



Certification Page
Regular and Emergency Rules
 Revised September 2016

Emergency Rules (After completing all of Sections 1 through 3, proceed to Section 5 below)

Regular Rules

1. General Information

a. Agency/Board Name Department of Workforce Services		
b. Agency/Board Address 1510 East Pershing Blvd.	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Marcia J. Price		f. Agency Liaison Telephone Number (307) 777-6746
g. Agency Liaison Email Address marcia.price@wyo.gov		h. Adoption Date 1/17/17
i. Program Workers' Compensation Division		

2. Legislative Enactment For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Enrolled Act Numbers and Years Enacted:

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.
 (Please use the Additional Rule Information form for more than 10 chapters and attach it to this certification)

Chapter Number: 6	Chapter Name: Contested Case Proceedings	<input type="checkbox"/> New <input checked="" 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 Repealed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 Repealed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 Repealed

3. State Government Notice of Intended Rulemaking

a. Date on which the Proposed Rule Packet (consisting of the Notice of Intent as per W.S. 16-3-103(a), Statement of Principal Reasons, strike and underscore format and a clean copy of each chapter of rules were: **11/21/16**

- approved as to form by the **Registrar of Rules**; and
- provided to the **Legislative Service Office and 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. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

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

5. Final Filing of Rules

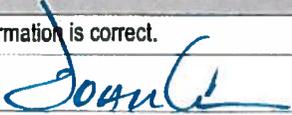
a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature**: **11/21/16** **1/20/17**

b. Date on which final rules were approved as to form by the **Secretary of State** and sent to the **Legislative Service Office**: **11/21/16** **1/20/17**

c. The Statement of Reasons is attached to this certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	John Cox
Signatory Title	Director, Department of Workforce Services (DWS)
Date of Signature	Jan 17, 2017

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	

Principal Statement of Reason – WC Chapter 6, Section 2 (Contested Case Proceedings)

The Workers' Compensation Division is proposing a change in Chapter 6, Section 2, to increase fees for members of the Medical Commission from \$150.00 (one hundred fifty dollars) to \$200.00 (two hundred dollars) per hour. The proposed increase is due to the fact the \$150.00 (one hundred fifty dollars) per hour fee has been in place for approximately fifteen (15) years.

It was felt that a 33% (thirty three percent) increase in the fees would be appropriate and would not be a burden on the budget. Currently, the physicians and health care providers who serve on the Medical Commission are at a financial disadvantage, when they could complete an IME (Independent Medical Evaluation) and be paid at a higher rate.

In contrast, the Office of Administrative Hearings (OAH) sets fees for attorneys representing injured workers. The fees have gone up incrementally, by \$30.00 (thirty dollars) per hour, approximately every five (5) years over the past 18 years. Starting around 2005 the fee was \$60.00 (sixty dollars) per hour and was raised to \$90.00 (ninety dollars) per hour. Five years later (2010) the fees went to \$120.00 (one hundred twenty dollars) per hour and, then five years later (2015) the fee was \$150.00 (one hundred fifty dollars) per hour.



Matthew H. Mead
Governor

State of Wyoming Department of Workforce Services

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John Cox
Director
Lisa M. Osvold
Deputy Director

January 17, 2017

Public Comments For WC Chapter 6 – Contested Case Proceedings

On November 27 and November 30, 2016, a public notice was published in the Casper and Cheyenne newspapers.

The 45 day public comment period for this rule expired on January 13, 2017.

No public comments were received.



We Bridge Human and Economic
Development for Wyoming's Future.



CHAPTER 6
CONTESTED CASE PROCEEDINGS

Section 1. Referral for Hearing.

(a) Upon receipt of a request for hearing, the Division shall immediately transmit a copy of the request and a notice of request for hearing to the Office of Administrative Hearings (OAH) or Workers' Compensation Medical Commission as appropriate. For purposes of judicial review of agency inaction under W.S. § 16-3-114(a), the Division is deemed to have denied any timely, written request for a hearing pursuant to W.S. § 27-14-601(k)(iv) when it has failed to transmit a notice of request for hearing within 30 days after receipt of the request.

(i) For purposes of referring contested cases to the Workers' Compensation Medical Commission for hearing, W.S. § 27-14-616(b)(iv), the phrase "medically contested cases" shall include those cases in which the primary issue is:

- (A) a claimant's percentage of physical impairment;
- (B) whether a claimant is permanently totally disabled;
- (C) whether a claimant who has been receiving TTD benefits remains eligible for those benefits under W.S. § 27-14-404(c); or,
- (D) any other issue, the resolution of which is primarily dependent upon the evaluation of conflicting evidence as to medical diagnosis, medical prognosis, or the reasonableness and appropriateness of medical care.

Section 2. Establishment of Fees for Members of Medical Commission. Members of the medical commission established pursuant to W.S. § 27-14-616 shall be compensated at the rate of \$200 per hour for their professional services on behalf of the commission, including necessary travel time. In addition, members of the commission shall be reimbursed for necessary travel expenses to the same extent and upon the same conditions as Wyoming State employees are reimbursed under the rules and regulations of the State Auditor.

Section 3. Small Claims. If the Division requests that the matter be resolved as a small claims hearing, the Notice of Referral shall include the following notice:

(a) The Division determines that the amount at issue is less than \$2,000 and does not involve an issue of the compensability of the injury. The Division therefore requests that the matter be resolved as a small claims hearing as provided in W.S. § 27-14-602(b)(i).

(b) The purpose of a small claims hearing is to provide expedited review by a hearing examiner. In a small claims hearing, the Division will not pay a claimant's attorney, nor will the Office of the Attorney General represent the Division.

(c) If any party objects to a small claims hearing request within 15 days of the notice, the hearing examiner will decide whether a small claims hearing or a contested case hearing is appropriate.

~~Rules, Regulations and Fee Schedules of the Wyoming Workers' Compensation Division~~

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