

## CHAPTER 20

### RULES AND REGULATIONS FOR HEALTH CARE FACILITIES JURISDICTION AND DELEGATION

Section 1. Authority. These rules are promulgated by the Department of Health pursuant to W.S. 35-2-906, W.S. 35-9-121.1 et seq., and the Wyoming Administrative Procedures Act at W.S. 16-3-101 et seq.

Section 2. Applicability.

(a) These rules shall apply to and govern Health Care Facilities jurisdiction and delegation, on and after the effective date of these rules.

(b) The Office of Health Facilities may issue manuals, bulletins, or both, to interpret the provisions of these rules and regulations. Such manuals and bulletins shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in manuals or bulletins shall be subordinate to the provisions of these rules and regulations.

(c) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of these rules.

Section 3. Definitions. The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout these rules, gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers, in random distribution. Words in each gender shall include individuals of the other gender.

(a) “Approved” means acceptable to the Authority Having Jurisdiction.

(b)\_ “Authority Having Jurisdiction” means the Director, Wyoming Department of Health.

(c) “Certified” means those individuals who have been recognized by the International Code Council or National Fire Protection Association as being qualified in their plan examiner and inspection practice specialties: Building Plans Examiner, International Code Council; Fire Plans Examiner, National Fire Protection Association; Mechanical Plans Examiner, International Code Council; Commercial Building Inspector, International Code Council; Fire Inspector I, National Fire Protection Association; Commercial Mechanical Inspector, International Code Council; Commercial Plumbing Inspector, International Code Council; and Fire Inspector I, International Code Council.

(d) “Certification” means those Health Care Facilities that meet the standards to participate in the federal Medicare and/or Medicaid programs.

(e) “Construction rules” means the Wyoming Department of Health’s Chapter 3 Construction Rules and Regulations for Health Care Facilities.

(f) “Council” means the council on fire prevention and electrical safety in buildings per W.S. 35-9-102(a)(iv).

(g) “Department” means the State of Wyoming Department of Health which is the Authority Having Jurisdiction.

(h) “Director” means the Director, Wyoming Department of Health.

(i) “Health Care Facilities” means any adult day care facility, ambulatory surgical center, assisted living facility, birthing center, boarding home, freestanding diagnostic testing center, home health agency, hospice, hospital, intermediate care facility for the mentally retarded, medical assistance facilities, nursing care facilities, rehabilitation facilities and renal dialysis center, or as defined by W.S. 35-2-901 et seq.

(j) “International Building Code” establishes the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment.

(k) “International Mechanical Code” provides minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation and maintenance or use of mechanical systems.

(l) “International Plumbing Code” provides comprehensive regulation of plumbing systems by setting minimum regulations for plumbing facilities in terms of both performance and prescriptive objectives.

(m) “International Fire Code” establishes the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises.

(n) “Licensed” means those Health Care Facilities that meet the licensing standards cited in W.S. 35-2-901 et seq.

(o) “State Survey Agency” means the Office of Health Facilities which is a component within the Wyoming State government that has the primary responsibility for performing the functions under the agreements between the Secretary of the U.S. Department of Health and Human Services and the State of Wyoming dated June 18, 1985.

#### Section 4. Department of Health Jurisdiction.

(a) W.S. 35-9-121.1. Health care facilities; jurisdiction; delegation; rules.

(i) The Department of Health has jurisdiction over all aspects of construction and remodeling, except electrical installation, of any state licensed health care facility as defined in W.S. 35-2-901.

(ii) The fire safety code requirements for the construction and remodeling of any state licensed health care facility shall meet the minimum requirements established in the National Fire Protection Association 101 Life Safety Code or any other code required to meet federal fire and life safety certification. If any code requirements for federal certification conflict with the code of any other state or local governmental entity, the code required for federal certification shall prevail.

(iii) The Department of Health shall promulgate rules and regulations for all aspects of construction and remodeling of Health Care Facilities except electrical installation. For aspects of construction and remodeling included in codes adopted by the Council pursuant to W.S. 35-9-106, the rules and regulations shall be based on and not exceed the standards of these codes except where federal certification requirements dictate otherwise.

(iv) Upon written request from any county or municipality, the Department of Health shall delegate plan review and inspection responsibilities to the county or municipality that has personnel who are certified pursuant to the applicable code. The Department of Health shall transfer jurisdiction and authority by letter. The Department of Health shall notify the governing body of the municipality or county of the minimum standards and requirements under this section and W.S. 16-6-501 and 16-6-502. The following shall apply:

(A) Any municipality or county may issue a certificate of occupancy for a health care facility. The certificate shall reference any code applied to the construction or remodeling of the facility;

(B) A municipality or county which has enforcement authority under this subsection may create its own appeals board to determine the suitability of alternate materials and types of construction. If a municipality or county has not created an appeals board, the Department of Health shall establish an appeals board which includes representation from the Department of Health and the Council.

(v) After construction or remodeling of any health care facility, the Department of Health shall have jurisdiction over the fire and life safety inspections required for federal certification.

Section 5. Delegation.

(a) Per W.S. 35-9-121.1(d), upon written request from any county or municipality, the Department shall delegate plan review and inspection responsibilities to the county or municipality that has personnel who are certified to the pursuant to the applicable code.

(b) County or municipality personnel who perform plan review and inspection functions for the purpose of health care facility licensing shall, as a minimum, be certified as follows:

- (i) Building Plans Examiner - certified by the International Code Council.
- (ii) Fire Plans Examiner - certified by the National Fire Protection Association.
- (iii) Mechanical Plans Examiner - certified by the International Code Council.
- (iv) Plumbing Plans Examiner - certified by the International Code Council.
- (v) Commercial Building Inspector - certified by the International Code Council.
- (vi) Fire Inspector I - certified by the National Fire Protection Association.
- (vii) Commercial Mechanical Inspector - certified by the International Code Council.
- (viii) Commercial Plumbing Inspector - certified by the International Code Council.

(ix) Fire inspector I - certified by the International Code Council

(c) Relinquishing Delegation. Upon written request from any county or municipality, the county or municipality may at any time relinquish the plan review and inspection responsibilities delegated per W.S. 35-9-121.1(d).

(d) When any delegated county or municipality personnel are no longer certified as required in Section 6 (b), written notice must be given to the Department concerning the certification status.

Section 6. Appeals Board.

(a) The Department's Health Care Facilities construction appeals board shall serve as the appeals board for a municipality or county that has not created an appeals board per W.S. 35-9-121.1(d)(ii). The board shall consist of five (5) members:

- (i) State Health Officer shall serve as chairman;
- (ii) Two members from the State Survey Agency;
- (iii) Two members from the Council as determined by the Council Chairman.

(b) The board shall hear appeals to determine the suitability of alternate materials and type of construction and to interpret and recommend deviations from health care facility construction rules and regulations to the Director.

(c) The board shall convene at the request of the State Health Officer. A quorum consists of three (3) members.

(d) Appeals requested under the terms of these rules shall be held in accordance with the provisions of the Wyoming Administrative Procedures Act.

Section 7. Construction Rules and Regulations.

(a) The Department's Chapter 3 Construction Rules for Health Care Facilities shall apply to and govern the construction, remodel, or expansion of Health Care Facilities.

Section 8. Severability. If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.