compile, and maintain the grantees' reports on project status.~~

~~(k) The Department shall require non-compliant grantees to repay the state one hundred percent (100%) of grant funds paid by the Department, in addition to all expenses incurred in collection, including attorney fees. This repayment shall be completed in a timely manner, pursuant to a written repayment agreement and schedule.~~

~~Section 7. Applicant/Grantee Responsibilities.~~

~~(a) Applicants must complete the approved Program application and submit it to the Department within the timeframe set by the Department.~~

~~(b) During the grant term, which will be identified in the Grant Award Agreement, grantees must:~~

~~(i) Provide reports on project status as required under the Grant Award Agreement.~~

~~(ii) Within sixty (60) days of the end of the grant term, as set forth in the Grant Award Agreement, the grantee must submit an end of grant final report to the Department that summarizes the project's successes, challenges, and outcomes.~~

~~(iii) Agree to repay the state all grant funds received and costs of collections, including attorney fees, if grantee fails to remain in compliance with the terms and requirements of these rules and the Grant Award Agreement for the entire term of the Grant Award Agreement.~~

~~Section 8. Eligibility Criteria for Critical Access and Rural Hospital Technology Grant Applicants.~~

~~(a) Rural hospitals with forty (40) beds or less, including Critical Access Hospitals, as defined by Section 4 of these rules, are eligible to apply for funds under the Program.~~

~~Section 9. Application Process.~~

~~(a) Applicant must complete the approved application and submit it to the Department with the appropriate and required supporting documents requested in the application.~~

~~(b) The application, among other documents and factors as outlined in these rules, will be used to determine if an applicant is awarded a grant and must:~~

~~(i) Include a narrative describing the scope of the project.~~

~~(ii) Include organizational financials, with and without tax support. Financials must include:~~

~~(A) Tax support received for each of the previous three (3) years;~~

~~(B) Savings, cash reserves, certificates of deposit, and other liquid assets for each of the previous three (3) years to determine ongoing available cash;~~

~~(C) Current Days Cash on Hand, as defined in Section 4 of these rules;~~

~~(D) Current Ratio, as defined in Section 4 of these rules; and~~

~~(E) Current Operating Margin, as defined in Section 4 of these rules.~~

~~(iii) Include the estimated amount that a fully-functional, certified electronic health record will cost the hospital. The basis of the estimate must be described in detail and include vendor information.~~

~~(iv) Include the estimated amount of Medicare incentive funding the hospital anticipates once the criteria for the electronic health record and "meaningful" use have been met.~~

~~(v) Include the estimated length of time required to achieve "meaningful use" of electronic health records from the beginning of the selection process through implementation and survey to demonstrate "meaningful use."~~

~~Section 10. Selection Process.~~

~~(a) The Department may involve internal and external partners in the selection process.~~

~~(b) Selection criteria shall include, but may not be limited to:~~

~~(i) Highest priority will be given to applicants with the greatest need, as determined by the Department and based upon information and documentation provided in the application. The Department may consider all applications at one time in an effort to provide~~

~~funds on a pro rata basis to the eligible applicants to assist as many applicants as possible in achieving "meaningful use" of electronic health records;~~

~~(ii) The Department shall use information from the application form and other sources in the selection process;~~

~~(iii) The Department shall make awards, at its sole discretion, to applicants who have documented an executable plan for achieving "meaningful use" of electronic health records and who have a project scope that is supported by the documentation provided in the application for funding.~~

~~Section 11. Critical Access and Rural Hospital Technology Grant Program Breach, Repayment and Penalties.~~

~~(a) A grantee who fails to complete or comply with the requirements of the Program, these rules or the Grant Award Agreement shall:~~

~~(i) Repay the state the full amount of grant funds received under the Program as of the date of the breach. The Department may include in the Repayment Agreement any costs and expenses incurred in collecting these amounts, including attorney fees and other litigation and court costs. Repayment shall be completed within one (1) year of the Department's determination of breach in accordance with the written Repayment Agreement.~~

~~(A) The Department, at its sole discretion, may consider extending the repayment term based upon the circumstances leading to the grantee's non-compliance. This extension will not result in a reduction in the return of one hundred percent (100%) of the grant funds paid to the grantee.~~

~~(B) The Department, at its sole discretion, may forgive a proportionate share of the amount to be repaid based upon the grantee's progress made toward achieving the federal requirements of "meaningful use" of electronic health records.~~

~~(C) Grantee must submit a written request to the Department for extension of repayment or forgiveness of a share of repayment. Upon receipt of written request from Grantee, the Department shall review and provide a written decision to the grantee. The decision to approve or deny a request for an extension of repayment or forgiveness of a share of repayment is at the Department's sole discretion.~~