

**WYOMING MEDICAL PRACTICE ACT
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TITLE 33
PROFESSIONS AND OCCUPATIONS

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- (i) Repealed by Laws 1991, ch. 143, § 2.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 - (v) Repealed by Laws 1991, ch. 143, § 2.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; compensation 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 receive per diem and mileage as provided in W.S. 33-1-302(a)(vii), 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.

ARTICLE 3 – LICENSING

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 as provided in the Interstate Medical Licensure Compact or, under this article, 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 board members, 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 nolo contendere 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 World Wide 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 reissued 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 punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for not more than one (1) year, or both. Each violation constitutes a separate offense for which the penalty in this subsection may be assessed.

(b) Any person filing or attempting to file as his own the diploma of another or forged affidavit of identification is guilty of a felony and upon conviction shall be imprisoned in the penitentiary for a term not exceeding three (3) years.

(c) The attorney general, the board, any county or district attorney or any citizen may obtain an injunction in the name of the state of Wyoming upon the relation of a complainant enjoining any person from engaging in the practice of medicine without a license. The district court of the district in which the offending person resides or the district court of Laramie county has original jurisdiction of any such injunction proceedings. Any defendant who is enjoined and who thereafter violates the injunction shall be punished for contempt of court by a fine of not less than two hundred dollars (\$200.00) or more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for not less than six (6) months or not more than one (1) year, or both. An injunction may be issued without proof of actual damage sustained and upon proof of one (1) or more acts constituting practice of medicine without a license. The standard of proof of any violation of this subsection shall be by a preponderance of the evidence.

ARTICLE 5 - PHYSICIANS ASSISTANTS

33-26-501. Definitions.

(a) As used in this article:

- (i) "Back-up physician" means a physician designated by the supervising physician to ensure supervision of the physician assistant in the supervising physician's absence. A back-up physician is subject to the same requirements imposed upon the supervising physician if the back-up physician is acting as a supervising physician;
- (ii) "License" means a license to practice as a physician assistant in this state;
- (iii) "Physician assistant" means any person who:
 - (A) Graduates from a physician assistant education program approved by CAAHEP or its predecessor or successor agency;
 - (B) Satisfactorily completes a certification examination administered by NCCPA or other national physician assistant certifying agency established for such purposes which has been reviewed and approved by the board, and is currently certified;
 - (C) The board approves to assist in the practice of medicine under the supervision of a physician or group of physicians approved by the board to supervise such assistant.
- (iv) "Certification examination" means the initial certifying examination approved by the board for the certification of physician assistants including, but not limited to, the examination administered by NCCPA or other national physician assistant certifying agency established for such purpose which has been reviewed and approved by the board;
- (v) "Supervising physician" means a:
 - (A) Board-approved physician who utilizes and agrees to be responsible for the medical acts of a board- approved physician assistant; or
 - (B) Back-up physician when acting in the absence of the supervising physician.
- (vi) "Supervision" means the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunications is sufficient to show ready availability, if the board finds that such contact is sufficient to provide quality medical care;
- (vii) "Assists" means the physician assistant may perform those duties and responsibilities delegated to him by his supervising physician without the supervising physician being physically present;
- (viii) "CAAHEP" means the commission on accreditation of allied health education programs;
- (ix) "CAHEA" means the committee on allied health education and accreditation;
- (x) "NCCPA" means the national commission on the certification of physician assistants.

33-26-502. Scope of W.S. 33-26-501 through 33-26-511.

- (a) This article does not apply to persons enrolled in a physician assistant program approved by the board.
- (b) A physician assistant assists in the practice of medicine under the supervision of a licensed physician. Within the physician/physician assistant relationship, physician assistants exercise autonomy in medical decision making and provide a broad range of diagnostic, therapeutic and health promotion and disease prevention services. The physician assistant may perform those duties and responsibilities delegated to him by the supervising

physician when the duties and responsibilities are provided under the supervision of a licensed physician approved by the board, within the scope of the physician's practice and expertise and within the skills of the physician assistant.

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

(d) Nothing in this article shall be construed to conflict with or alter the provisions and requirements of W.S. 33-26-101 through 33-26-410 and 33-26-601 et seq.

33-26-503. Board powers and duties.

(a) The board shall pass upon the qualifications and determine the fitness of all persons desiring to practice as physician assistants.

(b) The board shall:

(i) Grant, refuse to grant, revoke and reinstate licenses

(ii) Investigate allegations that a physician assistant or his supervising physician has engaged in conduct constituting a ground for revocation in W.S. 33-26-402 or 33-26-508;

(iii) Conduct informal interviews and contested cases

(iv) Promulgate regulations governing the practice of physician assistants;

(v) Appoint members to serve on an advisory committee to the board of medicine. At least two (2) of the members shall be physician assistants and two (2) members shall be physicians. The committee members are responsible to and shall serve at the board's pleasure. The advisory committee shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board, including but not be limited to:

(A) Applications for licensure;

(B) Physician assistant education;

(C) Scope of practice;

(D) Licensure requirements;

(E) Continuing medical education.

(vi) Retain jurisdiction over only those licensees to whom temporary or full licenses were granted, regardless of whether the license expired, lapsed or was relinquished during or after the alleged occurrence of conduct proscribed in W.S. 33-26-508 by the licensee;

(vii) Pass upon the qualifications and ability of physicians desiring to serve as a supervising physician or back-up physician including, but not limited to, the compatibility of the supervising physician's or back-up physician's specialty and scope of practice with that of the physician assistant to be supervised.

33-26-504. License required; application; qualifications; consideration of applications.

(a) No person shall practice as a physician assistant or represent that he is a physician assistant without a license granted by the board.

(b) The board may grant a physician assistant license to an applicant who:

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

(ii) Has graduated from a physician assistant program accredited by CAAHEP or its predecessor or successor organization;

(iii) Has satisfactorily completed a certification examination administered by NCCPA or other national certifying agency established for such purposes which has been reviewed and approved by the board and is currently certified;

(iv) Completes an application form; and

(v) Pays the fees set forth in W.S. 33-26-507.

(c) The board may issue a temporary license to any person who successfully completes a CAAHEP or other board approved program for the education and training of a physician assistant but has not passed a certification examination. To allow the opportunity to take the next available certification examination, any temporary license issued pursuant to this subsection shall be issued for a period not to exceed one (1) year and under conditions as the board determines pursuant to W.S. 33-26-505.

(d) Physician assistants approved by the board prior to the effective date of this act are not required to be currently certified by the NCCPA. Graduation from a CAHEA approved program is considered equivalent to a CAAHEP program for purposes of licensure.

(e) The board shall formulate guidelines for consideration of applications by a licensed physician to supervise physician assistants. Any application shall include:

(i) The qualifications of the physician assistant to be employed, including experience;

(ii) The professional background of the physician, including specialty;

(iii) A description by the physician of his practice and the way in which the physician assistant will be utilized, including method of supervision.

(f) The board, with the concurrence of the advisory committee, shall approve an application by a licensed physician to supervise physician assistants if the board is satisfied that each proposed physician assistant is a graduate of an approved program, has satisfactorily completed a certification examination and is fully qualified to assist in the practice of medicine under the responsible supervision of a licensed physician. The board shall provide by rule for requirements and limitations on the practice by and supervision of physician assistants. However, a physician shall be limited to the supervision of three (3) or fewer physician assistants only for good cause specific to the circumstances of that individual physician.

(g) The board may provide by rule for arrangements for other physicians to serve as back up or on call physicians for multiple physician assistants.

33-26-505. Temporary license.

(a) The board may grant a temporary license to practice as a physician assistant to a person who:

(i) Completes a temporary license application;

(ii) Meets the requirements of W.S. 33-26-504(b); and

(iii) Pays the temporary license fee prescribed in W.S. 33-26-507.

(b) A temporary license is valid until the next board meeting following the date of issuance. The board may extend the temporary license at its discretion upon a showing of good cause for a period not to exceed one (1) year from the original date of issuance of the temporary license.

33-26-506. Term of license; renewal; duplicates.

(a) All licenses other than temporary licenses expire annually on December 31. A physician assistant may renew his license by completing and submitting a renewal application form published by the board and renewal fee to the board prior to expiration of his current license.

(b) The board may reinstate a lapsed license if the applicant pays a reinstatement fee and meets the requirements for the granting of an initial license.

(c) A physician assistant may apply to the board for a duplicate license if his license is stolen, lost or destroyed. Upon proof of proper identification and submission of such other information as the board may require, the board shall issue a duplicate license bearing on its face the word "DUPLICATE" and establish and require payment of appropriate charges for a

duplicate license.

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

33-26-507. License fees.

(a) The board shall, by regulation set 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.

(b) Fees shall be deposited as provided in W.S. 33-26-307(b).

33-26-508. Suspension, restriction, revocation or nonrenewal of license.

(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 grounds enumerated under W.S. 33-26-402(a) (i) through (x), (xii) and (xiv) through (xxxiv) provided that each reference in W.S. 33-26-402(a) to the "practice of medicine," "practice medicine," or like phrase shall be deemed the "practice as a physician assistant" for purposes of this section.

(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.

(viii) Repealed By Laws 2003, Ch. 190, § 3.

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

(c) Repealed by Laws 2003, Ch. 190, § 3.

(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.

33-26-509. Reinstatement.

(a) Except as provided in subsection (b) of this section, any person whose license has been revoked, restricted or suspended under this chapter, 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. 33-26-508 not less than six (6) months after final judicial review of a board order revoking, restricting or suspending the petitioner's license or six (6) months after the date of the board order if there is no judicial review or six (6) months after the date of the board agreement to accept a relinquished, restricted or conditioned license. The petitioner shall submit a written petition 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 of petitioner's license.

(b) If a license is suspended under W.S. 33-26-508(d), the license may be reinstated 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. 33-26-508(d).

(c) 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 of petitioner's license and that petitioner is able to safely, skillfully and competently resume practice as a physician assistant; 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 that petitioner is able to safely, skillfully and competently practice as a physician assistant in this state.

(d) Upon receipt of a petition that contains the information required by subsection (a) of this section, the board shall set the matter for a contested case hearing in accordance with the provisions of the Wyoming Administrative Procedure Act.

(e) 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.

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

(g) 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.

33-26-510. Prescription of drugs.

(a) Repealed by Laws 1991, ch. 132, § 2.

(b) Repealed by Laws 1991, ch. 132, § 2.

(c) A physician assistant may prescribe medications only as an agent of the supervising physician. A physician assistant may not prescribe schedule I drugs as defined by W.S. 35-7-1013 through 35-7-1014. The supervising physician may delegate authority to the physician assistant to dispense prepackaged medications in rural clinics when pharmacy services are not physically available. The board shall, after consultation with the state board of pharmacy, promulgate rules and regulations governing the prescription of medications by a physician assistant.

33-26-511. Penalties.

Any person practicing as a physician assistant or representing that he is a physician assistant without a license or any person employing an unlicensed person to practice as a physician assistant is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for not more than one (1) year, or both. Each violation constitutes a separate offense for which the penalty in this section may be assessed.

33-26-512. 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. The board shall put in writing any agreement with the licensee. Removal of a voluntary relinquishment, restriction or suspension is subject to the procedure for reinstatement of a license pursuant to W.S. 33-26-509.

(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 suspend, restrict, refuse to renew or revoke a license pursuant to W.S. 33-26-508(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).

ARTICLE 6 - VOLUNTEER PHYSICIANS AND PHYSICIAN ASSISTANTS

33-26-601. Emeritus physician and physician assistant licenses.

(a) As used in this section, "low income uninsured person" has the same meaning as in W.S. 33-15-131(a).

(b) For purposes of this section, a person shall be considered retired from practice if the person's license has expired.

(c) The state board of medicine may issue, with or without examination, an emeritus physician or emeritus physician assistant license to a person who is retired from practice so that the person may provide medical services. The board shall deny issuance of an emeritus physician or emeritus physician assistant license to a person who is not qualified under this section to hold an emeritus license.

(d) An application for an emeritus license shall include all of the following:

(i) A copy of the applicant's medical education and postgraduate training documents certified as true and accurate by the state licensing authority with whom the physician or physician's assistant holds current licensure or has most recently held current licensure;

(ii) A copy of the applicant's most recent license authorizing the practice of medicine issued by a jurisdiction in the United States that licenses persons to practice medicine;

(iii) Evidence of one (1) of the following, as applicable:

(A) That the applicant has maintained for at least ten (10) years immediately prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice allopathic or osteopathic medicine or to practice as a physician assistant; or

(B) That the applicant has practiced for at least ten (10) years immediately prior to retirement in good standing as a doctor of allopathic or osteopathic medicine or as a physician assistant in one (1) or more of the branches of the United States armed services; and

(iv) A notarized statement from the applicant, on a form prescribed by the board, that the applicant:

(A) Will not accept any form of remuneration for any medical services rendered while in possession of an emeritus license; and

(B) Repealed By Laws 2009, Ch. 201, § 2.

(C) Will provide any other documentation that the board reasonably may require.

(e) The holder of an emeritus license may provide medical services on the premises of a health care facility or a medical practice in this state and to low income uninsured persons. The holder shall not accept any form of remuneration for providing medical services while in possession of the license. The board may revoke an emeritus license on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the license.

(f) An emeritus license shall be valid for a period of one (1) year, unless earlier revoked under subsection (e) of this section or pursuant to title 33, chapter 26 of the Wyoming statutes. An emeritus license may be renewed upon the application of the holder. The board shall maintain a register of all persons who hold emeritus licenses. The board shall not charge a fee for issuing or renewing a license pursuant to this section.

(g) To be eligible for renewal of an emeritus license, the holder of the license shall

certify to the board completion of any continuing education required under this chapter as if the holder of the license were in active practice. The board shall not renew a license if the holder has not complied with the continuing education requirements. A health care facility or a medical practice in which the holder of an emeritus license provides medical services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing education.

(h) The board shall issue to each person who qualifies under this section an emeritus license. The emeritus medical license shall permit the general practice of medicine under this chapter. The emeritus physician assistant license shall permit the practices authorized for physician assistants under W.S. 33-26-501 through 33-26-512.

(j) Except as provided in this section, any person holding an emeritus license issued by the board under this section shall be subject to the requirements of this chapter and the jurisdiction of the board.

(k) The board shall adopt rules to administer and enforce this section.

ARTICLE 7 - INTERSTATE MEDICAL LICENSURE COMPACT

33-26-701. Short title.

This act shall be known and may be cited as the "Interstate Medical Licensure Compact."

33-26-702. Compact provisions generally.

The Interstate Medical Licensure Compact is enacted into law and entered into on behalf of this state with all other states legally joining in the compact in a form substantially as follows.

ARTICLE I Purpose

In order to strengthen access to health care and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter and therefore requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

ARTICLE II Definitions

(a) In this compact:

- (i) "Bylaws" means those bylaws established by the interstate commission pursuant to article XI for its governance or for directing and controlling its actions and conduct;
- (ii) "Commissioner" means the voting representative appointed by each member board pursuant to article XI;
- (iii) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board;
- (iv) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact;
- (v) "Interstate commission" means the interstate commission created pursuant to article XI;
- (vi) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization;
- (vii) "Medical practice act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state;
- (viii) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation and education of physicians as directed by the state government;
- (ix) "Member state" means a state that has enacted the compact;
- (x) "Practice of medicine" means the clinical prevention, diagnosis or

treatment of human disease, injury or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state;

(xi) "Physician" means any person who:

(A) Is a graduate of a medical school accredited by the liaison committee on medical education, the commission on osteopathic college accreditation or a medical school listed in the international medical education directory or its equivalent;

(B) Passed each component of the United States medical licensing examination (USMLE) or the comprehensive osteopathic medical licensing examination (COMLEX-USA) within three (3) attempts or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(C) Successfully completed graduate medical education approved by the accreditation council for graduate medical education or the American osteopathic association;

(D) Holds specialty certification or a time unlimited specialty certificate recognized by the American board of medical specialties or the American osteopathic association's bureau of osteopathic specialists;

(E) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(F) Has never been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(G) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;

(H) Has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration; and

(J) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction.

(xii) "Offense" means a felony, gross misdemeanor or crime of moral turpitude;

(xiii) "Rule" means a written statement by the interstate commission promulgated pursuant to article XII of the compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact or an organizational, procedural or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state and includes the amendment, repeal or suspension of an existing rule;

(xiv) "State" means any state, commonwealth, district or territory of the United States;

(xv) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

ARTICLE III Eligibility

(a) A physician must meet the eligibility requirements as defined in article II(a)(xi) to receive an expedited license under the terms and provisions of the compact.

(b) A physician who does not meet the requirements of article II(a)(xi) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance

of a license to practice medicine in that state.

ARTICLE IV Designation of State of Principal License

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state and the state is:

- (i) The state of primary residence for the physician;
- (ii) The state where at least twenty-five percent (25%) of the practice of medicine occurs;
- (iii) The location of the physician's employer; or
- (iv) If no state qualifies under paragraph (a)(i), (ii) or (iii) of this article, the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a) of this article.

(c) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

ARTICLE V Application and issuance of expedited licensure

(a) A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission, subject to the following:

(i) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where primary sources have already been verified by the state of principal license;

(ii) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. § 731.202;

(iii) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification under subsection (b) of this article, physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection (a) of this article, including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) of this article and any fees under subsection (c) of this article, a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure

period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.

(g) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees and the issuance of an expedited license.

ARTICLE VI Fees for Expedited Licensure

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

(b) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

ARTICLE VII Renewal and Continued Participation

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

(i) Maintains a full and unrestricted license in a state of principal license;

(ii) Has not been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;

(iii) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and

(iv) Has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected under subsection (c) of this article, a member board shall renew the physician's license.

(e) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

(f) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

ARTICLE VIII Coordinated Information System

(a) The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under article V.

(b) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

(d) Member boards may report any nonpublic complaint, disciplinary or investigatory information not required by subsection (c) of this article, to the interstate

commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal and used only for investigatory or disciplinary matters.

(g) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

ARTICLE IX Joint Investigations

(a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

ARTICLE X Disciplinary Actions

(a) Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided and:

(i) Impose the same or lesser sanction against the physician so long as such sanctions are consistent with the medical practice act of that state; or

(ii) Pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately without further action necessary by the other member board, for ninety (90) days upon entry of the order by the disciplining board, to permit the member board to investigate the basis for the action

under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety (90) day suspension period in a manner consistent with the medical practice act of that state.

ARTICLE XI Interstate Medical Licensure Compact Commission

(a) The member states hereby create the "Interstate Medical Licensure Compact Commission."

(b) The purpose of the interstate commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(c) The interstate commission shall be a body corporate and shall have all the responsibilities, powers and duties set forth in the compact and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

(d) The interstate commission shall consist of two (2) voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one (1) representative from each member board. A commissioner shall be:

(i) An allopathic or osteopathic physician appointed to a member board;

(ii) An executive director, executive secretary or similar executive of a member board; or

(iii) A member of the public appointed to a member board

(e) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

(g) Each commissioner participating at a meeting of the interstate commission is entitled to one (1) vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d) of this article.

(h) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds (2/3) vote of the commissioners present that an open meeting would be likely to:

(i) Relate solely to the internal personnel practices and procedures of the interstate commission;

(ii) Discuss matters specifically exempted from disclosure by federal statute;

(iii) Discuss trade secrets, commercial or financial information that is privileged or confidential;

(iv) Involve accusing a person of a crime or formally censuring a person;

(v) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

- (vi) Discuss investigative records compiled for law enforcement purposes; or
- (vii) Specifically relate to the participation in a civil action or other legal

proceeding.

(j) The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(k) The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.

(m) The interstate commission shall establish an executive committee, which shall include officers, members and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules and other such duties as necessary.

(n) The interstate commission may establish other committees for governance and administration of the compact.

ARTICLE XII Powers and Duties of the Interstate Commission

(a) The interstate commission shall have the duty and power to:

(i) Oversee and maintain the administration of the compact;

(ii) Promulgate rules which shall be binding to the extent and in the manner provided for in the compact;

(iii) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules and actions;

(iv) Enforce compliance with compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(v) Establish and appoint committees including, but not limited to, an executive committee as required by article XI, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;

(vi) Pay or provide for the payment of the expenses related to the establishment, organization and ongoing activities of the interstate commission;

(vii) Establish and maintain one (1) or more offices;

(viii) Borrow, accept, hire or contract for services of personnel;

(ix) Purchase and maintain insurance and bonds;

(x) Employ an executive director who shall have such powers to employ, select or appoint employees, agents or consultants and to determine their qualifications, define their duties and fix their compensation;

(xi) Establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

(xii) Accept donations and grants of money, equipment, supplies, materials and services and to receive, utilize and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;

(xiii) Lease, purchase, accept contributions or donations of or otherwise to own, hold, improve or use, any property, real, personal or mixed;

- (xiv) Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;
- (xv) Establish a budget and make expenditures;
- (xvi) Adopt a seal and bylaws governing the management and operation of the interstate commission;
- (xvii) Report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;
- (xviii) Coordinate education, training and public awareness regarding the compact, its implementation and its operation;
- (xix) Maintain records in accordance with the bylaws;
- (xx) Seek and obtain trademarks, copyrights and patents; and
- (xxi) Perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

ARTICLE XIII Finance Powers

- (a) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.
- (b) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.
- (c) The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.
- (d) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

ARTICLE XIV Organization and operation of the Interstate Commission

- (a) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within twelve (12) months of the first interstate commission meeting.
- (b) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.
- (c) Officers selected in subsection (b) of this article shall serve without remuneration from the interstate commission.
- (d) The officers and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or omission that occurred, or that the officer or employee had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities provided that an officer or employee shall not be

protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of the officer or employee. The immunity provided by this article shall be subject to the following:

(i) The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of the officer's or employee's employment or duties for acts, errors or omissions occurring within the officer's or employee's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect the officer or employee from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of the officer or employee;

(ii) The interstate commission shall defend the executive director, its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend an interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the officer or employee;

(iii) To the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the officers and employees arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities or that the officers and employees had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the officers or employees.

ARTICLE XV Rulemaking functions of the Interstate Commission

(a) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 2010 and subsequent amendments thereto.

(c) Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent

with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

ARTICLE XVI Oversight of Interstate Compact

(a) The executive, legislative and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact which may affect the powers, responsibilities or actions of the interstate commission.

(c) The interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact or promulgated rules.

ARTICLE XVII Enforcement of Interstate Compact

(a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(b) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XVIII Default Procedures

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact or the rules and bylaws of the interstate commission promulgated under the compact.

(b) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact or the bylaws or promulgated rules, the interstate commission shall:

(i) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

(ii) Provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners

and all rights, privileges and benefits conferred by the compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

(e) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state or the withdrawal of a member state.

(f) The member state which has been terminated is responsible for all dues, obligations and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(g) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(h) The defaulting state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

ARTICLE XIX Dispute Resolution

(a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states or member boards.

(b) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

ARTICLE XX Member States, Effective Date and Amendments

(a) Any state is eligible to become a member state of the compact.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.

(c) The governors of nonmember states or their designees, shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

(d) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XXI Withdrawal

(a) Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(b) Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor

of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

(d) The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice provided under subsection (c) of this article.

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(g) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

ARTICLE XXII Dissolution

(a) The compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

(b) Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XXIII Severability and Construction

(a) The provisions of the compact shall be severable and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of the compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XXIV Binding Effect of Compact and Other Laws

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(d) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

33-26-703. Interstate commission members.

Pursuant to article XI(d) of the Interstate Medical Licensure Compact, the governor shall appoint two (2) voting representatives to the interstate medical licensure compact commission. The representatives shall serve staggered two (2) year terms as commissioners.