


Thomas O. Forslund, Director

Governor Matthew H. Mead

## MEMORANDUM

**DATE:** December 1, 2015

**TO:** Associations and Other Interested Parties

**FROM:** Thomas O. Forslund, Director   
Wyoming Department of Health

**SUBJECT:** Intent to Adopt Amended Rule for the Wyoming Department of Health  
Chapter 5- Wyoming Provider Recruitment Grant Program

**REF:** F-2015-534

---

The Wyoming Department of Health proposes to adopt the following Amended Rule pursuant to the provisions of W.S. § 35-1-1101, 2015 Wyoming Session Laws, Ch. 89, 2015 HEA 60, and the Wyoming Administrative Procedure Act at W.S. § 16-3-102. The rule is also being amended to condense and remove unnecessary language, as well as update and rearrange language for better flow and understanding. Most notably, “Physician” has been changed to “Provider” throughout, including the program name, to comply with changes made in HEA 60.

A 45 day public comment period is planned and a public hearing will be held if requested by 25 persons, a governmental subdivision, or an association having not less than 25 members.

The Wyoming Department of Health contact for this Amended Rule is Keri Wagner, Healthcare Workforce and Primary Care Office Manager, Wyoming Department of Health, Office of Rural Health, 6101 Yellowstone Rd., Ste. 420, Cheyenne, Wyoming, 82002, 307-777-6512, [keri.wagner@wyo.gov](mailto:keri.wagner@wyo.gov).

TOF/jr

**Attachments:** Notice of Intent  
Public Notice  
Rules  
Statement of Reasons



# Notice of Intent to Adopt Rules

Revised October 2014

## 1. General Information

a. Agency/Board Name Wyoming Department of Health, Public Health Division		
b. Agency/Board Address 6101 Yellowstone Road, Ste. 420	c. City Cheyenne	d. Zip Code 82009
e. Name of Contact Person Keri Wagner	f. Contact Telephone Number 307-777-6512	
g. Contact Email Address keri.wagner@wyo.gov		
h. Date of Public Notice December 1, 2015	i. Comment Period Ends January 15, 2016	
j. Program Office of Rural Health		

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 Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

a. If "New," provide the Enrolled Act numbers and years enacted: **2015 Wyoming Session Laws, Ch. 89; 2015 HEA 60**

b. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed  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: 5	Chapter Name: Wyoming Provider Recruitment Grant Program	<input checked="" 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
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
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
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

c.  The Statement of Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

Complete all that apply:

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):  
**Ch. 5**  
(Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Reasons).  
(Provide chapter numbers)

N/A These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

d.  N/A  In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Section 5 of the Rules on Rules).

e. A copy of the proposed rules\* may be obtained:  
 By contacting the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: <http://www.health.wyo.gov/rhd/rural/orhpublications.html>

\* If Item "d" above is not checked, the proposed rules shall be in strike and underscore format.

### 3. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled.  Yes  No

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

b. What is the manner in which interested persons may present their views on the rulemaking action?

- By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

- To the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Contact Person listed in Section 1 above.

### 4. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements.  Yes  No

If "Yes:"	Applicable Federal Law or Regulation Citation:
	Indicate one (1): <input type="checkbox"/> The proposed rules meet, but do not exceed, minimum federal requirements. <input type="checkbox"/> The proposed rules exceed minimum federal requirements.
	Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to: <input type="checkbox"/> To the Agency at the physical and/or email address listed in Section 1 above. <input type="checkbox"/> At the following URL: _____

### 5. State Statutory Requirements

a. Indicate one (1):

- The proposed rule change *MEETS* minimum substantive statutory requirements.  
 The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):

- The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:  
 By contacting the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_  
 Not Applicable.

### 6. Authorization

a. I certify that the foregoing information is correct.

Printed Name of Authorized Individual	Keri Wagner
Title of Authorized Individual	Healthcare Workforce and Primary Care Office Manager
Date of Authorization	December 1, 2015

#### Distribution List:

- Attorney General and LSO: Hard copy of Notice of Intent; Statement of Reasons; clean copy of the rules; and strike-through and underline version of rules (if applicable). Electronic copies (PDFs) of all items noted (in addition to hard copies) may be emailed to LSO at [Criss.Carlson@wvleg.gov](mailto:Criss.Carlson@wvleg.gov).
- Secretary of State: Electronic version of Notice of Intent sent to [Rules@wyo.gov](mailto:Rules@wyo.gov).

## CHAPTER 5

### Rules and Regulations for the Wyoming Provider Recruitment Grant Program Intent to Adopt Amended Rule

#### Statement of Reasons

The Wyoming Department of Health proposes to adopt the following Amended Rule pursuant to the provisions of W.S. § 35-1-1101, 2015 Wyoming Session Laws, Ch. 89, 2015 HEA 60, and the Wyoming Administrative Procedure Act at W.S. § 16-3-101.

The Department is promulgating this amended rule to comply with changes made to W.S. § 35-1-1101, 2015 Wyoming Session Laws, Ch. 89, 2015 HEA 60, which was passed during the 2015 legislative session. In addition, this rule has been amended to condense and remove unnecessary language, as well as update and rearrange language for better flow and understanding. Proposed amendments are as follows:

- Physician is changed to provider throughout, including the program name, to comply with changes made in HEA 60, and recruitment entity is changed to recruiting entity throughout to align with the terminology used in W.S. § 35-1-1101.
- Page numbers are modified to correct a formatting mistake.
- Section 1 is amended to update the division name and correct formatting mistakes.
- Section 2 is amended to reflect changes required by HEA 60 and remove unnecessary language.
- Section 4 is amended to remove unnecessary or irrelevant language and definitions, correct formatting mistakes, update division name, and update remaining definitions to reflect changes required by HEA 60.
- Section 5 was eliminated and subsequent sections were renumbered. Language from the eliminated section was updated and incorporated into other sections.
- Section 6 was renumbered to Section 5 and amended as follows:
  - Paragraph (a) was moved to paragraph (c) and modified to incorporate language from the eliminated Section 5 (c). Subparagraphs (i) to (iii) were added for clarity.
  - The new paragraph (a) was modified and relocated from the eliminated Section 5 (a). Subparagraphs (i) to (iii) are new language and subparagraph (iv) was relocated from the eliminated Section 8 (d).
  - Paragraph (b) was moved to paragraph (d) and amended for clarity and subparagraphs (i) to (iii) were eliminated as unnecessary language.
  - The new paragraph (b) replaces the language of the eliminated Section 5 (c) in accordance with changes under HEA 60.
  - Paragraph (c) and subparagraphs (i) to (v) were moved to paragraph (e) and amended for clarity. Subparagraph (iv) was eliminated and subparagraphs (v) and (vi) were renumbered to (iv) and (v).
  - Paragraph (d) became paragraph (f) and was modified for clarity. Subparagraph (i) was relocated from the eliminated Section 8 (b) and subparagraph (ii) was added using language from the main paragraph.
  - Paragraph (g) was added and language was relocated from the eliminated Section 8 (e).

- Paragraph (h) was added and language was relocated from the eliminated Section 8 (c).
- Section 7 was renumbered to Section 6 and amended as follows:
  - Paragraph (a) was amended for clarity and to incorporate language from Section 5(a).
  - Paragraph (b) was amended for clarity.
  - Paragraph (c) was amended to reflect requirements of HEA 60 and subparagraph (i) was added to provide additional clarity on the contractual relationship between the Department and the recruitment entity and the recruitment entity and the provider.
  - Paragraph (d) was amended to reflect the requirements of HEA 60 and subparagraph (i) was added to provide a more detailed definition of “full-time” for the purposes of W.S. § 35-1-1101.
  - Paragraph (e) was amended to reflect the requirements of HEA 60. Subparagraph (i) was added, incorporating a portion of the language from paragraph (e), as well as language relocated from the eliminated Section 8 (e). Subparagraph (ii) was added to provide additional clarity.
  - Paragraph (f) was amended to allow more flexibility with regards to “non-compete” clauses in employment/recruitment contracts between the recruitment entity and the recruited provider.
  - Paragraph (g) was amended to comply with HEA 60. Physician was not amended to provider in this paragraph as this clause applies to the recruitment of physicians only.
  - Paragraphs (h) and (i) were amended to comply with HEA 60 and to provide additional clarity.
- Section 8 was eliminated and subsequent sections were renumbered. Language from the eliminated section was updated and incorporated into other sections.
- Section 9 was renumbered to Section 7 and amended as follows:
  - Paragraphs (a), (b), and (c) were amended to comply with changes under HEA 60.
  - Paragraph (d) was eliminated as it is covered by language in Section 8 (renumbered from Section 10).
  - Paragraphs (e), (f), and (g) were changed to (d), (e), and (f) and were modified to comply with changes under HEA 60.
- Section 10 was renumbered to Section 8 and amended as follows:
  - Paragraph (a) subparagraph (iii) was amended to remove unnecessary language.
  - Paragraph (b) was eliminated to comply with changes under HEA 60.
  - Paragraph (c) became (b) and was amended to comply with HEA 60.
  - Paragraph (d) became (c) and was amended to remove unnecessary language.
  - Paragraph (e) became (d) was amended to comply with HEA 60.
- Section 11 was renumbered to Section 9 and amended as follows:
  - Paragraphs (d) and (e) subparagraph (iii) were eliminated as outside of the authority granted in W.S. § 35-1-1101 and all subsequent paragraphs and subparagraphs were renumbered accordingly. All remaining paragraphs were modified to comply with the changes under HEA 60 and to remove unnecessary language. Additional language was added to provide clarification of the terms of payment and repayment.
- Section 12 was eliminated. HEA 60 removed the clause providing for coordination of awards under W.S. § 9-2-118.

As required by W.S. § 16-3-103(a)(i)(G), the Rules and Regulations for the Wyoming Provider Recruitment Grant Program meet minimum substantive state statutory requirements.

PUBLIC NOTICE

Intent to Adopt Amended Rule  
Wyoming Department of Health

Public notice is hereby given that the Wyoming Department of Health intends to file an Amended Rule pursuant to W.S. § 35-1-1101, 2015 Wyoming Session Laws, Ch. 89, 2015 HEA 60, and the Wyoming Administrative Procedure Act at W.S. § 16-3-102. This Amended Rule meets minimum substantive state statutory requirements.

Chapter 5, Rules and Regulations for the Wyoming Provider Recruitment Grant Program

The Department is promulgating the above-referenced Rule, which implements the Wyoming Provider Recruitment Grant Program, to comply with 2015 Wyoming Session Laws, Ch. 89; HEA 60 which was enacted during the 2015 General Session of the Wyoming Legislature.

To obtain a copy of this Amended Rule, contact:

Keri Wagner  
Healthcare Workforce and Primary Care Office Manager  
Office of Rural Health, Public Health Division  
Wyoming Department of Health  
6101 Yellowstone Road, Suite 420  
Cheyenne, Wyoming 82002  
(307) 777-6512  
[keri.wagner@wyo.gov](mailto:keri.wagner@wyo.gov)

A public hearing will be held if requested by 25 persons, by a governmental subdivision, or by an association having not less than 25 members.

The Wyoming Department of Health welcomes all comments and suggestions on this Amended Rule. Any person may urge the Agency not to adopt this Rule and may request that the Agency state its reasons for overruling the consideration urged against adoption. Written comments must be submitted to the above address no later than 5:00 p.m. on November 6, 2015.

Interested parties may request a statement of the Department's position regarding each comment and the action taken as a result of the comments prior to, or within thirty (30) days after, adoption of this Rule. Requests must be submitted to the above address. If requested, the statement will be issued by the Department within thirty (30) days after the Agency action.

Dated this 1st day of December, 2015.

  
Thomas O. Forslund, Director  
Wyoming Department of Health

## CHAPTER 5

### Rules and Regulations for the Wyoming Provider Recruitment Grant Program

Section 1. Authority. These rules are promulgated by the Department of Health, Public Health Division, pursuant to W.S. § 35-1-1101, and the Wyoming Administrative Procedures Act at W.S § 16-3-101, *et seq.*

Section 2. Purpose and Applicability.

(a) These rules implement the Wyoming Provider Recruitment Grant Program which governs the award of grant funds to recruiting entities to recruit healthcare providers.

(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.

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.

(a) “Department” means the Wyoming Department of Health, Public Health Division.

(b) “Provider” means an individual who is licensed or eligible to be licensed in a healthcare profession under Wyoming Statutes, Title 33.

(c) “This Act” means W.S. § 35-1-1101.

Section 5. Provider Recruitment Grant Program Administration.

(a) The Department shall develop an application form and solicit eligible applicants seeking to recruit eligible healthcare providers between July 1<sup>st</sup> and September 30<sup>th</sup> of each year in which funding is available. The application form will be made available online at <http://www.health.wyo.gov/rfhd/rural/index.html>.

(i) In the event funding remains in the Program budget or additional funding is appropriated to the Program, the Department may accept additional applications at other times.

(ii) The Department will accept applications for the recruitment of healthcare provider types the Department has determined to be of highest need pursuant to Section 8 of these rules and regulations.



(iii) The Department may identify a maximum amount in grant funding each applicant may apply for during each application period which aligns with the average reimbursement paid under all prior awards.

(iv) The Department shall verify the eligibility of each recruiting entity prior to making award determinations.

(b) The Department shall make award determinations and issue written notifications of award to selected recruiting entities within sixty (60) days after the close of an application period.

(c) The Department shall determine the total amount of the grant authorized for each approved application and shall finalize a written Contract Agreement between the Department and the recruiting entity which sets forth the terms and conditions for receiving grant monies under this Act. The Department shall consider the following in determining the authorized grant amount:

(i) The amount the recruiting entity specified on the application to the Program;

(ii) The appropriateness of the amount applied for in relation to the recruiting entity type and the provider type to be recruited; and

(iii) The average amount reimbursed under all prior awards.

(d) The Department may reimburse the recruiting entity for appropriate costs identified in the Contract Agreement, not to exceed the amounts identified by category in this Act.

(e) The Department may reimburse the recruiting entity for recruitment costs described below, not to exceed the Ten Thousand Dollars (\$10,000) allowed by this Act. This applies only to providers targeted to fill positions specifically identified in the Contract Agreement. Covered costs include:

(i) Costs associated with hiring a professional recruitment company.

(ii) Interview costs to include hotel, meals, transportation and entertainment for providers and their immediate family to visit the location and interview at the recruiting entity's offices (maximum of two (2) visits per candidate).

(iii) Advertising expenses, including marketing and mailings.

(iv) Salaries of recruiting entity staff are not eligible.

(v) Travel expenses to attend professional conferences and expenses for exhibits and displays used at professional conferences are not eligible.

(f) The above amounts will be reimbursed after the recruited provider has relocated and has begun full-time practice in the approved geographic area of Wyoming and after all documentation required by the Contract Agreement is received and approved by the Department.

(i) To verify payment amounts, the Department shall demand appropriate documentation, including but not limited to receipts, vouchers, and premium documentation.

(ii) Grant monies not used will be retained by the Department for future use under this Act.

(g) The Department may request information from the recruiting entity to verify progress in the recruitment process.

(h) The Department shall notify recruiting entities, and recruited providers in a timely fashion, when appropriate, of any changes in the Contract Agreement, the Act, and/or these rules and regulations.

#### Section 6. Recruiting Entity Responsibilities.

(a) An eligible applicant shall complete and submit an application to the Department between July 1<sup>st</sup> and September 30<sup>th</sup> each year. In the event additional applications are accepted pursuant to Section 5(a)(i), eligible applicants shall complete and submit an application to the Department by the deadline identified in the Program application.

(b) Once the application is approved by the Department, the applicant becomes a recruiting entity. The recruiting entity shall enter into a Contract Agreement with the Department. The Contract Agreement will outline the grant amount the recruiting entity is eligible for and how those amounts are required to be used.

(c) The Contract Agreement is between the Department and the recruiting entity. The recruiting entity must have a separate contract with the recruited provider.

(i) The recruiting entity must enter into a written and legally binding Offer of Recruitment or employment contract with the recruited provider. The recruiting entity must include terms in the Offer of Recruitment or employment contract to recoup any benefits paid to the recruited provider, using grant monies under this Act, in the event the recruited provider fails to meet the requirements of this Act, these rules and regulations, and/or the Contract Agreement.

(d) The recruiting entity must annually submit to the Department verification that the recruited provider treats Medicare, Medicaid and Kid Care insurance eligible patients, and that the provider works full-time in Wyoming in the approved geographic area for a period of two (2) years.

(i) Full-time is defined as working at least forty (40) hours per week. The Department, at its discretion, may consider less than forty (40) hours per week as full-time when

the industry standard for full-time for the provider's profession is less than forty (40) hours per week.

(e) The recruiting entity must ensure the recruited provider does not already practice in Wyoming, including part-time. The only exceptions are providers completing residency training in Wyoming and military providers (not practicing in Wyoming other than to fulfill a military obligation) which may still be recruited under this Act.

(i) Within ten (10) business days of signing an Offer of Recruitment, the recruiting entity must submit a notarized affidavit from the recruited provider to the Department stating he does not already practice in Wyoming, including part-time, and has not done so for a period of at least twenty-four (24) months.

(ii) Payment will not be made to the recruiting entity until the affidavit and all documentation required by the Contract Agreement is received by the Department, and the recruited provider has relocated and begun full-time practice in the approved geographic area of Wyoming.

(f) The recruiting entity shall not require that the recruited provider sign any type of "non-compete agreement" which continues after termination of the recruited provider's employment or practice arrangement with the recruiting entity. This includes early termination by the recruited provider or the recruiting entity prior to the end of the stated term of the employment contract and/or Offer of Recruitment.

(g) If the recruiting entity is a hospital, the recruiting entity must ensure that the agreement between the hospital and a recruited physician meets the conditions set forth in 42 C.F.R. 411.357(e), as amended. This law provides the exceptions to referral prohibitions related to compensation arrangements, also known as the "Stark Amendment."

(h) The recruiting entity has one (1) year from the effective date of the Contract Agreement to recruit an eligible provider and must keep the Department's program coordinator updated on its progress.

(i) The recruiting entity shall require that the recruited provider begin full-time practice in the approved geographic area of Wyoming within six (6) months of signing an Offer of Recruitment.

#### Section 7. Eligibility Criteria for Provider Recruitment Grant Program Applicants.

(a) For-profit and non-profit hospitals, physicians, and healthcare clinics in Wyoming, and other appropriate Wyoming organizations (including county and city government agencies, non-profit organizations, and in-state provider recruitment agencies) are eligible to apply for grants under this Act.

(b) Providers may not recruit themselves, nor may they be recruited by their immediate family members.

(c) The recruiting entity may recruit more than one provider per application period. A separate application is required for each provider to be recruited.

(d) The recruited provider cannot already practice in Wyoming, including part-time. The only exceptions are providers completing residency training in Wyoming and military providers (not practicing in Wyoming other than to fulfill a military obligation) which may still be recruited under this Act.

(e) Providers relocating to Wyoming to become employed by the state or by the United States are not eligible.

(f) An organization recruiting a provider to treat that organization's employees, family members, or former employees is not eligible. An organization is eligible if the recruited provider's practice is "open to the public" and patient access is not in any way limited to a relationship with the organization.

#### Section 8. Selection Process.

(a) The Department will make selections based on:

(i) The Department's determination of priority of the various geographic areas of Wyoming;

(ii) The Department's determination of priority of the medical specialty need of the various geographic areas of Wyoming; and

(iii) Other relevant information submitted on the application.

(b) The Department shall give priority to recruitment of private practice providers.

(c) The Department shall give higher priority to direct patient care providers.

(d) Applicants demonstrating the greatest need for providers, at the discretion of the Department, shall be given highest priority. The Department will not award grants to applicants not recruiting for geographic areas demonstrating substantial need for providers.

#### Section 9. Provider Recruitment Grant Termination Breach, Repayment and Penalties.

(a) The Department is contracting with the recruiting entity. If the recruited provider fails to meet the requirements of this Act, the recruiting entity must repay the entire amount of grant funds received under this Act to the state. The recruiting entity is not precluded from recovering these repayments from the recruited provider.

(b) If the recruiting entity is unable to recruit an eligible provider within one (1) year of the effective date of the Contract Agreement, the contract terminates without penalty. If the recruiting entity incurred eligible costs under Section 5 (e), but was unsuccessful in recruiting a

provider, the recruiting entity may submit a request for reimbursement to the Department. Payment of grant monies under Section 5 (e) without a successful recruitment will be at the discretion of the Department.

(c) If the recruited provider fails to relocate and begin full-time practice in the approved geographic area of Wyoming within six (6) months as required by Section 6 (i), the Contract Agreement terminates and the Department will not make any grant payments to the recruiting entity for eligible costs under Section 5 (d).

(d) Repayments include:

(i) The total amount of grant funds paid to the recruiting entity;

(ii) Interest at the rate of ten percent (10%) per annum; and

(iii) The amount to be repaid shall be determined from the end of the month in which the recruiting entity breached the Contract Agreement as if the recruiting entity had breached at the end of the month.

(e) Amounts recovered and damages collected under this section shall be deposited into the General Fund.

(f) The Department may cancel or release, in full or in part, a recruiting entity from the requirements of this Act without penalty upon submission of appropriate documentation of the following:

(i) The recruited provider becomes permanently disabled;

(ii) The recruited provider dies;

(iii) The recruited provider or a family member for whom the recruited provider is the principal caregiver has a chronic life threatening illness or a severe chronic medical circumstance that requires relocation or a significant reduction in practice hours.

(iv) For other good cause shown, as determined by the Department.

~~THE WYOMING PHYSICIAN RECRUITMENT GRANT PROGRAM~~ CHAPTER 5

~~CHAPTER 5~~ Rules and Regulations for the Wyoming Provider Recruitment Grant Program

Section 1. Authority. These rules are promulgated by the Department of Health, ~~Rural and Frontier~~ Public Health Division, pursuant to W.S. § 35-1-1101, and the Wyoming Administrative Procedures Act at W.S. § 16-3-101, *et seq.*

Section 2. Purpose and Applicability.

(a) These rules implement the Wyoming ~~Physician~~ Provider Recruitment Grant Program which governs the award of grant funds to ~~recruitment~~ recruiting entities to recruit ~~physicians~~ healthcare providers.

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

~~(a) "Applicant" means a recruitment entity applying for this grant. Eligible applicants are hospitals, physicians, clinics, or other appropriate organizations approved by the Department.~~

~~(b) "Contract Agreement" means a legally enforceable binding agreement that describes the terms of the commitment between the Department and the applicant selected to receive a physician recruitment grant.~~

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



~~(d) “Full-time Equivalency” means “full-time position” as defined by the state of Wyoming Department of Administration and Information, Human Resources Division.~~

~~(e) “Grant” means a grant of state funds under a Contract Agreement.~~

~~(f) “Grant Amount” means the state program funds identified in the Contract Agreement.~~

~~(g) “Grant Term” means a one (1) year Contract Agreement for a recruitment entity to recruit a physician under the terms of this Act. The Contract Agreement Grant Term will run from October 1 to September 30.~~

~~(h) “Non Compete Agreements” means an agreement that does not allow the physician recruited under this Act to practice independently from the recruitment entity.~~

~~(i) “Offer of Recruitment” means an offer of full-time employment from a recruitment entity to a specific physician.~~

(jb) “Physician Provider” means an individual who is licensed or eligible to be licensed in a healthcare profession ~~to practice in the state~~ under Wyoming Statutes, Title 33, Chapter 26, of the Wyoming Medical Practice Act.

~~(k) “Physician Recruitment Grant” is a grant of state funds from the Department to a recruiting entity which is formalized in a Contract Agreement between the Department and the recruiting entity.~~

~~(l) “Private Practice Physicians” means a physician treating patients for a minimum of forty (40) hours per week in a private clinic which is not affiliated or associated with any hospital or government entity.~~

~~(m) “Recruited Physician” means a physician recruited by a recruitment entity pursuant to an offer of recruitment.~~

~~(n) “Recruitment Contract” means a legally binding agreement between a recruitment entity and a physician requiring the recruited physician to work full-time in a specified geographic area of Wyoming for at least two (2) years.~~

~~(o) “Recruitment Entity” means an eligible applicant selected for a physician recruitment grant which is then formalized in a Contract Agreement between the entity and the Department.~~

~~(p) “Service Obligation” means professional service rendered at an approved site for a minimum of two (2) years.~~

(qc) “This Act” means W.S. § 35-1-1101.

~~Section 5. — Physician Recruitment Grants — Terms and Service.~~

~~(a) — In July of each year, the Department shall solicit eligible applicants seeking to recruit physicians.~~

~~(b) — The eligible applicant shall complete and submit an application by the identified deadline for the given year.~~

~~(c) — In September of each year, the Department shall issue Contract Agreements to the selected recruitment entities. This Contract Agreement authorizes the recruitment entity to make a firm offer of recruitment to a physician incorporating benefits of this Act.~~

~~(d) — All offers of grant funds to physicians shall be formalized in a written Offer of Recruitment. Any grant funds awarded to a physician shall be reported by the physician on the physician's federal income tax forms.~~

~~(e) — The recruitment entity has one (1) year from the effective date of the Contract Agreement to recruit a physician using that year's grant funds awarded it under the Contract Agreement.~~

Section 65. Physician Provider Recruitment Grant Program Administration.

(a) The Department shall develop an application form and solicit eligible applicants seeking to recruit eligible healthcare providers between July 1<sup>st</sup> and September 30<sup>th</sup> of each year in which funding is available. The application form will be made available online at <http://www.health.wyo.gov/rfhd/rural/index.html>.

(i) In the event funding remains in the Program budget or additional funding is appropriated to the Program, the Department may accept additional applications at other times.

(ii) The Department will accept applications for the recruitment of healthcare provider types the Department has determined to be of highest need pursuant to Section 8 of these rules and regulations.

(iii) The Department may identify a maximum amount in grant funding each applicant may apply for during each application period which aligns with the average reimbursement paid under all prior awards.

(iv) The Department shall verify the eligibility of each recruiting entity prior to making award determinations.

(b) The Department shall make award determinations and issue written notifications of award to selected recruiting entities within sixty (60) days after the close of an application period.



(ac) The Department shall determine the total amount of the grant authorized for each approved application and shall ~~identify that amount in the~~ finalize a written Contract Agreement with between the Department and the recruitment/recruiting entity which sets forth the terms and conditions for receiving grant monies under this Act. ~~The amount identified in the Contract Agreement is to be used for the specific physician recruitment identified in the Contract Agreement.~~ The Department shall consider the following in determining the authorized grant amount:

(i) The amount the recruiting entity specified on the application to the Program;

(ii) The appropriateness of the amount applied for in relation to the recruiting entity type and the provider type to be recruited; and

(iii) The average amount reimbursed under all prior awards.

(bd) The Department ~~shall~~ may reimburse the ~~recruitment/recruiting~~ entity for appropriate costs identified in the ~~Recruitment Contract Agreement,~~ not to exceed the amounts identified by category in the Contract Agreement ~~this Act.~~ The amount reimbursed shall not exceed the following:

~~(i) Twenty Thousand Dollars (\$20,000) in relocation expenses; and~~

~~(ii) Twenty Thousand Dollars (\$20,000) in malpractice insurance premiums (\$10,000 per year); and~~

~~(iii) Thirty Thousand Dollars (\$30,000) in a signing bonus.~~

(ee) The Department ~~shall~~ may reimburse the ~~recruitment/recruiting~~ entity for recruitment costs described below, not to exceed the ~~amount identified in the Contract Agreement and shall not exceed~~ Ten Thousand Dollars (\$10,000) allowed by this Act. This applies only to ~~physicians~~ providers targeted to fill positions specifically identified in the Contract Agreement. Covered costs include:

(i) Costs associated with hiring a professional recruitment company.

(ii) Interview costs to include hotel, meals, transportation and entertainment for ~~doctors~~ providers and their immediate family to visit the location and interview at the ~~recruitment/recruiting~~ entity's offices (maximum of two (2) visits per candidate).

(iii) Advertising expenses, including marketing and mailings.

~~(iv) Other expenses may be approved for reimbursement at the discretion of the Department.~~

~~(v) Salaries of recruitment/recruiting entity staff are not eligible.~~

(v) Travel expenses to attend professional conferences and expenses for exhibits and displays used to attend and use at professional conferences are not eligible.

(f) The above amounts will be reimbursed oneeafter the recruited provider has relocated and has begun full-time practice in the approved geographic area of Wyoming and after all documentation required by the Contract Agreement appropriate verification, as determined by the Department, of all costs is received and approved by the Department.

(i) To verify payment amounts, the Department shall demand appropriate documentation, including but not limited to receipts, vouchers, and premium documentation.

(ii) Grant monies not used will be retained by the Department for future use in this Program under this Act.

(g) The Department may request information from the recruiting entity to verify progress in the recruitment process.

(h) The Department shall notify recruiting entities, and recruited providers in a timely fashion, when appropriate, of any changes in the Contract Agreement, the Act, and/or these rules and regulations.

#### Section 76. Recruitment Recruiting Entity Responsibilities.

(a) An eligible applicant shall complete and submit an application to the Department by the identified deadline for the given year between July 1<sup>st</sup> and September 30<sup>th</sup> each year. In the event additional applications are accepted pursuant to Section 5(a)(i), eligible applicants shall complete and submit an application to the Department by the deadline identified in the Program application.

(b) Once the application is approved by the Department, the applicant becomes a recruitment recruiting entity. The recruiting entity shall enter into a Contract Agreement with the Department. The Contract Agreement will outline the grant amount the recruiting entity is eligible for and how those amounts are required to be used.

(c) The Contract Agreement is between the Department and the recruitment recruiting entity. The recruitment recruiting entity will must have a separate recruitment contract with the physician recruited provider.

(i) The recruiting entity must enter into a written and legally binding Offer of Recruitment or employment contract with the recruited provider. The recruiting entity must include terms in the Offer of Recruitment or employment contract to recoup any benefits paid to the recruited provider, using grant monies under this Act, in the event the recruited provider fails to meet the requirements of this Act, these rules and regulations, and/or the Contract Agreement.

(d) The recruitment recruiting entity must annually submit to the Department verification that the recruited physician provider treats Medicare, Medicaid and Kid Care

insurance eligible patients, and that the physician provider works full-time in Wyoming in the approved geographic area for a period of two (2) years.

(i) Full-time is defined as working at least forty (40) hours per week. The Department, at its discretion, may consider less than forty (40) hours per week as full-time when the industry standard for full-time for the provider's profession is less than forty (40) hours per week.

(e) The ~~recruitment~~recruiting entity must ensure the recruited physician provider does not already practice in Wyoming, including part-time. The only exceptions are physicians providers completing residency training in Wyoming and military physicians providers (not practicing in Wyoming other than to fulfill a military obligation) which may still be recruited under this ~~program~~Act.

(i) Within ten (10) business days of signing an Offer of Recruitment, The the recruited physician recruiting entity must submit a notarized affidavit from the recruited provider to the Department stating he does not already practice in Wyoming, including part-time, and has not done so for a period of at least twenty-four (24) months.

(ii) Payment will not be made to the recruiting entity until the affidavit and all documentation required by the Contract Agreement is received by the Department, and the recruited provider has relocated and begun full-time practice in the approved geographic area of Wyoming.

(f) The ~~recruitment~~recruiting entity ~~cannot~~shall not require that the recruited physician provider sign any type of "non-compete agreement:" which continues after termination of the recruited provider's employment or practice arrangement with the recruiting entity. This includes early termination by the recruited provider or the recruiting entity prior to the end of the stated term of the employment contract and/or Offer of Recruitment.

(g) If the ~~recruitment~~recruiting entity is a hospital, the ~~recruitment~~recruiting entity must ensure that the agreement between the hospital and ~~the a~~ recruited physician meets the conditions set forth in 42 C.F.R. 411.357(e), as amended ~~September 5, 2007~~. This law provides the exceptions to referral prohibitions related to compensation arrangements, also known as the "Stark Amendment."

(h) The ~~recruitment~~recruiting entity has one (1) year from the effective date of the Contract Agreement to recruit a physician an eligible provider and must keep the Department's program coordinator updated on its progress.

(i) The ~~recruitment~~recruiting entity shall require that the recruited physician provider begin full-time practice in the approved geographic area of Wyoming within six (6) months of signing an Offer of Recruitment.

#### Section 8. Department Responsibilities.

~~(a) — The Department may use ten percent (10%) of the recruitment program budget to advertise the Physician Recruitment Grant Program.~~

~~(b) — To verify the payment amounts, the Department shall demand appropriate documentation, including receipts, vouchers, premium documentation, etc. Payments will only be made after the recruited physician relocates their practice to Wyoming and begins full-time practice in the geographic area identified in the Contract Agreement.~~

~~(c) — The Department shall notify both recruitment entities and recruited physicians of any changes in the Contract Agreement or Program in a timely fashion.~~

~~(d) — The Department shall verify the eligibility of recruitment entity prior to the Contract Agreement.~~

~~(e) — The Department may request information from the recruitment entity to verify progress in the recruitment process and must be given a copy of the recruited physician's affidavit required in Section 7 (e) within ten (10) business days of the Offer of Recruitment.~~

Section 97. Eligibility Criteria for Provider Recruitment Grant Program Applicants.

(a) For-profit and non-profit hospitals, physicians, and healthcare clinics in Wyoming, and other appropriate Wyoming organizations (including county, and city government agencies, non-profit organizations, and in-state physicianprovider recruitment agencies) are eligible to apply for grants under this programAct.

(b) PhysiciansProviders may not recruit themselves, nor may they be recruited by their immediate family members.

(c) The recruitmentrecruiting entity may recruit more than one physicianprovider per application period. A separate recruitment grant application is required for each physicianprovider to be recruited.

~~(d) — Except for psychiatrists, recruitment entities may not recruit physicians to geographic areas exceeding the United States average physician to population ratio.~~

~~(ed) The recruited physicianprovider cannot already practice in Wyoming, including part-time. The only exceptions are physiciansproviders completing residency training in Wyoming and military physiciansproviders (not practicing in Wyoming other than to fulfill a military obligation) which may still be recruited under this programAct.~~

~~(fe) PhysiciansProviders relocating to Wyoming to become employed by the state or by the United States are not eligible.~~

~~(gf) An organization recruiting a physicianprovider to treat that organization's employees, family members, or former employees is not eligible. An organization is eligible if~~

the recruited ~~physician's~~provider's practice is "open to the public" and patient access is not in any way limited to a relationship with the organization.

Section 108. Selection Process.

- (a) The Department will make selections based on:
- (i) The Department's determination of priority of the various geographic areas of Wyoming;
  - (ii) The Department's determination of priority of the medical specialty need of the various geographic areas of Wyoming; and
  - (iii) ~~The Department may use other~~Other relevant information submitted on the application.
- (b) ~~The Department shall attempt to issue at least one-half (1/2) of all grants for physicians whose practice in Wyoming would be with a for-profit business enterprise.~~
- (c) The Department shall give priority to recruitment of private practice ~~physicians~~providers.
- (d) The Department shall give higher priority to direct patient care providers ~~over physicians that provide indirect patient care.~~
- (e) Applicants demonstrating the greatest need for providers, at the discretion of the Department, shall be given highest priority. ~~The Department will not award grants if to applicants are not recruiting for geographic areas demonstrating substantial need in the physician to population ratio for providers.~~

Section 119. Physician Provider Recruitment Grant Termination Breach, Repayment and Penalties.

- (a) The Department is contracting with the ~~recruitment~~recruiting entity. If the recruited ~~physician~~provider fails to meet the requirements of ~~the statute and rules~~this Act, the ~~recruitment~~recruiting entity must repay the entire amount of grant funds ~~awarded~~received under this Act to the state. The ~~recruitment~~recruiting entity is not precluded from recovering these repayments from the recruited ~~physician~~provider.
- (b) If the ~~recruitment~~recruiting entity is unable to recruit a ~~physician~~an eligible provider within one (1) year of the effective date of the Contract Agreement, the contract terminates without penalty. If the recruiting entity incurred eligible costs under Section 5 (e), but was unsuccessful in recruiting a provider, the recruiting entity may submit a request for reimbursement to the Department. Payment of grant monies under Section 5 (e) without a successful recruitment will be at the discretion of the Department.

(c) If the recruited physicianprovider fails to relocate and begin full-time practice in the approved geographic area of Wyoming within six (6) months as required by Section 76 (i), the Contract Agreement terminates and the Department will not make any grant payments to the recruitmentrecruiting entity for eligible costs under Section 5 (d).

~~(d) — If the recruitment entity fails to provide required information in Section 7, it may be required to repay any monies granted under this section to the state.~~

(ed) Repayments include:

(i) The total amount of the grant identified in the Contract Agreement funds paid to the recruiting entity;

(ii) Interest at the rate of ten percent (10%) per annum; and

~~(iii) — The Department may also recover costs and expenses incurred in collection and attorney fees.~~

~~(iviii)~~ The amount to be repaid shall be determined from the end of the month in which the grant recipientrecruiting entity breached the eContract aAgreement as if the recipientrecruiting entity had breached at the end of the month.

(fe) Amounts recovered and damages collected under this section shall be deposited into the General Fund.

(gf) The Department may cancel or release, in full or in part, a recruitmentrecruiting entity from the service obligation requirements of this Act under the contract agreement without penalty upon submission of appropriate documentation of the following:

(i) ~~If~~ The recruited physicianprovider is unable to fulfill the service obligation due to becomes permanently disabilityled that prevents her from performing any work for remuneration or profit;

(ii) ~~If~~ The recruited physicianprovider dies;

(iii) ~~If~~ The recruited physicianprovider or a family member for whom the recruited physicianprovider is the principal caregiver has a chronic life threatening illness or a severe chronic medical circumstance that requires relocation or a significant reduction in practice hours as documented by a physician and is approved by the Department.

(iv) For other good cause shown, as determined by the Department.

~~Section 12. — Coordination with W.S. 9-2-118, the Wyoming Healthcare Provider Loan Repayment Program.~~



~~(a) — The Department will determine if benefits under W.S. 9-2-118, the Wyoming Healthcare Provider Loan Repayment Program (WHPLRP), are to be included in the recruitment offer and will identify such in the Contract Agreement with the recruitment entity.~~

~~(i) — The recruitment entity is responsible to verify the recruited physician's eligibility for WHPLRP.~~

~~(ii) — The recruited physician must sign a WHPLRP contract.~~

~~(iii) — The WHPLRP contract is the controlling document for the WHPLRP. All recruited physicians qualifying for the WHPLRP are required to adhere to this contract's requirements.~~

~~(b) — All eligible recruited physicians may apply for the WHPLRP and compete during normal WHPLRP application periods.~~