

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Wyoming state training school amendments.

Sponsored by: Select Committee on Developmental Programs

A BILL

for

1 AN ACT relating to state institutions; amending provisions
2 related to the Wyoming state training school by removing
3 archaic language; changing the name of the Wyoming state
4 training school; authorizing placements for temporary
5 services; amending admission and screening criteria;
6 prohibiting isolation of residents; amending resident
7 rights; providing for payment of employed residents, as
8 specified; providing definitions; repealing duplicative
9 provisions; providing for a report; and providing for an
10 effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 25-5-102(b) is created to read:

1

2 (b) As used in this act:

3

4 (i) "Acquired brain injury" means any
5 combination of focal and diffuse central nervous system
6 dysfunction, at the brain stem level and above, acquired
7 after birth through the interaction of any external forces
8 and the body, oxygen deprivation, infection, toxicity,
9 surgery or vascular disorders not associated with aging;

10

11 (ii) "Active treatment" means a program which
12 includes aggressive, consistent implementation of a program
13 of specialized and generic training, treatment, health
14 services and related services that is directed toward:

15

16 (A) The acquisition of the behaviors
17 necessary for the client to function with as much self
18 determination and independence as possible; and

19

20 (B) The prevention or deceleration of
21 regression or loss of current optimal functional status.

22

23 (iii) "Adaptive behavior" means the collection
24 of conceptual, social and practical skills that have been

1 learned by people in order to function in their everyday
2 lives;

3

4 (iv) "Administrator" means the administrator of
5 the division;

6

7 (v) "Assistive technology device" and "assistive
8 technology service" mean as defined in 42 U.S.C. 15002.

9

10 (vi) "Center" means the Wyoming disability
11 resource center at Lander, Wyoming;

12

13 (vii) "Child" means any person under the age of
14 eighteen (18);

15

16 (viii) "Client" means a person who has a
17 disability and has been determined eligible, pursuant to
18 department rules and regulation, and is receiving services
19 from one of the center's programs;

20

21 (ix) "Client services" means diagnosis,
22 education, training and care of persons who have been
23 admitted to the center;

24

1 (x) "Conservator" means as defined in W.S.
2 3-1-101(a)(iii);

3

4 (xi) "Department" means the state department of
5 health;

6

7 (xii) "Director" means the director of the
8 department of health;

9

10 (xiii) "Disability" means a developmental
11 disability as defined in 42 U.S.C. 15002 or a disability
12 resulting from an acquired brain injury;

13

14 (xiv) "Division" means the developmental
15 disabilities division of the department of health;

16

17 (xv) "Guardian" means as defined in W.S.
18 3-1-101(a)(v);

19

20 (xvi) "Guardian ad litem" means as defined in
21 W.S. 3-1-101(a)(vi);

22

23 (xvii) "Incompetent" means as defined in W.S.
24 3-1-101(a)(ix);

1

2 (xviii) "Individual program plan" means a
3 written statement of long-term and short-term goals and
4 strategies for providing specially designed services to
5 meet each client's individual educational, physical,
6 emotional and training needs;

7

8 (xix) "Interdisciplinary team" means a group
9 that represents the professions, disciplines or service
10 areas that are relevant to identifying the client's needs,
11 as described in the comprehensive functional assessments
12 and program design. The department shall provide by rule
13 and regulation for the composition of interdisciplinary
14 teams;

15

16 (xx) "Least restrictive environment" means the
17 program, service and location which least inhibits a
18 person's freedom of movement, informed decision making and
19 participation in community life while achieving the
20 purposes of habilitation and treatment which best meet the
21 needs of the person. The determination of least
22 restrictive environment shall be individualized and based
23 on a person's need for medical, therapeutic, rehabilitative
24 and developmental services;

1

2 (xxi) "Mentally retarded" means significantly
3 subaverage general intellectual functioning existing
4 concurrently with deficits in adaptive behavior and
5 manifested during the developmental period;

6

7 (xxii) "Most appropriate" means an
8 individualized determination of a person's need for
9 medical, therapeutic, rehabilitative and developmental
10 services, based upon professional assessment and the
11 informed choice of the person or, if the person is a minor
12 or ward, his parent or guardian;

13

14 (xxiii) "Most integrated" means the setting that
15 enables a person with a disability to have access to the
16 same opportunities as a person without a disability to the
17 fullest extent possible, including opportunities to live,
18 learn, work, recreate and participate in family and
19 community activities. Determinations of most integrated
20 shall be individualized and based upon professional
21 assessment and the informed choice of the person or, if the
22 person is a minor or ward, his parent or guardian;

23

1 (xxiv) "Program manager" means the on-site
2 supervisor and manager of the center;

3

4 (xxv) "Respite care" means short term care of a
5 person who is unable to care for himself without assistance
6 and whose primary caregiver is absent or in need of short
7 term assistance in providing care to the person;

8

9 (xxvi) "Screening team" means a group of
10 appropriate professionals, appointed by the director
11 pursuant to rules and regulations of the department, and
12 assigned by the administrator to perform preliminary
13 testing and assessment of persons for purposes of
14 determining eligibility for services at the center;

15

16 (xxvii) "Ward" means as defined in W.S. 3-1-
17 101(a)(xv);

18

19 (xxviii) "This act" means W.S. 25-5-101 through
20 25-5-135.

21

22 **Section 2.** W.S. 3-3-501(a), 3-3-504, 9-2-106(d),
23 9-2-2005(c)(iv)(B), 14-6-219(b) through (d),
24 23-2-207(a)(ii), 25-1-201(a)(iv), 25-5-101, 22-5-103,

1 25-5-104, 25-5-105(a)(i) through (iv), 25-5-106 through
2 25-5-108, 25-5-109(c) and (d), 25-5-110(c), 25-5-115
3 through 25-5-119, 25-5-120(b)(ii) through (iv) and (d),
4 25-5-121, 25-5-124(a), 25-5-125, 25-5-126(a)(i), (ii) and
5 (b), 25-5-129, 25-5-130, 25-5-131(a), (b)(intro), (i)
6 through (iii), (iv) and (c), 25-5-132(a), (b), (c)(intro),
7 (i), (ii), (v), (vii), (viii) and by creating new
8 paragraphs (ix) through (xiv), (d)(intro), (ii) and (iii),
9 25-5-133 through 25-5-135 are amended to read:

10
11 **3-3-501. Designation of conservators; exception.**

12
13 (a) The ~~superintendent~~administrator of the Wyoming
14 ~~state training school~~disability resource center is
15 appointed conservator of the estate of:

16
17 (i) Each adult admitted to the Wyoming ~~state~~
18 ~~training school~~disability resource center unless a
19 conservator or other duly authorized agent has already been
20 appointed for the person; and

21
22 (ii) Each minor with an estate of more than five
23 thousand dollars (\$5,000.00) admitted to the ~~institution~~

1 center unless a conservator has already been appointed for
2 the minor.

3

4 **3-3-504. Transfer of funds to court appointed**
5 **conservator.**

6

7 If a conservator for a minor or incompetent person is
8 appointed by a court of this state after the person has
9 been admitted to the Wyoming ~~state training school~~
10 disability resource center or the Wyoming state hospital,
11 the conservatorship created for the ward under this article
12 shall terminate and all money and property of the ward in
13 the possession of the conservator appointed under this
14 article shall be delivered to the court appointed
15 conservator upon proof of his appointment and
16 qualification.

17

18 **9-2-106. Duties and powers of director of department.**

19

20 (d) The director may authorize the Wyoming ~~state~~
21 ~~training school~~ disability resource center, the Wyoming
22 state hospital, the Wyoming pioneer home, the veterans'
23 home of Wyoming and the Wyoming retirement center to
24 provide services to persons with conditions other than

1 those specified in the provisions governing those state
2 institutions in title 25 of the Wyoming statutes when the
3 director determines that there is a need for such services,
4 that the services can be provided effectively by the
5 institution, that the services will be delivered in a
6 manner that assures the safety of all individuals served by
7 the institution and the services provided are statutorily
8 authorized for any of these institutions, the service needs
9 are similar to those authorized for any of these
10 institutions or the services are necessary to protect the
11 public health and safety. The director shall promulgate
12 rules and regulations and policies and procedures necessary
13 to implement this subsection. Nothing in this subsection
14 shall be construed to authorize the director to eliminate
15 services that are otherwise required by statute. The
16 director shall report to the joint labor, health and social
17 services interim committee no later than October 1 of odd
18 numbered years with respect to the status of any actions
19 taken under this subsection and the results of those
20 actions.

21

22 **9-2-2005. Department of health created; director**
23 **appointed; structure.**

24

1 (c) The following agencies are assigned to the
2 department of health under a Type 1 transfer:

3

4 (iv) The following state institutions:

5

6 (B) Wyoming ~~state training school~~
7 disability resource center;

8

9 **14-6-219. Physical and mental examinations;**
10 **involuntary commitment of people who are adjudicated**
11 **incompetent; subsequent proceedings.**

12

13 (b) If a child has been committed to a medical
14 facility or institution for mental examination prior to
15 adjudication of the petition and if it appears to the court
16 from the mental examination that the child is competent to
17 participate in further proceedings and is not suffering
18 from mental illness or mental retardation to a degree
19 rendering the child subject to involuntary commitment to
20 the Wyoming state hospital or the Wyoming ~~state training~~
21 ~~school~~ disability resource center, the court shall order
22 the child returned to the court without delay.

23

1 (c) If it appears to the court by mental examination
2 conducted before adjudication of the petition that a child
3 alleged to be delinquent is incompetent to participate in
4 further proceedings by reason of mental illness or mental
5 retardation to a degree rendering the child subject to
6 involuntary commitment to the Wyoming state hospital or the
7 Wyoming ~~state training school~~ disability resource center,
8 the court shall hold further proceedings under this act in
9 abeyance. The district attorney shall then commence
10 proceedings in the district court for commitment of the
11 child to the appropriate institution as provided by law.

12

13 (d) The juvenile court shall retain jurisdiction of
14 the child on the petition pending final determination of
15 the commitment proceedings in the district court. If
16 proceedings in the district court commit the child to the
17 Wyoming state hospital, the Wyoming ~~state training school~~
18 disability resource center or any other facility or
19 institution for treatment and care of the mentally ill or
20 the mentally retarded, the petition shall be dismissed and
21 further proceedings under this act terminate. If
22 proceedings in the district court determine the child is
23 not mentally ill or mentally retarded to a degree rendering
24 him subject to involuntary commitment, the court shall

1 proceed to a final adjudication of the petition and
2 disposition of the child under the provisions of this act.

3

4 **23-2-207. Special limited fishing permit for**
5 **hospitalized veterans, residents of state institutions,**
6 **court placed children and residents of licensed nursing**
7 **care facilities.**

8

9 (a) Upon an appropriate form furnished by the
10 appropriate institution or facility as prescribed by rule
11 and regulation of the commission, a special limited fishing
12 permit may be issued without charge by:

13

14 (ii) The department of health or the department
15 of family services to any resident in the veterans' home of
16 Wyoming, Wyoming state hospital, Wyoming ~~state training~~
17 ~~school~~ disability resource center, Wyoming boys' school and
18 the Wyoming girls' school, which entitles the
19 institutionalized resident to fish while under the direct
20 control of the appropriate institution;

21

22 **25-1-201. Establishment of state institutions.**

23

24 (a) The following state institutions are established:

1

2 (iv) The Wyoming ~~state training school~~
3 disability resource center at Lander, Wyoming;

4

5 **25-5-101. Short title.**

6

7 This act may be cited as the "~~Training School Act of~~
8 1981 Disability resource center Act".

9

10 **25-5-102. Definitions.**

11

12

13 **25-5-103. Wyoming disability resource center**
14 **established; purpose.**

15

16 (a) Except as otherwise authorized by rules and
17 regulations promulgated in accordance with W.S. 9-2-106(d),
18 the Wyoming ~~state training school~~ disability resource
19 center is established ~~for the diagnosis, evaluation,~~
20 ~~education, training, custody and care of mentally retarded~~
21 ~~persons~~ to provide the following residential, active
22 treatment and medical and therapy services to individuals
23 with a disability:

24

1 (i) Intermediate care facilities for people with
2 mental retardation;

3
4 (ii) Services to persons with acquired brain
5 injuries;

6
7 (iii) Disability, therapeutic and assistive
8 technology services for persons with a disability;

9
10 (iv) Disability, medical, developmental and
11 therapy services training for state employees and other
12 service providers and caregivers.

13
14 **25-5-104. Administration and management of center.**

15
16 The administration and management of the ~~training school~~
17 center is vested in the department.

18
19 **25-5-105. Rules and regulations; reports.**

20
21 (a) ~~Within two (2) years after the effective date of~~
22 ~~this act~~ The department shall adopt rules and regulations
23 which:

1 (i) Establish standards for admission for
2 residential services and ~~release~~discharge of ~~residents~~
3 ~~admitted for services~~clients receiving services in all
4 programs administered by the center;

5
6 (ii) Establish standards for ~~resident~~client
7 ~~services and temporary services;~~

8
9 (iii) Provide for the administration of the
10 ~~training school~~center under the management of the
11 division;

12
13 (iv) Prescribe professional standards for
14 personnel employed at the ~~training school~~center; ~~and~~

15
16 (v) Establish data reporting processes and
17 report monthly to the director the number of persons served
18 by the center, identified by service category, and the
19 services provided to those persons.

20
21 (b) By October 1 of each year, the director shall
22 report to the joint labor, health and social services
23 interim committee and the joint appropriations interim
24 committee regarding the number of clients served by the

1 center, the reason for provision of services to each client
2 at the center rather than in a community program, the staff
3 to client ratio and the total state and federal cost of all
4 services provided to clients, including the current
5 Medicaid reimbursement rate for intermediate care
6 facilities for people with mental retardation.

7
8 **25-5-106. Donations for benefit of center; control**
9 **and disposition thereof.**

10
11 Money, personal property or real estate donated for the
12 benefit of the ~~training school~~center shall be held,
13 controlled and distributed by the department according to
14 the conditions of the donation. If there are no conditions
15 of the donation, it shall be disposed of as provided in
16 W.S. 25-5-107.

17
18 **25-5-107. Disposition of monies received from sale of**
19 **products or as compensation.**

20
21 Except as provided by W.S. 25-5-106, all monies received by
22 the department for the ~~residents~~clients in the ~~training~~
23 ~~school~~center from the sale of products produced or grown
24 by the ~~training school~~center or as compensation from any

1 source shall be deposited in the state treasury and
2 credited to the general fund.

3

4 **25-5-108. Appointment of program manager; duties;**
5 **removal.**

6

7 (a) The director shall appoint ~~a superintendent~~ a
8 program manager of the ~~training school~~ center.

9

10 (b) The ~~superintendent~~ program manager shall
11 administer the ~~training school~~ center as directed by the
12 ~~director~~ administrator.

13

14 (c) The director may remove the ~~superintendent~~
15 program manager in his discretion.

16

17 **25-5-109. Inability or refusal to pay for services.**

18

19 (c) No person shall be denied admission to or
20 services by the ~~training school~~ center because of the
21 inability of the person, his parent or guardian to pay the
22 cost of the services received.

23

1 (d) Clients of the center who are not eligible under
2 the Wyoming Medical Assistance and Services Act shall be
3 responsible for the cost of services and treatment as
4 provided in title 25, chapter 11, article 1. However, no
5 person who was a client of the center as of June 30, 2007
6 shall be denied admission to or services by the ~~training~~
7 ~~school~~ center because of the refusal of the resident's
8 parent or guardian to pay the cost of the services
9 received.

10
11 **25-5-110. Special education for minors and costs**
12 **thereof.**

13
14 (c) ~~Residents~~ Clients who are between the ages of
15 five (5) and twenty-one (21) years of age shall be provided
16 special education and related services ~~at no cost to their~~
17 ~~parents or estates~~ through the Wyoming department of
18 education. This subsection does not relieve an insurer or
19 similar third party from an otherwise valid obligation to
20 pay for services provided to the ~~resident~~ client.

21
22 **25-5-115. Preadmission screening for residential**
23 **services; preparation and supervision thereof; disposition**
24 **of findings.**

1

2 (a) Admission to the ~~training school~~ center shall be
3 upon written application to the division pursuant to W.S.
4 25-5-117(b) and shall be based upon the preadmission
5 ~~evaluation~~ screening and assessment:

6

7 (i) The preadmission ~~evaluation~~ screening and
8 assessment shall be made by ~~an interdisciplinary~~ a
9 screening team under the supervision of the ~~superintendent~~
10 administrator or his designee, using appropriate
11 professionals and screening and assessment methods as
12 provided in department rules and regulations;

13

14 (ii) The preadmission ~~evaluation~~ screening and
15 assessment shall be completed ~~in not less than forty eight~~
16 ~~(48) hours and~~ not more than thirty (30) days after an
17 application for admission ~~has been made to the training~~
18 ~~school~~;

19

20 (iii) No person shall be admitted unless an
21 interdisciplinary team has determined that ~~a less~~
22 ~~restrictive alternative environment is inappropriate or~~
23 ~~unavailable to meet the proposed resident's diagnosed~~
24 ~~needs.~~ the recommended services are the least restrictive,

1 most integrated and most appropriate services and location
2 of services for the client;

3
4 (iv) As part of the application process,
5 division staff shall provide prospective clients and their
6 families or guardians information about center services and
7 similar services available in the client's community or
8 elsewhere in the state.

9
10 (b) Within ten (10) days of completion of the
11 preadmission ~~evaluation~~screening and assessment, the
12 findings shall be given to the applicant. If ordered by the
13 court, the preadmission ~~evaluation~~screening and assessment
14 shall also be filed with the court.

15
16 **25-5-116. Individual program plan; preparation and**
17 **supervision thereof; review.**

18
19 Each ~~resident~~client admitted to the ~~training school~~center
20 ~~after July 1, 1981,~~ shall have on file at the ~~training~~
21 ~~school~~center an individual program plan. ~~Each resident~~
22 ~~admitted prior to July 1, 1981, shall have an individual~~
23 ~~program plan on file within two (2) years of the effective~~
24 ~~date of this act.~~ The individual program plans shall be

1 prepared by an interdisciplinary team within thirty (30)
2 days of admission for residential services under the
3 supervision of the ~~superintendent~~program manager. The plan
4 shall be reviewed ~~at least annually~~ by the
5 interdisciplinary team for appropriateness and feasibility
6 of discharge or transition to another level of service
7 thirty (30) days after implementation of the plan, at the
8 end of each quarter for the first year and annually
9 thereafter.

10
11 **25-5-117. Admission for residential services;**
12 **application and contents thereof; written copy of rights;**
13 **appeal of denied admissions.**

14
15 (a) A person determined by the preadmission
16 ~~evaluation~~screening and assessment to be eligible for
17 admission to the ~~training school~~center for residential
18 services may be admitted as a ~~voluntary resident~~client
19 under one (1) of the following procedures:

20
21 (i) An adult who has sufficient insight or
22 capacity to make responsible application for admission for
23 residential services may be admitted on his own
24 application;

1

2 (ii) A minor or ~~incompetent~~ward may be admitted
3 upon application of his parent or guardian.

4

5 (c) At the time of admission for residential
6 services, the ~~superintendent~~program manager shall give a
7 written copy of the rights provided in W.S. 25-5-133 to the
8 ~~resident~~client, his parent or guardian.

9

10 **25-5-118. Release of voluntary resident upon request;**
11 **exceptions.**

12

13 (a) A voluntary ~~resident~~client may be ~~released~~
14 discharged by the administrator at any time within twenty
15 (20) days of receipt ~~by the superintendent~~ of a written
16 request for the release by the ~~resident~~client, his parent
17 or guardian, and the administrator shall arrange for
18 appropriate transition services, except:

19

20 (i) If the ~~resident~~client was admitted on his
21 own application and the request for ~~release~~discharge is
22 made by a person other than the ~~resident~~client, release
23 shall be conditioned upon the ~~resident's~~client's consent;

24

1 (ii) If the ~~resident~~client is a minor or
2 ~~incompetent~~ward, his ~~release~~discharge shall be
3 conditioned upon the consent of his parent~~,or~~ guardian~~or~~
4 ~~guardian ad litem~~;

5
6 (iii) If the ~~superintendent~~administrator has
7 probable cause to believe release of the ~~resident~~client
8 will endanger the life, health or safety of the ~~resident~~
9 client or others and he incorporates a written statement of
10 the facts supporting his belief in the ~~resident's~~client's
11 file, he may apply for involuntary admission pursuant to
12 W.S. 25-5-119. ~~Release shall be postponed pending the~~
13 ~~court's decision.~~The administrator, as a mandatory
14 reporter, shall contact adult protective services for
15 appropriate proceedings.

16
17 **25-5-119. Involuntary admissions; application to**
18 **district court; representation of proposed resident;**
19 **preadmission screening; notice; hearing; independent**
20 **screening; admissibility.**

21
22 (a) A person may be an involuntary ~~resident~~client of
23 the ~~training school~~center if admitted pursuant to this
24 section. Application for involuntary admission may be made

1 by a parent, a guardian, the ~~superintendent~~administrator
2 or a social service agency. The application shall be filed
3 with the district court in the county where the proposed
4 ~~resident~~client, his parent or his guardian resides.

5
6 (b) When an application for involuntary admission is
7 filed, the court shall appoint an attorney to represent the
8 proposed ~~resident~~client unless he retains counsel of his
9 own choice. An attorney shall represent the proposed
10 ~~resident~~client at all hearings. The county shall
11 compensate an appointed attorney in an amount fixed by the
12 court as a reasonable fee.

13
14 (c) The court shall order the ~~training school~~center
15 to conduct a preadmission ~~evaluation~~screening and
16 assessment of the proposed ~~resident~~client. Notice of the
17 order shall be served on the proposed ~~resident~~client, his
18 attorney and his parent or guardian. The order and the
19 application for admission shall be served on the ~~training~~
20 ~~school~~center and the department. If the preadmission
21 ~~evaluation~~screening and assessment report finds the
22 ~~training school~~center would be an appropriate placement,
23 the court shall order a hearing. The proposed ~~resident~~
24 client shall have a right to seek an independent ~~evaluation~~

1 screening and assessment of his eligibility for admission
2 at the state's expense. The ~~evaluation~~ screening and
3 assessment shall be admissible as evidence at the hearing
4 as provided by W.S. 25-5-121(d).

5

6 **25-5-120. Court order setting hearing on involuntary**
7 **application; service of notice; waiver.**

8

9 (b) The order setting the hearing shall contain:

10

11 (ii) The name and address of the applicant, the
12 proposed ~~resident's~~ client's parent or guardian, and the
13 attorney retained by the proposed ~~resident~~ client or
14 appointed by the court;

15

16 (iii) The grounds alleged for the commitment of
17 the proposed ~~resident~~ client;

18

19 (iv) The consequences of a finding that a person
20 shall be admitted to the ~~training school~~ center for
21 ~~resident~~ client services.

22

1 (d) The court may order that notice be given to other
2 persons. Notice may be waived in writing by any party
3 except the proposed ~~resident's~~client's attorney.

4
5 **25-5-121. Rights of proposed resident and notified**
6 **persons; confidentiality of hearing; admissibility of**
7 **screening reports; findings by court or jury; amendment of**
8 **admission order.**

9
10 (a) The proposed ~~resident~~client has the right to
11 appear, to be heard and to participate in every stage of
12 the hearing unless the court finds that it would not be in
13 the best interests of the proposed ~~resident~~client. The
14 court shall not exclude the proposed ~~resident~~client from
15 the hearing unless the application is accompanied by a
16 written statement from a licensed physician and a court
17 designated examiner, appointed at the time of the
18 application, who is in no other manner involved in the
19 proceedings, that attendance at the hearing would injure
20 the proposed ~~resident's~~client's health and well-being and
21 describing his medical condition.

22
23 (b) The proposed ~~resident~~client is entitled, upon
24 request, to a jury trial on the issue of his admission. The

1 jury shall be selected pursuant to W.S. 1-11-101 through
2 1-11-128.

3

4 (c) The court shall exclude all persons not having an
5 interest in the application. Unless the court orders an
6 open hearing or the proposed ~~resident~~client requests a
7 jury trial, the hearing is confidential and shall be held
8 in closed court.

9

10 (d) Any person to whom notice is required to be given
11 by W.S. 25-5-120 may testify and may present and
12 cross-examine witnesses. The court may receive the
13 testimony of other persons in its discretion. The
14 ~~evaluation~~screening and assessment report required by W.S.
15 25-5-115, and any independent ~~evaluation~~screening and
16 assessment made under W.S. 25-5-119, may be admitted as
17 evidence and shall not be excluded on the ground of hearsay
18 alone.

19

20 (e) If the court or jury finds that specific care,
21 treatment and service alternatives are available which are
22 more appropriate than the ~~training school~~center for the
23 proposed ~~resident~~client, the application shall be denied.
24 If the court or jury finds by clear and convincing evidence

1 that admission to the ~~training school~~center would provide
2 the most appropriate services for the proposed ~~resident~~
3 client, the court shall order the admission. In case of a
4 nonjury hearing, the court shall enter findings of fact
5 with the order of admission.

6
7 (f) The proposed ~~resident~~client or if a minor or
8 ~~incompetent~~ward, his parents~~,or~~ guardian ~~or guardian ad~~
9 ~~litem~~ or the ~~training school~~center may petition the court
10 to amend its order of admission on the grounds that
11 appropriate and necessary services to the proposed ~~resident~~
12 client are available in a less restrictive environment than
13 the ~~training school~~center. The court may amend its order
14 after notice and hearing pursuant to this act.

15
16 **25-5-124. Discharge of clients by administrator or by**
17 **court; appeals to department.**

18
19 (a) An interdisciplinary team may recommend to the
20 ~~superintendent~~administrator discharge of a ~~resident~~client
21 with an appropriate transition plan from the ~~training~~
22 ~~school~~center when placement ~~in a less restrictive and more~~
23 ~~therapeutic environment~~at home, with another service
24 provider or another program is appropriate for the

1 ~~resident's~~client's needs and abilities. The transition
2 plan shall identify any recommended discharge conditions in
3 the client's best interest, including type of residence
4 facility, supervision and any continuing medical,
5 therapeutic, rehabilitative or developmental services.
6 Based on the recommendations of the team, and with the
7 consent of the ~~resident~~client, or his parent or guardian
8 if he is a minor or ~~incompetent~~ward, the ~~superintendent~~
9 ~~administrator~~ shall place the ~~resident in the least~~
10 ~~restrictive alternative environment~~client in the
11 alternative setting. The ~~superintendent may~~administrator
12 shall discharge the ~~resident~~client when the ~~resident~~
13 client has been appropriately placed in an alternative
14 program. If the ~~resident~~client was admitted under a court
15 order, the ~~superintendent~~administrator shall petition the
16 court, pursuant to W.S. 25-5-121(f).

17

18 **25-5-125. Transfer of clients for temporary care and**
19 **treatment; consent; costs to be paid by center; third-party**
20 **obligations not limited.**

21

22 If the ~~superintendent~~program manager determines it is
23 appropriate for the welfare of a ~~resident~~client, the
24 ~~resident~~client may be placed for temporary care and

1 treatment in any public or private hospital, institution or
2 residence in the state which provides services which will
3 benefit the ~~resident~~client. The transfer shall not be made
4 without the consent of the ~~resident~~client and his parents
5 or guardian, or in the case of an involuntary ~~resident~~
6 client, without leave of the court, except in cases of
7 medical emergency. During and after the transfer, the
8 ~~resident~~client remains a ~~resident~~client of the ~~training~~
9 ~~school~~center. The cost of the transfer and of the
10 temporary treatment, care and training provided shall be
11 borne by the ~~training school~~center. This section does not
12 limit the responsibility of third parties to pay for
13 medical and other expenses incurred by contract or law.

14

15 **25-5-126. Contracts with other states for interstate**
16 **transfer of clients ; payment of expenses therefor.**

17

18 (a) The department may enter into contracts with
19 other states to provide for:

20

21 (i) The admission to ~~institutions~~facilities,
22 schools or hospitals in other states of persons admitted to
23 or entitled to admission for residential services in the
24 ~~training school~~center, when it can be shown that admission

1 to a facility in another state is in the best interests of
2 the person and the state of Wyoming;

3
4 (ii) The admission to the ~~training school~~ center
5 of residents of other states when it can be shown that
6 admission to the ~~training school~~ center for residential
7 services is in the best interests of the person and the
8 state of Wyoming, and that the person's need for ~~resident~~
9 services has been determined in accordance with this act.

10
11 (b) The expense of transferring persons from the
12 ~~training school~~ center to other states shall be paid by the
13 ~~training school~~ center. The expense of transferring persons
14 from other states to the ~~training school~~ center shall be
15 paid by the state making the transfer to the ~~training~~
16 ~~school~~ center.

17
18 ~~[REPEAL] 25-5-127. Community leave; recordation~~
19 ~~thereof; governmental immunity.~~

20
21 ~~(a) The superintendent may release a resident on~~
22 ~~community leave upon the recommendation of the~~
23 ~~interdisciplinary team.~~

1 ~~(b) When community leave is granted, the training~~
2 ~~school shall place in the resident's record:~~

3
4 ~~(i) The date, name and address of the person to~~
5 ~~whom physical custody is given;~~

6
7 ~~(ii) The rehabilitative and other services to be~~
8 ~~given to the resident; and~~

9
10 ~~(iii) The conditions imposed and specified in~~
11 ~~the resident's individual program plan to serve the best~~
12 ~~interests of the resident.~~

13
14 ~~(c) The state and its agents are not liable for the~~
15 ~~torts of a resident on community leave.~~

16
17 **~~[REPEAL] 25-5-128. Location and return of clients~~**
18 **~~absent without leave.~~**

19
20 ~~If a resident leaves the training school without the~~
21 ~~knowledge and written consent of the superintendent, the~~
22 ~~superintendent shall locate the resident and arrange for~~
23 ~~his return to the training school.~~

1 **25-5-129. Admittance for temporary services; excepted**
2 **provisions; limited duration.**

3
4 The ~~superintendent~~ administrator may admit individuals for
5 ~~temporary~~ services temporarily pursuant to rules
6 promulgated under W.S. 25-5-105(a) if the administrator
7 determines a less restrictive environment is appropriate
8 but unavailable. A ~~resident-client~~ admitted for ~~temporary~~
9 services temporarily is not subject to W.S. 25-5-114,
10 25-5-115, 25-5-117(b), 25-5-121(e) and 25-5-127. No
11 individual shall be admitted temporarily for ~~temporary~~
12 services for more than ~~ninety (90) consecutive days nor~~
13 ~~more than one hundred twenty (120)~~ forty-five (45) days ~~in~~
14 ~~a calendar year~~.

15
16 **[REPEAL] 25-5-130. ~~Consent and notice required before~~**
17 **~~major surgery; exceptions.~~**

18
19 ~~(a) Except as provided in subsection (b) of this~~
20 ~~section, no resident shall undergo major surgery until the~~
21 ~~superintendent:~~

22
23 ~~(i) Obtains the prior consent of the resident,~~
24 ~~or if his consent cannot be given knowingly, he shall~~

1 ~~obtain the prior consent of the resident's parent or~~
2 ~~guardian; and~~

3
4 ~~(ii) Notifies the parent or guardian of the~~
5 ~~nature, date and place of the surgery and the name of the~~
6 ~~surgeon. A copy of the notice shall be placed in the~~
7 ~~patient's records.~~

8
9 ~~(b) Prior consent need not be obtained nor prior~~
10 ~~notice given when the parent or guardian cannot be located~~
11 ~~or when an emergency requires immediate surgery to prevent~~
12 ~~serious consequences or death. The parent or guardian shall~~
13 ~~be notified as soon as possible after emergency surgery.~~

14
15 **25-5-131. Confidentiality of records; exceptions;**
16 **penalties for violations.**

17
18 (a) All records of ~~residents~~clients, former
19 ~~residents~~clients and proposed ~~residents~~clients of the
20 ~~training school~~center are confidential except as provided
21 by subsection (b) of this section, when disclosure is
22 required by state or federal law or when disclosure is
23 necessary to prevent imminent risk of harm to the person
24 who is the subject of the records or others.

1

2 (b) The ~~superintendent~~administrator may provide
3 access to the records of a ~~resident~~client, former ~~resident~~
4 client or proposed ~~resident~~client by:

5

6 (i) The person who is the subject of the records
7 or his guardian, guardian ad litem or attorney;

8

9 (ii) The ~~subject's~~ physician or surgeon for the
10 person who is the subject of the records;

11

12 (iii) A person authorized by the person who is
13 the subject of the records, or by his parent or guardian if
14 he is a minor or ~~incompetent~~ward, to evaluate the
15 ~~subject's~~person's eligibility for admission to the
16 ~~training school~~center for residential services or to
17 determine whether his residence is the most appropriate and
18 ~~least restrictive,~~ therapeutic environment for the ~~subject~~
19 person;

20

21 (v) Qualified employees of the department and
22 the ~~state training school~~center and professional persons
23 while in the performance of their official duties;;

24

1 (vi) As required by law, including the Health
2 Insurance Portability and Accountability Act and the
3 Medicaid program.

4
5 (c) Any person who willfully releases or permits,
6 assists or encourages the release of information in records
7 of ~~residents~~clients, former ~~residents~~clients or proposed
8 ~~residents~~clients to persons other than those listed in
9 subsection (b) of this section is guilty of a misdemeanor
10 punishable by a fine of not more than five hundred dollars
11 (\$500.00), imprisonment for not more than six (6) months,
12 or both.

13
14 **25-5-132. No determination of incompetency;**
15 **notification of rights; deniable rights and conditions**
16 **therefor; undeniable rights.**

17
18 (a) The determination that a person is eligible for
19 admission to the ~~training school~~center is not a
20 determination or adjudication that the person is
21 incompetent.

22
23 (b) Upon admission to the ~~training school~~center for
24 residential services, a ~~resident~~client shall be informed

1 orally and in writing of his rights under this section. If
2 the ~~resident-client~~ is a minor, or ~~incompetent-ward~~, his
3 parents, guardian or guardian ad litem shall be informed
4 orally and in writing of his rights under this section.

5
6 (c) ~~A resident may be denied~~ The following rights of
7 a client may be denied or limited only as a part of his
8 individual program plan for purposes of safety and health.
9 The ~~resident-client~~ or if the ~~resident-client~~ is a minor or
10 ~~incompetent-ward~~, his parents, guardian or guardian ad
11 litem shall be informed in writing and orally of the
12 grounds for the denial or limitation. The grounds for
13 denial or limitation shall be entered in the individual
14 program plan:

15
16 (i) The right to send and receive unopened mail;
17 ~~except as provided in paragraph (d)(v) of this section;~~

18
19 (ii) The right to choose and wear his own
20 clothing;

21
22 (v) The right to be free from physical
23 restraints and ~~isolation~~ chemical restraints that
24 substitute for active treatment or behavior medication

1 programs, except in emergency situations as necessary to
2 protect the ~~resident~~ client or others;

3

4 (vii) The right to make and receive telephone
5 calls; ~~and~~

6

7 (viii) The right to receive visitors daily; ~~;~~

8

9 (ix) The right to an appropriate personal space
10 that provides privacy and personal safety;

11

12 (x) The right to be free from abuse;

13

14 (xi) The right to vote;

15

16 (xii) The right to choose where and with whom to
17 live;

18

19 (xiii) The right to present grievances and
20 complaints or to request changes in policies and services
21 without restraint, interference, coercion, discrimination
22 or reprisal;

23

1 (xiv) The right to participate or refuse to
2 participate in religious worship;

3
4 (xv) The right to the least restrictive
5 environment.

6
7 (d) A ~~resident~~client may not be denied the following
8 rights unless authorized by a court, ~~or his guardian,~~
9 ~~parent or guardian ad litem~~ the client or, if the client is
10 a minor or ward, his parent or guardian:

11
12 (ii) The right to refuse to be subjected to
13 experimental medical or psychological research without the
14 express and informed consent of the ~~resident~~client or his
15 parent or guardian if he is a minor or ward. The ~~resident~~
16 client or his parent or guardian may consult with
17 independent medical or psychological specialists and his
18 attorney before consenting or refusing;

19
20 (iii) The right to refuse to be subjected to
21 ~~treatment procedures such as psychosurgery or other~~ drastic
22 treatment procedures without the express and informed
23 consent of the ~~resident~~client and his parent or guardian
24 if he is a minor or ~~adjudicated incompetent,~~ ward.

1

2 ~~[REPEAL](iv) The right to participate or refuse~~
3 ~~to participate in religious worship within the training~~
4 ~~school; and~~

5

6 ~~(v) The right to send and receive sealed mail to~~
7 ~~his parent, guardian or guardian ad litem and to the~~
8 ~~governor.~~

9

10 **25-5-133. Restraint; conditions for use; strict**
11 **administration of medication; prohibited uses.**

12

13 (a) Isolation or seclusion procedures in which a
14 person is placed alone in a locked room are prohibited.
15 Restraint of a resident-client shall be used only when less
16 restrictive measures are ineffective for the welfare of the
17 resident or other residents-client or others and only when
18 necessary to ensure the immediate physical safety of the
19 client or others. Restraint ~~or isolation~~ shall be used in a
20 manner which ensures that the dignity and safety of the
21 ~~individual~~ person restrained are protected and shall be
22 regularly monitored by trained staff. The reason for
23 restrictive measures shall be reported in the ~~resident's~~
24 client's records and shall be reviewed by the

1 interdisciplinary team and program manager. In addition,
2 the client's individual program plan shall address active
3 treatment or less restrictive measures to manage or
4 eliminate the behaviors for which restraint was used.

5
6 (b) Medication shall be administered to a ~~resident~~
7 client only pursuant to the order of a ~~physician~~ medical
8 professional acting within the scope of his license. A
9 record of the medication, the dosage administered, the date
10 and the person administering the medication to each
11 ~~resident-client~~ shall be kept in each ~~resident's-client's~~
12 treatment record. Medication shall not be used as
13 punishment, for the convenience of staff or in quantities
14 that interfere with a ~~resident's-client's~~ treatment
15 program.

16
17 **25-5-134. Employment of clients within institution;**
18 **wages; duties; discharge for cause.**

19
20 ~~Residents-Clients~~ who are employed within the ~~institution~~
21 center shall be paid a reasonable wage based upon ~~the~~
22 ~~nature of the employment and the productivity of the~~
23 ~~resident-commensurate wages under special certificate as~~
24 authorized by the federal Fair Labor Standards Act at 21

1 U.S.C. 214(c). The ~~superintendent~~ program manager shall
2 prescribe ~~the duties and assignment of the resident~~
3 ~~employee and may discharge the resident from employment for~~
4 ~~cause~~ for each position a written job description with
5 wages, benefits and job duties clearly defined. The
6 employment relationship pursuant to this section shall be
7 at will.

8
9 **25-5-135. Medications aides.**

10
11 Any person trained and qualified as a medication aide may
12 administer medications in basic ~~resident~~ client care
13 situations at the ~~training school~~ center. The ~~training~~
14 ~~school~~ center shall develop curricula, certification
15 criteria and protocols concerning administration of
16 medications and use of medication aides. Every medication
17 aide shall perform the duties authorized under this
18 section under the direction of a person licensed by the
19 laws of this state to administer medications. The direction
20 of medication aides shall not constitute an unlawful
21 delegation of professional duties by the licensed nurse or
22 other professional licensed to administer medications.

1 **Section 3.** W.S. 25-5-102 (a), 25-5-114, 25-5-117 (b),
2 25-5-127, 25-5-123, 25-5-124 (b), 25-5-127, 25-5-128 and
3 25-5-132 (d) (iv) and (v) are repealed.

5 **Section 4.** The department of health may commence
6 rulemaking to implement the provisions of this act
7 immediately upon the effective date of this section. No
8 appropriation for the fiscal year commencing July 1, 2009
9 shall be effective until the promulgation of final rules
10 implementing this act.

12 **Section 5.**

(a) Section 4 of this act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(b) Except as provided in subsection (a) of this section, this act is effective July 1, 2009.

22 (END)

1