

CHAPTER 1

Emergency Waiver of Rules Regarding Licensing and Operations of Health Care Facilities

Intent to Create Emergency Rule

Statement of Reasons

In response to the Governor's Declaration of a State of Emergency and a Public Health Emergency (Order 2020-2) and in order to manage and control the threat that COVID-19 presents to the public health, the Wyoming Department of Health seeks to create a new chapter of emergency rules, identified as follows: *Rules, Department of Health, Public Health Emergency – COVID-19, chapter 1.*

This new emergency rule will give the Department of Health the authority to waive, on a case-by-case basis, requirements established under the Department's rules related to the licensure and operations of health care facilities. The Department may only grant a waiver if it determines the waiver is necessary for the management and control of COVID-19.

This waiver authority will allow the Department to ease regulatory burdens and increase access to health care in Wyoming's licensed health care facilities. Because the rules regarding the licensure and operations of health care facilities were not necessarily drafted to account for a public health emergency, some requirements established by the Department – although appropriate in an ordinary context – may inadvertently hinder a facility's work in responding to the threat COVID-19 presents to its patients and the public health.

The Department has determined emergency action is necessary because the Department will likely need to invoke this waiver authority in the immediate future due to the impending surge health care facilities could experience in treating patients with COVID-19. Further, the Department does not intend for this waiver authority to exist once the public health emergency has ended.

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Emergency rules are no longer in effect 120 days After filing with the Secretary of State.

Section 1. Authority. The Wyoming Department of Health (Department) promulgates this chapter pursuant to Wyoming Statutes 9-2-1204, 35-1-240(a)(ii), 35-2-908, and 35-4-101.

Section 2. Purpose and Applicability. This chapter establishes the Department's authority to waive Department rules regarding the licensing and operations of health care facilities in order to manage and control the threat that COVID-19 presents to the public health.

Section 3. Waivers.

(a) Upon the request of a health care facility, the Department may waive a requirement established under the rules identified in subsection (b) of this section if the Department determines the waiver is necessary for the management and control of COVID-19.

(b) Pursuant to the conditions of subsection (a) of this section, the Department may waive a requirement established under the following rules:

- (i) *Rules, Department of Health, Aging Division, chapter 7 (1999);*
- (ii) *Rules, Department of Health, Aging Division, chapter 8 (1998);*
- (iii) *Rules, Department of Health, Aging Division, chapter 9 (2001);*
- (iv) *Rules, Department of Health, Aging Division, chapter 10 (2016);*
- (v) *Rules, Department of Health, Aging Division, chapter 11 (2000);*
- (vi) *Rules, Department of Health, Aging Division, chapter 12 (2007);*
- (vii) *Rules, Department of Health, Aging Division, chapter 13 (2008);*
- (viii) *Rules, Department of Health, Health Quality, chapter 1 (1998);*
- (ix) *Rules, Department of Health, Health Quality, chapter 2 (2000);*
- (x) *Rules, Department of Health, Health Quality, chapter 4 (2001);*

- (xi) *Rules, Department of Health, Health Quality*, chapter 5 (2003);
- (xii) *Rules, Department of Health, Health Quality*, chapter 7 (1998);
- (xiii) *Rules, Department of Health, Health Quality*, chapter 8 (1998);
- (xiv) *Rules, Department of Health, Health Quality*, chapter 10 (2001);
- (xv) *Rules, Department of Health, Health Quality*, chapter 13 (2001);
- (xvi) *Rules, Department of Health, Health Quality*, chapter 14 (1997);
- (xvii) *Rules, Department of Health, Health Quality*, chapter 15 (1999);
- (xviii) *Rules, Department of Health, Health Quality*, chapter 16 (1997);
- (xix) *Rules, Department of Health, Health Quality*, chapter 18 (1998);
- (xx) *Rules, Department of Health, Health Quality*, chapter 19 (2000);
- (xxi) *Rules, Department of Health, Health Quality*, chapter 26 (2019);
- (xxii) *Rules, Department of Health, Healthcare Licensing and Surveys*, chapter 1 (1994);
- (xxiii) *Rules, Department of Health, Healthcare Licensing and Surveys*, chapter 3 (2008);
- (xxiv) *Rules, Department of Health, Healthcare Licensing and Surveys*, chapter 12 (2012);
- (xxv) *Rules, Department of Health, Healthcare Licensing and Surveys*, chapter 17 (2004);
- (xxvi) *Rules, Department of Health, Healthcare Licensing and Surveys*, chapter 20 (2004);
- (xxvii) *Rules, Department of Health, Healthcare Licensing and Surveys*, chapter 21 (2010);
- (xxviii) *Rules, Department of Health, Healthcare Licensing and Surveys*, chapter 22 (2012);
- (xxix) *Rules, Department of Health, Healthcare Licensing and Surveys*, chapter 25 (2019); and

(xxx) Any other rule promulgated pursuant to the Department's authority over the licensing and operations of health care facilities, including W.S. 9-2-1201 to -1215 and W.S. 35-2-901 to -913.

(c) If the Department denies a request for waiver, the facility is not entitled to request a contested case proceeding pursuant to the Wyoming Administrative Procedure Act, W.S. 16-3-101 to -115.

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- (xxii) Rules, Department of Health, Healthcare Licensing and Surveys, chapter 1
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- (xxvii) Rules, Department of Health, Healthcare Licensing and Surveys, chapter
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- (xxviii) Rules, Department of Health, Healthcare Licensing and Surveys, chapter
22 (2012);
- (xxix) Rules, Department of Health, Healthcare Licensing and Surveys, chapter
25 (2019); and

(xxx) Any other rule promulgated pursuant to the Department's authority over the licensing and operations of health care facilities, including W.S. 9-2-1201 to -1215 and W.S. 35-2-901 to -913.

(c) If the Department denies a request for waiver, the facility is not entitled to request a contested case proceeding pursuant to the Wyoming Administrative Procedure Act, W.S. 16-3-101 to -115.