



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

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 Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.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c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed <i>(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)</i>		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

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**:
- 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**:
- 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**:

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**:
- b. Date on which final rules were sent to the **Legislative Service Office**:
- c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State**:

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

<i>Signature of Authorized Individual (Blue ink as per Rules on Rules, Section 7)</i>	
<i>Printed Name of Signatory</i>	
<i>Signatory Title</i>	
<i>Date of Signature</i>	

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.

<i>Governor's Signature</i>	
<i>Date of Signature</i>	

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.

STATEMENT OF REASONS
FOR ADOPTION OF RULES

These rules are created under Wyo. Stat. Ann. § 33-1-302(a)(viii) (House Enrolled Act 40 (2014)) which requires the Department of Administration and Information (Department) to promulgate rules setting forth the rate that licensure boards and commissions shall pay to the Department for services necessary to support the operation of the board or commission. The statute also requires that the rules describe how a board or commission may request to terminate the Department's required services.

The rules specify what expenses a board or commission will be required to pay to the Department for services. For instance, the rules provide that a board or commission is responsible for an administrative fee, telephone charges, copier charges, supplies, information technology costs, and other necessary expenses incurred by the professional licensing board section (PLB) of the Department. The administrative fee is specifically defined as a percentage of the cost of payroll, including salary, overtime, and benefits for all PLB employees providing services to the boards or commissions. For instance, if the PLB employees spend ten percent (10%) of their time providing services to a specific board or commission, that board or commission is responsible to reimburse the Department ten percent (10%) of the PLB's total payroll.

Specific costs or rates are not specifically set forth in the rules because it is impossible to create fee rules with such specificity. The PLB currently serves 17 boards and commissions and those boards and commissions reimburse the PLB based upon a ratio/calculation that takes into consideration PLB employee time, PLB payroll, miscellaneous costs (copy, phone, computer, etc.), number of licensees for each board, and PLB employee time for each board or commission. We believe the proposed rules provide the most fair and equitable manner in which to charge boards or commissions for services and costs. If we created rules that contained specific fees or costs (i.e. 10 cents per copy, \$35 per hour, etc.), it would result in the PLB collecting too much or too little from the boards or commissions which would result in the PLB being overfunded or underfunded. Using the framework in these proposed rules assure that the PLB is reimbursed the proper amount from each board or commission and that the PLB is accurately funded.

Further, as required in section 3(b) and (c) of the proposed rules, the PLB and the board or commission must still enter into a service agreement which memorializes how the services and costs will be charged.



STATE OF WYOMING

DEPARTMENT OF ADMINISTRATION AND INFORMATION

Director's Office

2001 Capitol Avenue
Cheyenne, Wyoming 82002
Phone: (307) 777-7201



Dean Fausset
Director
Joyce Hefenieder
Deputy Director

Matthew H. Mead
Governor

Responses to public comments from Geri Allen:

Comment #1: I trust that A&I will be purchasing an appropriate professional services billing software (such as attorneys and CPAs use) to ensure "billable" time is accurately logged and billed as opposed to a guesstimate.

Response from A&I to Comment #1: This is not something that we feel needs to be addressed in the rules. This comment addresses the administration or implementation of the rules. Further, the Professional Licensing Board office currently uses an accurate accounting system using concrete data and the Boards currently using our services feel this is appropriate and accurate. If any Board using our services had concerns about billing then our office would look into other means of documenting this information but as it is the Boards' money that pays for any purchases it would be up to the Boards to determine its necessity.

Comment #2: This is an unacceptable "wild card" you are giving yourselves. If licensing boards have to be governed by your rules, the factors should be defined in rule.

Comment #3: What about Boards who have an earmarked account and purposely want to draw the balance down with expenditures exceeding revenues for a particular FY? What about a FY that has unexpected, non budgeted expenses (such as legislative action that increases 100 series costs and causes expenditures to exceed revenue), is a board going to lose its independent status for that?

Comment #4: Again, if Boards have to abide by your rules, "all documents" should be defined in rule.

Response from A&I to Comments #2, #3 and #4: The Department will be using the specific, concrete standard outlined in the statute which is whether "the board or commission is financially independent and able to secure staff to perform the functions necessary for independent operation." The Department, at no time, is changing the required standard created by the Legislature. However, to determine and analyze whether a board or commission meets the financial independence standard, the Department purposely did not insert into the rules every single document or factor that may be considered. Indeed, the Department provided the several factors that we know we will review and consider but left open the possibility of considering other factors and documents because we could not possibly write into the rules every factor or document we may consider for the very reason you've addressed in your comment #3. The Department will need to take into account any items specific to a board or commission that impacts that board's financial independence. The unique nature of the various boards makes it difficult to anticipate every situation and therefore every document and factor that may need to be reviewed. If we





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inserted only a few specific documents/factors into the rules then the Department may not be able to consider other non-included documents or factors you've addressed (comment #3) or others that might surface. We believe this leeway is a benefit for the Department and the boards and commissions.

Comment #5: Is this decision going to be made by one person or by a committee?

Response from A&I to Comment #5: The statute provides that the decision is up to the Department. At this time there will be various personnel from multiple divisions involved in the determination, and as always, the ultimate decision and process is at the director's discretion. Again, this comment goes more toward the administration or implementation of the rules and will not be inserted into the rules.

Comment #6: Also, Boards should have the ability to appeal your ruling and that right to appeal should be included in your rules.

Response from A&I to Comment #6: Neither the statute nor the Administrative Procedure Act contemplates an appeal process in this situation, therefore, the right to appeal is not in the rules as no right exists.

Comment #7: What specific factors?

Response from A&I to Comment #7: As described in the response to comments 2-4, there is a specific, concrete standard as described in the statute, but how a Board achieves the standard is on a case by case basis to allow for fluctuations in how Boards operate.



CHAPTER 1

DEPARTMENT OF ADMINISTRATION AND INFORMATION SERVICES AND FEES TO BOARDS AND COMMISSIONS

Section 1. Purpose.

These rules are created under Wyo. Stat. Ann. § 33-1-302(a)(viii) (House Enrolled Act 40 (2014)) which requires the Department of Administration and Information (Department) to promulgate rules setting forth the rate that licensure boards and commissions shall pay to the Department for services necessary to support the operation of the board or commission. The rules also describe how a board or commission may request to terminate the Department's required services.

Section 2. Scope.

Except as otherwise specifically provided by statute, these rules apply to any board or commission who is authorized to establish examination, inspection, permit, or licensure fees for any profession or occupation regulated under title 33 or under Wyo. Stat. Ann. §§ 11-25-105, 21-2-802, or 23-2-414.

Section 3. Reimbursed Expenses/Rates and Service Agreement.

(a) Each board or commission described in section 2 of these rules shall receive budget, fiscal, administrative, and clerical services from the Department. The Department will utilize its professional licensing board section (the PLB) in performing these services. In return, each board or commission shall reimburse to the Department the expenses incurred by the PLB performing the work for the board or commission at the rates described below:

(i) Administrative fee - this is calculated as a percentage of the cost of payroll, including salary, overtime, and benefits, for all PLB employees providing services to the boards and commissions, hereinafter referred to as total payroll. For instance, if the PLB employees spend ten percent (10%) of their time providing services to a specific board or commission, that board or commission is responsible to reimburse the Department ten percent (10%) of the PLB's total payroll.

(ii) Telephone charges, including conference calls and long distance phone calls;

(iii) Copier charges;

(iv) Supplies;

(v) Information technology costs; and

(vi) Other necessary expenses incurred by the PLB in providing the necessary services.

(b) The above mentioned expenses and rates shall be memorialized in a written interagency service agreement between the board or commission and the PLB.

(c) The service agreement shall contain, at a minimum, the following:

(i) Description of all PLB services provided to the board or commission;

(ii) Description of the board's or commission's responsibilities; and

(iii) Description of how the PLB's expenses will be calculated and billed to the board or commission.

Section 4. Termination of Department Services.

(a) A board or commission may request to not utilize the PLB's services under Wyo. Stat. Ann. § 33-1-302(a)(viii) and request to terminate the services upon demonstration to the Department that the board or commission is financially independent and able to secure staff to perform the functions necessary of independent operation. In determining whether a board or commission is financially independent and able to secure staff to perform the functions necessary for independent operation the Department will look at several factors, including but not limited to :

(i) Whether the board's or commission's revenues meet or exceed its expenditures for one fiscal year or licensing cycle;

A. Newly created boards or commissions may demonstrate this requirement through its first year budget projections.

(ii) Whether the board or commission has any outstanding fiduciary obligations/debts; and

(iii) Whether the board or commission is financially able to employ qualified staff to perform the board's or commission's necessary tasks.

(b) To request termination of the PLB's services, the board or commission shall submit a request in writing to the Department on a form provided by the Department. The form may be requested from the Department at its office. The board or commission shall also provide all documents requested by the Department.

(c) Upon receipt of the written request and all required documents, the Department shall review the request and determine, at the Department's sole discretion, whether the board or commission may terminate the PLB's services under Wyo. Stat. Ann. § 33-1-302(a)(viii).

(d) The board or commission will be notified in writing of the Department's decision including the specific reasons for denying or granting the request.

(e) A board or commission may at any time after terminating services request the PLB's services. The board or commission will be required to enter into a service agreement with the Department.

Section 5. Continuing Obligation to Notify Department.

(a) If the board or commission is allowed by the Department to terminate the PLB's services, the board or commission has a continuing obligation to promptly notify the Department in writing if at any time it no longer satisfies the conditions outlined in section 4(a) of these rules, including the specific factors outlined in the approval letter that the Department relied upon in approving the termination request.

(b) Upon written notification by the board or commission that it no longer meets the conditions in section 4(a) of these rules, the PLB and the board or commission shall promptly enter into a service agreement described in section 3 of these rules.

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