

PUBLIC NOTICE

Intent to Adopt Rules Wyoming Department of Health

Public notice is hereby given that the Wyoming Department of Health proposes to adopt rules to comply with the provisions of Wyoming Statutes § 9-2-1204, 35-1-240(a)(ii), 35-2-908, and 35-4-101.

New Rules: Chapter 1, Emergency Waivers for Health Care Facilities

These rules provide the Department the authority to waive requirements established under the Department's rules related to the licensure and operations of health care facilities in order to allow licensed healthcare facilities to better respond to emergency scenarios.

As required by Wyoming Statutes § 16-3-103(a)(i)(G), this proposed rule change meets minimum substantive state statutory requirements.

To obtain a copy of this Rule, contact:

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Aging Division
Wyoming Department of Health
2300 Capitol Ave, Suite 510
Cheyenne, WY 82002
(307) 777-7124
laura.hudspeth@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 on the adoption of this rule. Any person may urge the Agency to not 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 October 8, 2020.

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 promulgating 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 24th day of August, 2020.

Michael A. Ceballos, Director
Wyoming Department of Health

CHAPTER 1

Emergency Waivers for Health Care Facilities

Intent to Create Regular Rule

Statement of Reasons

In order to allow licensed healthcare facilities to better respond to emergency scenarios, the Department of Health proposes to adopt the following new rules: *Rules, Department of Health, Emergency Waivers for Health Care Facilities*, chapter 1.

These rules will give the Department the authority to waive, at a facility's request or upon the Department's own motion, requirements established under the Department's rules related to the licensure and operations of health care facilities. Because the rules regarding the licensure and operations of health care facilities were not necessarily drafted to account for emergency situations, some requirements established by the Department – although appropriate in an ordinary context – may inadvertently hinder a facility's work in responding to an unexpected event.

Under these rules, the Department may only grant a waiver if it determines the waiver is necessary to manage and control a communicable disease or to respond to an emergency that significantly impacts a facility's capability to provide safe care as it would under normal circumstances. Further, if a waiver is granted, the Department may require the impacted facility to implement an alternative action plan. The alternative action plan must include standards and conditions the Department deems necessary to protect the health, safety, and welfare of patients while managing and controlling the communicable disease or responding to the emergency.

Chapter 1

Emergency Waivers for Health Care Facilities

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.

(a) This chapter establishes the Department's authority to waive Department rules regarding the licensing and operations of health care facilities in order to:

(i) Manage the spread of communicable disease; and

(ii) Respond to emergency situations that significantly impact a facility's capability to provide safe care.

Section 3. Waivers.

(a) Upon the request of a health care facility or at the Department's own motion, 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:

(i) To manage and control a communicable disease; or

(ii) To protect the health, safety, and welfare of patients in response to an emergency.

(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 facility's 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.

(d) If the Department waives a requirement of rule pursuant to this section, the Department may require the impacted facility to implement an alternative action plan. The alternative action plan must include standards and conditions the Department deems necessary to protect the health, safety, and welfare of patients while managing and controlling the communicable disease or responding to the emergency.

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- (xxi) *Rules, Department of Health, Health Quality*, chapter 26 (2019);
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