

CHAPTER I
AUTHORITY AND REASONS FOR RULES

Section 1. Authority. The Wyoming Constitution, Article 7, Section 20 establishes the paternalistic standard for the State of Wyoming to protect and promote the health and morals of the people of Wyoming:

“As the health and the morality of the people are essential to their well-being, and to the peace and permanence of the state, it shall be the duty of the legislature to protect and promote these vital interests by such measures for the encouragement of temperance and virtue, and such restrictions upon vice and immorality of every sort, as are deemed necessary to the public welfare.”

Compliance with that constitutional mandate has taken various forms. Of recent interest, however, the social services for the State were under the jurisdiction of the board and Department of Health, the board and Department of Welfare, and the board and Division of Vocational Rehabilitation of the Department of Education.

Those boards and departments were abolished effective July 1, 1969, and their powers, duties, and regulatory authority were transferred to the then newly created Department of Health and Social Services.

In 1979, four divisions were created within the Department, one of which is the Division of Community Programs. That Division became the state mental health authority, the developmental disabilities authority, and the substance abuse authority. In 1982, the Division was expanded to be the authority for family violence and sexual assault. In 1983, the Division was expanded to include community services for youth.

The Legislature gave certain duties to the Division of Behavioral Health, among which are:

W.S. 9-2-102(a)(iii) Establish minimum standards and approve policies and procedures for the establishment and operation of community based mental health, substance abuse, and developmental disabilities programs receiving state support;

(iv) Establish minimum standards for all mental health, substance abuse, developmental disabilities, family violence and sexual assault services supported by state funds;

The 1979 “Community Mental Health Services Act” expanded the role of the Division of Behavioral Health. The Legislature authorized the Division to contract for human services programs defined as “community facilities and services for the prevention and amelioration of mental illness, substance abuse, or developmental disabilities.” [W.S. 35-1-620(a)(i); and 35-1613(a)(iv)]. The Department was mandated to establish standards to effectuate the act and to:

(v) Review and evaluate all programs authorized or funded under this act;

(vi) Select the most appropriate service providers within each region in order to achieve the most effective and efficient human services system;

(vii) Prescribe procedures to ensure confidentiality of patient records; and

(viii) Prescribe conditions of eligibility for funding under this act so that no person shall be denied services on the basis of race, creed, color, national origin, or inability to pay.

Section 2. Application of Rules. The Director of the Department is required to “promulgate reasonable rules and regulations, after consultation with the departmental advisory council, in compliance with the Wyoming Administrative Procedure Act, for the implementation of all state and federal public health, welfare, rehabilitation, and mental health laws.” [W.S. 9-2-106(a)(vii)]. Pursuant to that mandate, the following rules of general applicability to the Division of Behavioral Health are hereby promulgated.

Section 3. Reasons for Adopting Rules of Procedure.

(a) W.S. 9-2-101(d) created the Division of Community Programs within the Department of Health and Social Services. W.S. 9-2-106(a)(iii) mandates that the Director of the Department prescribe by rule, order, or regulation the conditions under which monies are disbursed and administered by the Department. And W.S. 9-2-102(a) and (b) provide that the Division of Community Programs is responsible to establish minimum standards and approve policies and procedures for the establishment and operation of community based mental health, substance abuse, developmental disabilities, family violence and sexual assault services, and community services for troubled youth receiving state support or supported by state funds.

(b) The Department deems it essential that rules of procedure be adopted to:

(i) Establish criteria for selection of program providers and for contracting with program providers to receive state funds;

(ii) Provide a process through which a provider or agency may request and receive a fair hearing with respect to certification;

(iii) Provide a process through which clients or an agency or other interested persons may request and receive a fair hearing for actions or omissions by the provider that result in the denial, suspension, or termination of services or otherwise in the delivery or nondelivery of services, or that result in inadequate quality of services; and

(iv) Implement the legislative mandates to:

(A) Contract with service providers as a condition precedent to receiving state funds;

(B) Approve policies and procedures for the establishment and operation of community based mental health, substance abuse, developmental disabilities, family violence and sexual assault services, and community services for troubled youth programs receiving state funds;

(C) Administer a state program to shelter victims of family violence and sexual assault, including making state grants based on a formula for state and local participation and contracting for and evaluating shelters for victims of family violence and sexual assault and their children;

- (D) Contract for and evaluate shelters for troubled youth;
- (E) Administer a state program of community alternatives for troubled youth, including making contracts to counties submitting plans which meet the guidelines established by the Division;
- (F) Assist the local communities in organizing human service programs; and
- (G) Protect the health, welfare, and well-being of the citizens in Wyoming who need community based mental health, substance abuse, developmental disabilities, and family violence and sexual assault services, and community services for troubled youth.

Section 4. Notice; Hearing Procedures; Decision by Department; Review and Appeal. The Division shall comply with the Wyoming Administrative Procedure Act, W.S. 16-3-107 through 16-3-115 and with Rules of Procedure before the Division with respect to giving notices, conducting hearings, rendering decisions, and allowing for review of the decisions by the district court and appeal from the district court decision to the Wyoming Supreme Court.

Section 5. Confidentiality of Program Information. No information shall be released by the Division in contravention of applicable laws nor in contravention of the confidentiality standards adopted by the Department.