

Wyoming Codes

Title 33 – Professions And Occupations

Chapter 26 – Physicians And Surgeons

CHAPTER 26 – PHYSICIANS AND SURGEONS

ARTICLE 1 – GENERAL PROVISIONS

33-26-101. Short title.

This chapter is known and may be cited as the "Medical Practice Act".

33-26-102. Definitions.

(a) As used in this chapter:

(i) Repealed by Laws 1991, ch. 143, 2.

(ii) "A. O. A." means the American Osteopathic Association;

(iii) "Board" means the Wyoming state board of medicine;

(iv) "Errant conduct" means conduct by a licensee which may constitute grounds for discipline as set forth in this act;

(v) "Repealed by Laws 1991, ch. 143, 2.

(vi) "Health care entity" means any hospital, clinic, training program, professional society or committee of physicians or other licensed health care practitioners that follows a peer review process for the purpose of furthering quality health care;

(vii) "Impaired" means a person who is unable to practice medicine with reasonable skill and safety to patients by reason of one (1) or more of the following:

(A) Medical incompetence;

(B) Mental illness;

(C) Physical illness, including but not limited to deterioration through the aging process or loss of motor skill;

(D) Chemical or alcohol impairment, addiction, dependence or abuse.

(viii) "Lapsed" means the status of a license when the licensee fails to renew the license by July 1 of any year or when the holder of a temporary license fails to appear for an interview at the next board meeting following the date of issuance or fails to submit a written request for extension of a temporary license or when a written request for extension is not approved by the board;

(ix) "License" means a license to practice medicine in this state issued by the board pursuant to this chapter;

(x) "Licensee" means any person licensed by the board under this chapter;

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

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

(B) Offers or undertakes to prevent, diagnose, correct or treat, in any manner, by any means, method or device, any human disease, illness, pain, wound, fracture, infirmity, defect or abnormal physical or mental condition, injury, deformity or ailment, including the management of pregnancy and parturition; or

(C) Attaches the title of M.D., D.O., physician, surgeon, osteopathic physician or osteopathic surgeon, doctor, or any other words, letters or abbreviations or any combination thereof when used in the conduct of any occupation or profession pertaining to the prevention, diagnosis or treatment of human disease or condition unless the designation additionally contains the description of another branch of the healing arts for which one holds a valid license in this state; or

(D) Practices osteopathy; or

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

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

(xii) "Reactivation" after a license has lapsed means the completion of all requirements set forth in W.S. 33-26-305(c);

(xiii) "Sexual misconduct" means:

(A) Any behavior by a licensee which involves offers of exchange of medical services for some form of sexual gratification;

(B) Sexual contact that occurs concurrent with the physician-patient relationship; or

(C) Any behavior by a licensee toward a patient, former patient, another licensee, an employee of a health care facility, an employee of the licensee or a relative or guardian of a patient that exploits the position of trust, knowledge, emotions or influence of the licensee.

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

(xv) "L.C.M.E." means the liaison committee on medical education;

(xvi) "A.C.G.M.E." means accreditation council for graduate medical education;

(xvii) "Fifth pathway" means an academic year of supervised clinical education provided by an L.C.M.E. accredited medical school to students who have:

(A) Repealed By Laws 2003, Ch. 190, 3.

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

(C) Completed all of the formal requirements of the foreign medical school, except internship or social service;

(D) Attained a score satisfactory to the sponsoring medical school on a screening examination; and

(E) Passed the foreign medical graduate examination in the medical sciences, parts I and II of the examination of the national board of medical examiners, or steps 1 and 2 of the USMLE.

(xviii) "FLEX examination" means the federation of state medical boards licensing examination;

(xix) "R.C.P.S.C." means the royal college of physicians and surgeons of Canada;

(xx) "Physician-patient relationship" means a relationship between a licensee and any person formed for the purpose of the licensee providing medical diagnosis or treatment to the person, whether or not for compensation;

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

(xxii) "Board counsel" means an attorney designated by the board to provide legal counsel to the board and its staff in the conduct of the board's business;

(xxiii) "Board prosecutor" means an attorney designated by the board to prosecute, and to provide legal counsel to interviewers and petitioners in, disciplinary cases pending before the board pursuant to this act and the Wyoming Administrative Procedure Act;

(xxiv) "COMLEX" means the comprehensive osteopathic medical licensing examination, administered by the national board of osteopathic medical examiners;

(xxv) "Condition" means a specific requirement or prohibition imposed by any medical licensing board of any jurisdiction, or by any health care facility on an applicant's or licensee's clinical privileges at that facility, that shall be fulfilled by an applicant or licensee in order to obtain or continue to hold a license in that jurisdiction, or clinical privileges at that facility;

(xxvi) "E. C. F. M. G. " means the educational commission for foreign medical graduates;

(xxvii) "Restriction" means a limitation placed by any medical licensing board of any jurisdiction on an applicant's or licensee's scope of practice in that jurisdiction, or by any health care facility on an applicant's or licensee's clinical privileges at that facility;

(xxviii) "SPEX examination" means the federation of state medical boards special purpose post-licensure competency examination;

(xxix) "Telemedicine" means the practice of medicine by electronic communication or other means from a physician in a location to a patient in another location, with or without an intervening health care provider.

33-26-103. Applicability of chapter.

(a) This chapter does not apply to:

(i) Persons rendering medical assistance without compensation at the scene of an emergency;

(ii) Medical students trained in an L.C.M.E. or A.O.A. accredited or board approved school of medicine serving as clinical clerks, residents or interns under the supervision of a physician licensed in this state;

(iii) Commissioned medical officers of the United States armed services and medical officers of the United States public health service or the United States department of veterans affairs in the discharge of their official duties or within federally controlled facilities or enclaves, provided that the persons who are licensees of the board shall be subject to the provisions of this act and further provided that all such persons shall be the holder of a full and unrestricted license to practice medicine in one (1) or more jurisdictions of the United States;

(iv) Any individual residing in and licensed in good standing to practice medicine in another state or country brought into this state for consultation by a physician licensed to practice medicine in this state, provided the physician licensed in this state notifies the board of the consultation in compliance with regulations adopted by the board;

(v) Any individual licensed to practice medicine in another state who comes to

this state to remove human organs from brain-dead persons;

(vi) The treatment of disease, injury, deformity or ailments by prayer or spiritual means provided that federal and state health and sanitation laws, rules and regulations are not violated;

(vii) The gratuitous domestic administration of family remedies;

(viii) Health care providers licensed under any other chapter of this title engaged in the practice of the profession for which he is licensed;

(ix) Repealed By Laws 2003, Ch. 190, 3.

(x) Any person who does not represent himself to be a licensed health care professional who offers health care advice or nonprescription medicine to another person in a social or educational situation in any manner otherwise lawful.

ARTICLE 2 – WYOMING STATE BOARD OF MEDICINE

33-26-201. State board of medicine; composition; appointment; terms; qualifications; removal; vacancies; quorum.

(a) The Wyoming state board of medicine shall consist of five (5) physicians licensed to practice medicine in Wyoming, not less than one (1) of whom shall possess the degree of doctor of osteopathy and not less than two (2) of whom shall possess the degree of doctor of medicine, one (1) physician assistant and two (2) lay members, appointed by the governor by and with the consent of the senate as required by W.S. 28-12-101 through 28-12-103. Board members appointed

by the governor shall serve at the pleasure of the governor. The board members shall annually elect a president, a vice-president, and a secretary.

(b) Board members shall serve four (4) year terms. No board member shall serve more than three (3) consecutive terms.

(c) Physician and physician assistant members shall reside in, hold a full and unrestricted license and actively practice in this state. Lay members shall reside in this state.

(d) The governor shall appoint a new board member if a vacancy occurs. A person appointed to fill a vacancy shall serve for the unexpired portion of the vacated term. A vacancy occurs if a member:

(i) Is absent from three (3) consecutive meetings;

(ii) No longer holds a full and unrestricted license to practice in this state or no longer engages in active practice in this state;

(iii) Resigns; or

(iv) Is removed by the governor.

(e) A quorum of the board consists of five (5) board members, including a lay member, unless otherwise specified in subsection (f) of this section.

(f) If the board president determines that due to conflicts of interest or

other circumstances it may not be possible to seat a quorum of board members to hear a disciplinary case brought pursuant to this act, the president may submit a written request to the governor for the appointment of one (1) or more acting board members to hear the disciplinary case in question. Upon receipt of the request, the governor shall appoint the requested number of temporary board members for the sole purpose of hearing the disciplinary case in question. Only persons who previously served as members of the board shall be eligible for temporary appointment to hear disciplinary cases before the board. Appointments made under this subsection shall not require the consent of the senate pursuant to W.S. 28-12-101 through 28-12-103. Persons appointed pursuant to this subsection shall be compensated and have their expenses reimbursed in the same manner as regular board members under W.S. 33-26-203(c). The appointment of a person under this subsection shall automatically terminate upon the entering of a final order in the disciplinary case for which he was appointed.

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

(a) The board shall pass upon the qualifications and determine the fitness of all persons desiring to practice medicine in this state.

(b) The board is empowered and directed to:

(i) Grant, refuse to grant, suspend, restrict, revoke, reinstate or renew licenses to practice medicine;

(ii) Investigate allegations and take disciplinary action on the following grounds:

(A) A licensee is impaired or has engaged in errant conduct;

(B) A person has violated an applicable provision of this chapter or the

board's regulations.

(iii) Conduct informal interviews and contested case proceedings;

(iv) Adopt a seal;

(v) Adopt, amend, repeal, enforce and promulgate reasonable rules and regulations necessary to implement the provisions of this chapter;

(vi) Develop standards governing the delegation of a licensee's medical responsibilities to nonphysicians;

(vii) Publish annually and submit to the governor a report which includes the following information:

(A) A summary of the kind and number of action taken by the board including dates, types and origin of oral or written complaints received and case summaries of physicians whose licenses have been suspended or revoked and any other disciplinary actions;

(B) Board fiscal transactions for the preceding year, the amount of its accumulated cash and securities and a balance sheet showing its financial condition by means of an actuarial valuation of board assets and liabilities.

(viii) Publicize information regarding the filing of complaints;

(ix) Comply with all applicable federal law;

(x) Verify the status of licenses and privileges held by licensees and applicants for licensure with the federation of state medical boards, medical licensing boards in other jurisdictions and federal data banks, and to provide verification of the status of licenses held in this state by licensees to the entities specified in this paragraph;

(xi) Annually review any licensee whose license is restricted or is issued subject to any condition;

(xii) Participate in and contract with a program or programs to assist in the return to practice of licensees who have exhibited disruptive behaviors, substance dependence or abuse or are suffering from physical or mental impairment;

(xiii) Take all reasonable action, including the promulgation of rules and regulations, necessary to enforce this chapter;

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

(xv) Publish nonbinding advisory opinions or other guidance on the application and interpretation of this act and the rules and regulations promulgated pursuant to this act;

(xvi) Request criminal history background information for purposes of licensure and discipline, as authorized under W.S. 7-19-106(a);

(xvii) Use, retain or employ investigators, the offices of the attorney general, the state division of criminal investigation, any other investigatory or fact finding agency and medical specialty consultants, as necessary, to investigate and evaluate complaints against licensees and possible violations of this act and the board's rules;

(xviii) Adopt rules and regulations for the practice of medicine in Wyoming by physicians and physician assistants not otherwise licensed in Wyoming in the event of a public health emergency or pandemic;

(xix) Adopt rules and regulations for the practice of telemedicine.

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

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

(b) The executive director's compensation and terms of employment shall, and board counsel's and the board prosecutor's compensation may, be set by the board. The compensation of other staff shall be set by the human resources division of the department of administration and information.

(c) Board members shall receive salary in the same manner and amount as members of the Wyoming legislature and shall be reimbursed for actual and necessary expenses and mileage incurred in the performance of their official duties. Any incidental expenses necessarily incurred by the board or any member, if approved by the board, shall be paid from the account from fees collected pursuant to this chapter.

33-26-301. License required.

(a) No person shall practice medicine in this state without a license granted by the board, or as otherwise provided by law.

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

(i) A license to practice medicine, subject to annual renewal;

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

(iii) A restricted or conditional license;

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

(v) A medical training license pursuant to W.S. 33-26-304 (c);

(vi) An emeritus license, allowing retired physicians to provide health care without remuneration, provided the qualifications for and the conditions of this license shall be established by rule;

(vii) A volunteer license, allowing physicians not otherwise licensed in Wyoming to practice medicine in the state without remuneration, provided the qualifications for and conditions of this license shall be established by rule;

(viii) An administrative medicine license for physicians not providing patient care, provided the qualifications for and the conditions of this license shall be established by rule.

33-26-302. USMLE examination.

(a) The board shall adopt regulations for the qualification for and administration of the USMLE.

(b) Repealed By Laws 2003, Ch. 190, 3.

(c) Repealed By Laws 2003, Ch. 190, 3.

(d) Repealed By Laws 2003, Ch. 190, 3.

(e) Repealed By Laws 2003, Ch. 190, 3.

(f) Repealed By Laws 2003, Ch. 190, 3.

33-26-303. Requirements for granting license.

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

(i) Repealed By Laws 2003, Ch. 190, 3.

(ii) Has graduated from a school of medicine accredited by the L.C.M.E., a school of osteopathy accredited by the A.O.A., a Canadian accredited school of medicine or has been certified by the E.C.F.M.G.;

(iii) Repealed By Laws 2003, Ch. 190, 3.

(iv) Has provided written evidence that he has completed at least one (1) year of postgraduate training in an A.C.G.M.E, A.O.A. or R.C.P.S.C. accredited program;

(v) Has presented other credentials and qualifications equivalent to or exceeding the criteria in paragraph (iv) of this subsection as may be considered by the board to demonstrate competency to practice medicine in this state;

(vi) Has successfully completed all three (3) parts of the USMLE, national boards, the FLEX, a board approved, state constructed licensing examination, the examination by the licentiate of the medical council of Canada or the COMLEX, provided the conditions and requirements for completion of all parts of the examinations shall be established by board rule;

(vii) Has completed an application form provided or approved by the board;

(viii) Has paid the appropriate fees pursuant to W.S. 33-26-307;

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

(x) Repealed By Laws 2009, Ch. 201, 2.

(xi) Meets any additional requirements that the board may impose by regulation which are necessary to implement this act.

(b) A person who has pled guilty to or has been convicted of a felony or any crime that is a felony under Wyoming law in any state or federal court or in any court of similar jurisdiction in another country may apply for licensure provided, the board may deny licensure based upon the plea or conviction alone.

(c) A person whose medical license has been revoked, suspended, restricted, had conditions placed on it or been voluntarily or involuntarily relinquished or surrendered, by or to another state medical or licensing board, or has a disciplinary action pending before another state medical or licensing board, may apply for licensure provided, however, the board may deny licensure based upon the revocation, suspension, restrictions, conditions, relinquishment, surrender of licensure or pending disciplinary action alone.

(d) A person whose clinical privileges at a health care facility have been revoked, suspended, restricted, had conditions placed upon them or been voluntarily or involuntarily resigned, or against whom a clinical privilege action is pending at a health care facility, may apply for licensure provided, however, the board may deny licensure based upon the revocation, suspension, restrictions, conditions, resignation of privileges or pending clinical privilege action alone.

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

(a) The board may issue a temporary license for a term that expires at 8:00 a.m. on the first day of the next regularly scheduled board meeting to a person who:

(i) Completes an application as approved by the board for temporary licensure;

(ii) Meets all licensing requirements of W.S. 33-26-303 except that the board may defer the interview required by W.S. 33-26-303(a) (ix) at its discretion until no later than the next board meeting;

(iii) Pays a temporary license fee in an amount set by the board.

(b) The board, in its discretion may extend a temporary license for an additional term no longer than 8:00 a.m. on the first day of the second regularly scheduled board meeting following the date of the initial issuance of a temporary license.

(c) The board may issue a medical training license for a term that expires at 12:01 a.m. July 1 of each year to a person who:

(i) Has signed a contract with an A.C.G.M.E. accredited residency program located in this state;

(ii) Has graduated from a school of medicine accredited by the L.C.M.E., a

school of osteopathy accredited by the A.O.A. or a Canadian accredited school of medicine, or has been certified by the E.C.F.M.G.;

(iii) Has successfully completed steps one (1) and two (2) of the USMLE or the COMLEX;

(iv) Is under the supervision of residency faculty;

(v) Has completed an application form provided by the board;

(vi) Has paid the appropriate fees pursuant to W.S. 33-26-307; and

(vii) Repealed By Laws 2009, Ch. 201, 2.

(viii) Meets any additional requirements that the board may impose by regulation which are necessary to implement this act.

(d) A person who has pled guilty to or has been convicted of a felony or any crime that is a felony under Wyoming law in any state or federal court or in any court of similar jurisdiction in another country may apply for licensure, provided the board may deny licensure based upon the plea or conviction alone.

(e) A person whose medical license has been revoked, suspended, restricted, had conditions placed on it or been voluntarily or involuntarily relinquished or surrendered, by or to another state medical or licensing board, or has a disciplinary action pending before another state medical or licensing board, may apply for licensure provided, however, the board may deny licensure based upon the revocation, suspension, restrictions, conditions, relinquishment,

surrender of licensure or pending disciplinary action alone.

(f) A person whose clinical privileges at a health care facility have been revoked, suspended, restricted, had conditions placed upon them or been voluntarily or involuntarily resigned, or against whom a clinical privilege action is pending at a health care facility, may apply for licensure provided, however, the board may deny licensure based upon the revocation, suspension, restrictions, conditions, resignation of privileges or pending clinical privilege action alone.

33-26-305. Annual renewal; expiration; reactivation of lapsed and inactive licenses; restoration of emeritus licenses to active status; duplicates.

(a) All licenses other than temporary licenses and medical training licenses shall lapse annually on a date or dates to be established by rules adopted by the board. A licensee may renew his license each year by submitting a renewal application containing information required by the board, accompanied by proof of compliance with and fulfillment of continuing medical education requirements of the board in the manner set forth in the board's continuing medical education rules and regulations and a renewal fee to the board in an amount set by the board pursuant to W.S. 33-26-307. The licensee additionally shall report any disciplinary action pending or taken by a state examining board, a health care entity or the grievance committee of a medical society during the preceding year.

(b) Repealed By Laws 2003, Ch. 190, 3.

(c) The board may reactivate a lapsed or inactive license if the applicant meets the requirements established by the rules and regulations promulgated by the board.

(d) A licensee shall apply to the board for a duplicate license if his license is stolen, lost or destroyed. Upon proof of proper identification, the required

fee and submission of other information as the board may require, the board shall issue a duplicate license bearing on its face the word "DUPLICATE".

(e) The board may restore an emeritus license to active status if the applicant meets the requirements established by the rules and regulations promulgated by the board.

33-26-306. Repealed by Laws 1995, ch. 129, 2.

33-26-307. Fees.

(a) The board shall set by regulation appropriate license application, renewal and reactivation fees, examination fees and fees for information verification or document production and other services of the board to be charged under this chapter.

(i) Repealed By Laws 2003, Ch. 190, 3.

(ii) Repealed By Laws 2003, Ch. 190, 3.

(iii) Repealed By Laws 2003, Ch. 190, 3.

(iv) Repealed By Laws 2003, Ch. 190, 3.

(v) Repealed By Laws 2003, Ch. 190, 3.

(vi) Repealed By Laws 2003, Ch. 190, 3.

(vii) Repealed By Laws 2003, Ch. 190, 3.

(b) All money received or collected under this chapter shall be paid to the state treasurer for deposit in a separate account. The money in the account is subject at all times to the warrant of the state auditor drawn upon written requisition attested by the executive director of the board for the payment of any board expenses.

ARTICLE 4 – INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS

33-26-401. Board duties; investigation; interview.

(a) The board shall investigate, upon a written and signed complaint or by its own motion, any information that if proven would fall within the jurisdiction of the board and would constitute a violation of this act.

(b) Before holding a contested case hearing, the board shall conduct an informal interview with the licensee unless the licensee waives an interview.

(c) Notwithstanding any other provision of law the board may require, by administrative subpoena, the testimony of licensees and witnesses and the production of evidence relating to any matter under investigation.

(d) All evidence admitted into the record of any contested case hearing held before the board shall be subject to the confidentiality provisions set forth

in W.S. 33-26-408 unless waived by the licensee.

(e) The board retains jurisdiction over only those licensees to whom temporary or full licenses were granted and who are subject to ongoing investigation by the board, regardless of whether the license expired, lapsed or was relinquished during or after the alleged occurrence of conduct proscribed by W.S. 33-26-402 by the licensee.

33-26-402. Grounds for suspension; revocation; restriction; imposition of conditions; refusal to renew or other disciplinary action.

(a) The board may refuse to renew, and may revoke, suspend or restrict a license or take other disciplinary action, including the imposition of conditions or restrictions upon a license on one (1) or more of the following grounds:

(i) Renewing, obtaining or attempting to obtain or renew a license by bribery, fraud or misrepresentation;

(ii) Impersonating another licensee or practicing medicine under a false or assumed name;

(iii) Making false or misleading statements regarding the licensee's skill or the efficacy or value of his treatment or remedy for a human disease, injury, deformity, ailment, pregnancy or delivery of infants;

(iv) Permitting or allowing any person to use his diploma, license or certificate of registration;

(v) Advertising the practice of medicine in a misleading, false or deceptive manner;

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

(vii) Sexual misconduct;

(viii) Conviction of or pleading guilty or nolo contendere to a felony or any crime that is a felony under Wyoming law in any jurisdiction;

(ix) Aiding or abetting the practice of medicine by a person not licensed by the board;

(x) Violating or attempting to violate or assist in the violation of any provision of this chapter or any other applicable provision of law;

(xi) Except as permitted by law, repeatedly prescribing or administering, selling or supplying any drug legally classified as a narcotic, addicting or scheduled drug to a known abuser;

(xii) Repeatedly prescribing, selling, supplying or administering any drug legally classified as a narcotic, addicting or scheduled drug to a parent, spouse or child of the applicant or licensee, or to himself;

(xiii) Presigning blank prescription forms;

(xiv) Failing or refusing to properly guard against the spread of contagious, infectious or communicable diseases;

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

(xvi) Delegating responsibilities to a person who is not qualified by training, experience or licensure;

(xvii) Delegating medical responsibilities to a person who is unable to safely, skillfully and competently provide medical care to patients or that are beyond the scope of the specialty areas in which the licensee and the person are trained and experienced;

(xviii) Willful and consistent utilization of medical service or treatment which is inappropriate or unnecessary;

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

(xx) Possession of any physical or mental disability including deterioration due to aging which renders the practice of medicine unsafe;

(xxi) Use of a drug or intoxicant to such a degree as to render the licensee unable to practice medicine or surgery with reasonable skill and safety to patients;

(xxii) Practicing medicine below the applicable standard of care, regardless of

causation or damage;

(xxiii) Failure to submit to an informal interview or a mental, physical or medical competency examination following a proper request by the board pursuant to W.S. 33-26-403;

(xxiv) Failure to report a personal injury claim as required by W.S. 33-26-409;

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

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

(A) Adversely affects clinical privileges for a period of thirty (30) or more consecutive days;

(B) Results in the surrender of clinical privileges to the health care entity while the licensee is under investigation by the health care entity for possible professional incompetence or improper professional conduct; or

(C) Results in the surrender of clinical privileges in return for the health care entity not conducting an investigation for possible professional incompetence or improper professional conduct.

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

(A) Repealed By Laws 2003, Ch. 190, 3.

(B) Failure to conform to the applicable standard of care;

(C) Willful or careless disregard for the health, welfare or safety of a patient;

(D) Engaging in any conduct or practice that is harmful or dangerous to the health of a patient or the public;

(E) Engaging in conduct intended to or likely to deceive, defraud or harm the public;

(F) Using any false, fraudulent or deceptive statement in any document connected with the practice of medicine including the intentional falsification or fraudulent alteration of a patient or health care facility record;

(G) Failing to prepare and maintain legible and complete written medical records that accurately describe the medical services rendered to the patient, including the patient's history, pertinent findings, examination, results, test results and all treatment provided;

(H) Practicing outside of the scope of the licensee's expertise and training;

(J) Repeatedly engaging in harassing, disruptive or abusive behavior directed at staff, co-workers, a patient or a patient's relative or guardian or that interferes with the provision of patient care;

(K) Engaging in conduct that constitutes moral turpitude, including but not limited to conviction of or pleading guilty or nolocontendere to domestic abuse, stalking, sexual assault, sexual abuse or unlawful exploitation of a minor, indecent exposure, incest or distribution of pornography;

(M) Failing or neglecting to attempt to inform a patient within a reasonable time of the results of a laboratory test indicating the need for further clinical review;

(N) Improperly terminating a physician-patient relationship;

(O) Representing that a manifestly incurable disease or condition can be permanently cured or that any disease or condition can be cured by a secret method, procedure, treatment, medicine or device if the representation is untrue;

(P) Intentionally or negligently releasing or disclosing confidential patient information. This restriction shall not apply to disclosures permitted or required by state or federal law or when disclosure is necessary to prevent imminent risk of harm to the patient or others;

(Q) Failing or refusing to transfer a copy of patient records to the patient or the patient's legally designated representative within thirty (30) days after receipt of a written request;

(R) Utilization of experimental forms of therapy without proper informed consent from the patient, without conforming to generally-accepted criteria or standard protocols, without keeping detailed, legible records or without having periodic analysis of the study and results reviewed by a committee of peers;

(S) Except in emergency situations where the consent of the patient or the patient's legally designated representative cannot be reasonably obtained, assisting in the care or treatment of a patient without the consent of the patient, the attending physician or the patient's legal representative;

(T) Using or engaging in fraud or deceit to obtain third party reimbursement.

(xxviii) Upon proper request by the board, failure or refusal to produce documents or other information relevant to any investigation conducted by the board, whether the complaint is filed against the licensee or any other licensee;

(xxix) Repealed By Laws 2003, Ch. 190, 3.

(xxx) Repealed By Laws 2003, Ch. 190, 3.

(xxxi) Violation of any board rule or regulation;

(xxxii) Acquiring or attempting or conspiring to acquire any drug classified as a narcotic, addicting or scheduled drug by fraud or deception;

(xxxiii) Initially prescribing any controlled substance specified in W.S. 35-7-1016 through 35-7-1022 for any person through the Internet, the WorldWide Web or a similar proprietary or common carrier electronic system absent a documented physician-patient relationship;

(xxxiv) Violating any final order, consent decree or stipulation between the

board and the licensee.

(b) Upon a finding of ineligibility for licensure or refusal to grant a license under subsection (a) of this section, the board shall file its written order and findings.

33-26-403. Impaired physicians.

(a) The board may order a licensee to undergo one (1) or more mental, physical or medical competency examinations by examiners deemed appropriate by the board if it has reasonable cause to believe that the licensee may be impaired. If a disciplinary proceeding is pending against the licensee at the time of the order, the proceeding shall be stayed until the results of the examination have been finalized and submitted to the board.

(b) Every licensee is deemed to have consented to and shall submit to a board ordered mental, physical, or medical competency examination and to have waived all objections to the production of the report of the examination to the board and the admissibility of the report of the examination in any board proceedings in which the licensee is or may become a respondent. If a licensee fails to submit to an examination when ordered by the board, the board may initiate a disciplinary proceeding against the licensee or amend a pending complaint to include a claim based upon a violation of this section.

(c) Repealed by Laws 2006, Chapter 58, 2.

(d) The licensee may submit additional information to the board, including but not limited to medical reports, consultations or laboratory reports obtained through an examination performed by a practitioner designated by the licensee.

(e) The results of any board ordered mental, physical competency or medical

competency examination shall be provided to the licensee and the board prior to any further board action.

33-26-404. Voluntary and mandatory revocation; restriction; suspension.

(a) A licensee may request the board, in writing, to accept the voluntary relinquishment, restriction or suspension of his license. The board may, but shall not be required to accept the relinquished license, grant the request for restriction or suspension, attach conditions to the license or waive the commencement of any proceedings under this article. Removal of a voluntary relinquishment, restriction or suspension is subject to the procedure for reinstatement of a license as provided in this article.

(b) Unless the board and the licensee have agreed to the relinquishment of or imposition of restrictions or conditions on a license, the board shall conduct a proceeding to refuse to renew or reinstate, revoke, restrict or suspend a license on the grounds set forth in W.S. 33-26-402(a) as a contested case under the Wyoming Administrative Procedure Act.

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

(d) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-26-405. Order of the board.

(a) Following a hearing to refuse to renew or reinstate, revoke, restrict or suspend a license on the grounds set forth in W.S. 33-26-402(a), the board shall enter its order and findings pursuant to the Wyoming Administrative Procedure Act. The board may take one (1) or more of the following actions:

(i) Dismiss the proceedings;

(ii) Issue a public or private reprimand;

(iii) Order probation and provide terms;

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

(v) Suspend the license;

(vi) Revoke the license;

(vii) Place restrictions on the license;

(viii) Assess part or all of the cost of the proceeding against a disciplined licensee;

(ix) Take other action as the board in its discretion finds proper;

(x) Place the licensee on probation.

(b) Restriction of a license may include, but is not limited to, the following:

(i) Restricting the practice to certain areas of medicine or forbidding the practice of certain areas of medicine;

(ii) Requiring the licensee to practice medicine under the supervision of another physician in a clinic or other controlled setting, and setting the conditions of the licensee's practice of medicine;

(iii) Forbidding the use of certain medical procedures without consultation with and approval by another physician.

33-26-406. Reinstatement of license; removal of restrictions or conditions from a license.

(a) A person whose license has been voluntarily relinquished, revoked, restricted or suspended, or had conditions or restrictions placed upon his license, voluntarily or by action of the board, may petition for reinstatement of his license or for removal of any restrictions or conditions placed upon his license pursuant to W.S. 33-26-405 not less than six (6) months after final judicial review of a board order accepting relinquishment of, or revoking, restricting, placing conditions upon or suspending the petitioner's license or six (6) months after the date of the board order if there is no judicial review.

(b) The petitioner shall submit a petition in writing to the board that, at a minimum, sets forth and provides information regarding the petitioner's fulfillment of any and all conditions or compliance with all restrictions imposed upon petitioner by any prior order of the board or success in

correcting the conduct that formed the basis for revocation or relinquishment of petitioner's license.

(c) Upon receipt of the petition, the board shall set the matter for hearing in accordance with the provisions of the Wyoming Administrative Procedure Act. The burden of proof upon the petitioner at the hearing shall be to demonstrate, by a preponderance of evidence, that:

(i) Petitioner has corrected the conduct that formed the basis for the revocation or relinquishment of petitioner's license and that petitioner is able to safely, skillfully and competently resume the practice of medicine; or

(ii) Petitioner has fulfilled all conditions or complied with all restrictions imposed upon petitioner by any prior order of the board, has otherwise corrected the conduct or condition which formed the basis for the restrictions or conditions placed on petitioner's license and is able to safely, skillfully and competently practice medicine in this state.

(d) After a hearing conducted pursuant to subsection (c) of this section, the board shall issue specific findings of facts, conclusions of law and a final order:

(i) Reinstating the license;

(ii) Reinstating the license subject to restrictions or conditions;

(iii) Removing or modifying the restrictions or conditions of the license; or

(iv) Denying reinstatement of the license or removal of the restrictions or conditions on the license.

(e) Any final order issued by the board hereunder shall be subject to judicial review as provided for by W.S. 33-26-407.

(f) If the board denies a reinstatement or removal of restrictions or conditions, future petitions for reinstatement or removal of restrictions or conditions may be submitted not less than one (1) year after the board's final order denying reinstatement or removal of restrictions or conditions.

(g) Notwithstanding subsections (a) through (d) of this section, if a license is suspended under W.S. 33-26-404(d), the license may be issued without a hearing as provided in this section upon receipt from the department of family services of notice that the applicant has complied with the terms of the court order that resulted in the suspension or restriction of the license under W.S. 33-26-404(d).

33-26-407. Judicial review.

(a) Judicial review of the findings of the board may be obtained pursuant to the Wyoming Administrative Procedure Act. All final administrative orders of the board shall remain effective pending any judicial review, except where the board finds that the licensee's continued practice presents no danger to the public.

(b) In any disciplinary proceeding against a licensee, the board shall bear the burden of proving a violation of this act by clear and convincing evidence.

33-26-408. Protected action and communication.

(a) There shall be no liability on the part of and no action for damages against:

(i) Board and examination committee members acting within the scope of their functions without malice and in the reasonable belief that their actions were warranted;

(ii) Any person providing information voluntarily or pursuant to a subpoena, in good faith to a peer review committee or in good faith to the board or the examining committee without malice and in reasonable belief that the information is accurate.

(b) All board records shall be maintained and protected from harm.

(c) Final findings of fact, conclusions of law, orders of the board entered and any consent decree, stipulation or agreement to which the board is a party in any disciplinary docket of the board are public documents. The board may order, under special circumstances and upon entry of specific findings setting forth those circumstances, that a consent decree, stipulation or agreement to which the board is a party in any disciplinary docket is not a public document.

(d) The board shall promptly report and provide all final orders entered by it to the chief of the medical staff and hospital administrator of each hospital in which the licensee has medical staff privileges and to all appropriate agencies including the federation of state medical boards, the national practitioner data bank and other state medical boards.

(e) This section shall not be construed to prohibit the United States or the state of Wyoming from obtaining information from the board concerning a physician who is the subject of a criminal investigation. Upon petition to a state or federal district court, supported by affidavit, the judge may order

the Wyoming board of medicine to release records of any proceedings, testimony of witnesses and reports or investigation for in-camera inspection by the judge, or the judge may deny the petition for failure to show good cause. The petition shall state the nature of the criminal investigation and the identity of the physician who is under investigation. If the judge grants the petition and orders the board to produce the board's records for in-camera inspection, the board shall comply within ten (10) days after entry of the order or as otherwise ordered by the court. Upon receipt of the records, the judge shall inspect them to determine what material, if any, is relevant to the criminal investigation. Material deemed to be relevant shall be made available to the investigation if otherwise admissible under the Wyoming Rules of Evidence. All records and material deemed by the court to be irrelevant or otherwise inadmissible under the Wyoming Rules of Evidence shall be returned to the board and the contents thereof shall not be divulged.

(f) The following documents are not public documents and are not subject to disclosure by the board to any person or entity nor are they subject to discovery in any civil or administrative action or admissible in any nonboard proceeding except when necessary for further board action, in any action in which the board may be named as a party or upon judicial review of a board order:

(i) Investigative notes, attorney's notes and work product and reports, pleadings, correspondence, witness statements and deposition transcripts and copies of original medical and prescription records in the possession of the board, whether acquired by the board, by any agent of the board or by any agency that has cooperated with or provided information to the board regarding the investigation of a disciplinary docket; and

(ii) Any and all records of the board regarding licensure applications and proceedings thereon.

(g) A respondent in a disciplinary case shall not be entitled to copies of investigative material unless the material is relevant to an ongoing investigation or a contested case hearing.

(h) The confidentiality of all documents and information described in this section shall exist and continue regardless of whether the confidential material is in the custody of any agency of the United States or any other agency of the state of Wyoming with whom the board has cooperated or is cooperating in an investigation.

(j) This section shall not be construed to prohibit the board from publishing in a directory or otherwise disclosing, general information about its licensees and former licensees including names, practice addresses, dates of licensure, licensure by other states, areas of practice, education, training and specialty board certifications.

33-26-409. Health care entity reports required; malpractice.

(a) Each health care entity shall report:

(i) Any action it takes against a licensee on the grounds that the licensee is impaired, or has engaged in conduct constituting a ground for disciplinary action in W.S. 33-26-402;

(ii) Any action that:

(A) Adversely affects the clinical privileges of a licensee for a period exceeding thirty (30) days;

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

(I) While the licensee is under investigation by the entity for possible incompetence or improper professional conduct; or

(II) In return for not conducting an investigation as specified in this subparagraph; or

(C) In the case of an entity which is a professional society, takes a professional review action which adversely affects the membership of a licensee in the society.

(b) Each licensee shall report to the board any personal injury or wrongful death claim made because of any alleged act, error or omission of the licensee. Failure to report the claim shall be grounds for disciplinary action by the board. As used in this subsection, "claim" means a properly filed complaint with the district court which names the licensee as defendant or a third party defendant and alleges that damages sustained by the plaintiff are due to an alleged act, error or omission of the licensee while engaged in the practice of medicine.

(c) Each insurer providing health care professional liability insurance in this state shall report to the board all claims for which a reserve has been established against a licensee. Reports required by this subsection shall be made within sixty (60) days of the time the claim comes to the attention of the insurer.

(d) Other reports required by this section shall be made within ninety (90) days of the time the claim comes to the attention of the person responsible for reporting. Reports shall be in the form and contain information required by the board. Any entity or person subject to the reporting requirements of this section shall be subject to a fine up to one hundred dollars (\$100.00) for each violation of this section. Each day that a requirement of this section is not met shall constitute a separate violation. In the event that the board is required to bring a civil action to enforce this section, the violating party shall additionally be liable to the board for all reasonable attorney's fees and costs incurred by the board in prosecuting the action.

33-26-410. Effect of violation.

(a) Any person engaged in the practice of medicine or aiding and abetting another in the practice of medicine without a license granted by the board is guilty of a misdemeanor and upon conviction shall be